



Government Gazette

OF THE STATE OF
NEW SOUTH WALES

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LEGISLATION

Proclamations



New South Wales

Proclamation

under the

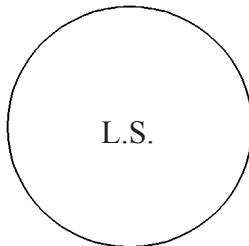
Crimes Amendment (School Protection) Act 2002 No 135

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Crimes Amendment (School Protection) Act 2002*, do, by this my Proclamation, appoint 10 February 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 5th day of February 2003.

By Her Excellency's Command,



L.S.

BOB DEBUS, M.P.,
Attorney General

GOD SAVE THE QUEEN!



Proclamation

under the

Child Protection Legislation Amendment Act 2002 No 98

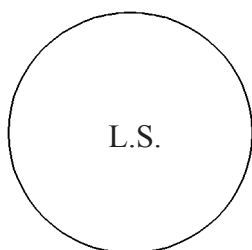
MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Child Protection Legislation Amendment Act 2002*, do, by this my Proclamation, appoint 10 February 2003 as the day on which that Act commences, except for the following:

- (a) Schedule 3 [6],
- (b) Schedule 3 [13] to the extent that it inserts clause 2 (2) of Schedule 3 into the *Commission for Children and Young People Act 1998*.

Signed and sealed at Sydney, this 5th day of February 2003.

By Her Excellency's Command,



BOB CARR, M.P.,
Premier

GOD SAVE THE QUEEN!

Explanatory note

The object of this Proclamation is to commence the *Child Protection Legislation Amendment Act 2002* except for the amendments to the *Commission for Children and Young People Act 1998* relating to the definition of **relevant disciplinary proceedings** for the purposes of the employment screening provisions.



New South Wales

Proclamation

under the

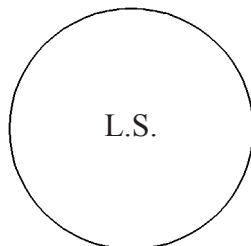
Crimes (Sentencing Procedure) Amendment (Standard Minimum Sentencing) Act 2002 No 90

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Crimes (Sentencing Procedure) Amendment (Standard Minimum Sentencing) Act 2002*, do, by this my Proclamation, appoint 17 February 2003 as the day on which the uncommenced provisions of that Act commence.

Signed and sealed at Sydney, this 29th day of January 2003.

By Her Excellency's Command,



BOB DEBUS, M.P.,
Attorney General

GOD SAVE THE QUEEN!

Explanatory note

The object of this Proclamation is to commence the uncommenced provisions of the *Crimes (Sentencing Procedure) Amendment (Standard Minimum Sentencing) Act 2002* (Schedule 1 [5] and [7] and Schedule 3.2 [2]) that provide for the constitution and functions of the New South Wales Sentencing Council. As a consequence of this Proclamation, the Council comes into being on 17 February 2003.



Proclamation

under the

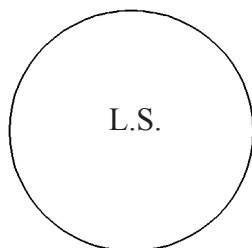
Disorderly Houses Amendment (Commercial Supply of Prohibited Drugs) Act 2002 No 131

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Disorderly Houses Amendment (Commercial Supply of Prohibited Drugs) Act 2002*, do, by this my Proclamation, appoint 9 February 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 5th day of February 2003.

By Her Excellency's Command,



BOB DEBUS, M.P.,
Attorney General

GOD SAVE THE QUEEN!



Proclamation

under the

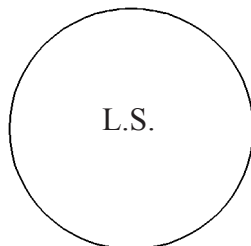
Fair Trading Amendment (Employment Placement Services) Act
2002 No 86

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Fair Trading Amendment (Employment Placement Services) Act 2002*, do, by this my Proclamation, appoint 17 February 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 5th day of February 2003.

By Her Excellency's Command,



JOHN AQUILINA, M.P.,
Minister for Fair Trading

GOD SAVE THE QUEEN!



Proclamation

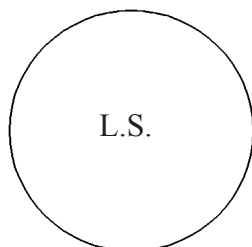
under the

Greyhound Racing Act 2002 No 38

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Greyhound Racing Act 2002*, do, by this my Proclamation, appoint 10 February 2003 as the day on which the uncommenced provisions of that Act commence. Signed and sealed at Sydney, this 5th day of February 2003.

By Her Excellency's Command,



J. RICHARD FACE, M.P.,
Minister for Gaming and Racing

GOD SAVE THE QUEEN!

Explanatory note

The object of this Proclamation is to commence the uncommenced provisions of the *Greyhound Racing Act 2002*. The uncommenced provisions comprise most of the Act as only certain preliminary and transitional provisions have already been commenced.



Proclamation

under the

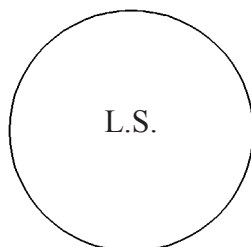
Land and Environment Court Amendment Act 2002 No 76

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Land and Environment Court Amendment Act 2002*, do, by this my Proclamation, appoint 10 February 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 5th day of February 2003.

By Her Excellency's Command,



BOB DEBUS, M.P.,
Attorney General

GOD SAVE THE QUEEN!



Proclamation

under the

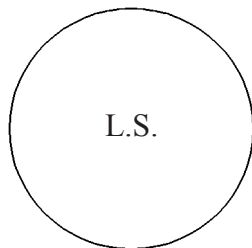
Police Amendment (Appointments) Act 2002 No 105

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Police Amendment (Appointments) Act 2002*, do, by this my Proclamation, appoint 7 February 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 5th day of February 2003.

By Her Excellency's Command,



MICHAEL COSTA, M.L.C.,
Minister for Police

GOD SAVE THE QUEEN!



New South Wales

Proclamation

under the

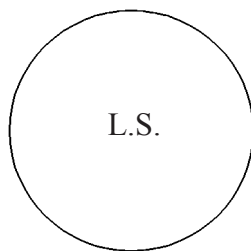
Police Service Amendment (NSW Police) Act 2002 No 51

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Police Service Amendment (NSW Police) Act 2002*, do, by this my Proclamation, appoint 7 February 2003 as the day on which Schedule 1 [8], and Schedule 2.1 and 2.2, to that Act commence.

Signed and sealed at Sydney, this 5th day of February 2003.

By Her Excellency's Command,



MICHAEL COSTA, M.L.C.,
Minister for Police

GOD SAVE THE QUEEN!

Explanatory note

The object of this Proclamation is to commence Schedule 1 [8], and Schedule 2.1 and 2.2, to the *Police Service Amendment (NSW Police) Act 2002*. These provisions amend the *Police Act 1990* so as to allow the Commissioner of Police to control the use of the word "police" as part of an operating name, and make consequential amendments to the *Associations Incorporation Act 1984* and the *Business Names Act 1962*.



Proclamation

under the

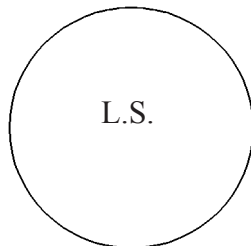
Rail Safety Act 2002 No 96

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Rail Safety Act 2002*, do, by this my Proclamation, appoint 8 February 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 5th day of February 2003.

By Her Excellency's Command,



CARL SCULLY, M.P.,
Minister for Transport

GOD SAVE THE QUEEN!



Proclamation

under the

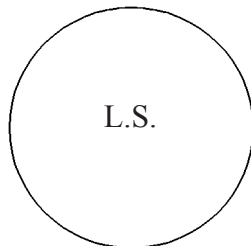
Strata Schemes Management Amendment Act 2002 No 109

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Strata Schemes Management Amendment Act 2002*, do, by this my Proclamation, appoint 10 February 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 5th day of February 2003.

By Her Excellency's Command,



JOHN AQUILINA, M.P.,
Minister for Fair Trading

GOD SAVE THE QUEEN!



Proclamation

under the

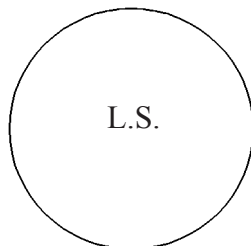
Summary Offences Amendment (Places of Detention) Act 2002
No 37

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 2 of the *Summary Offences Amendment (Places of Detention) Act 2002*, do, by this my Proclamation, appoint 21 February 2003 as the day on which that Act commences.

Signed and sealed at Sydney, this 5th day of February 2003.

By Her Excellency's Command,



BOB DEBUS, M.P.,
Attorney General

GOD SAVE THE QUEEN!

Regulations



Crimes (General) Amendment (School Protection) Regulation 2003

under the

Crimes Act 1900

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Crimes Act 1900*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

Under section 316 (4) of the *Crimes Act 1900* (*the Act*), a prosecution for an offence against section 316 (1) of the Act (Concealing serious indictable offence) is not to be commenced against a person without the approval of the Attorney General if the relevant knowledge or belief that an offence has been committed was formed or the relevant information was obtained by the person in the course of practising or following a profession, calling or vocation prescribed by the regulations for the purposes of section 316 (4).

The object of this Regulation is to prescribe the profession of school teacher for the purposes of section 316 (4) of the Act.

This Regulation is made under the *Crimes Act 1900*, including sections 316 and 582 (the general regulation-making power).

Clause 1 Crimes (General) Amendment (School Protection) Regulation 2003

Crimes (General) Amendment (School Protection) Regulation 2003

under the

Crimes Act 1900

1 Name of Regulation

This Regulation is the *Crimes (General) Amendment (School Protection) Regulation 2003*.

2 Commencement

This Regulation commences on 10 February 2003.

3 Amendment of Crimes (General) Regulation 2000

The *Crimes (General) Regulation 2000* is amended by inserting after clause 6 (g) the following paragraph:

- (h) if the serious indictable offence referred to in section 316 (1) of the Act is an offence under section 60E of the Act, a school teacher, including a principal of a school.

Environmental Planning and Assessment Amendment (Fisheries Management) Regulation 2003

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

ANDREW REFSHAUGE, M.P.,
Minister for Planning

Explanatory note

The object of this Regulation is to extend the period during which the general provisions of Part 5 of the *Environmental Planning and Assessment Act 1979* do not apply in respect of designated fishing activities, so as to allow additional time for the preparation and consideration of environmental impact statements in respect of those activities under Division 5 of that Part. The relevant deadline is extended from 1 July 2003 to 31 December 2003.

The Regulation provides that those provisions also do not apply in respect of certain non-designated fishing activities carried out before 31 December 2003.

The Regulation also makes minor amendments for law revision purposes.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 110 (1) (definition of *activity*), 115R (2) (b) and 157 (the general regulation-making power).

Clause 1 Environmental Planning and Assessment Amendment (Fisheries Management) Regulation 2003

Environmental Planning and Assessment Amendment (Fisheries Management) Regulation 2003

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Fisheries Management) Regulation 2003*.

2 Amendment of Environmental Planning and Assessment Regulation 2000

The *Environmental Planning and Assessment Regulation 2000* is amended as set out in Schedule 1.

3 Amendment of Environmental Planning and Assessment (Savings and Transitional) Regulation 1998

The *Environmental Planning and Assessment (Savings and Transitional) Regulation 1998* is amended by omitting Part 9.

Environmental Planning and Assessment Amendment (Fisheries Management) Regulation 2003

Amendment of Environmental Planning and Assessment Regulation 2000 Schedule 1

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

(Clause 2)

[1] Part 14, Division 7

Insert after Division 6:

Division 7 Fisheries management

244A Definitions

In this Division:

designated fishing activity has the same meaning as in Division 5 of Part 5 of the Act.

fisheries approval has the same meaning as in Division 5 of Part 5 of the Act.

Fisheries Minister has the same meaning as in Division 5 of Part 5 of the Act.

fishing activity has the same meaning as in the *Fisheries Management Act 1994*.

244B Non-designated fishing activities

- (1) For the purposes of the definition of *activity* in section 110 (1) of the Act, the carrying out of a fishing activity (not being a designated fishing activity) pursuant to a fisheries approval issued or renewed for a period of not more than 12 months, being a fishing activity that is carried out at any time before 31 December 2003, is prescribed not to be such an activity.
- (2) This clause does not apply to or in respect of aquaculture within the meaning of the *Fisheries Management Act 1994*.

244C Designated fishing activities

For the purposes of section 115R (2) (b) of the Act, 31 December 2003 is the prescribed date for all designated fishing activities.

Environmental Planning and Assessment Amendment (Fisheries
Management) Regulation 2003

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

[2] Schedule 3 Designated development

Omit “home improvement centres that saw, machine, mill, chip, pulp or compress timber or wood)” from clause 33.

Insert instead “home improvement centres) that saw, machine, mill, chip, pulp or compress timber or wood”.

[3] Schedule 5 Penalty notice offences

Insert in Column 2, at the beginning of the matter relating to a contravention of clause 177 (1):

\$500, for the offence of failing to give an annual fire safety statement that occurs during the first week after the time for giving the statement expires.

[4] Schedule 5

Omit “certificate” wherever occurring in Column 2 in the matter relating to a contravention of clause 177 (1) and in the matter relating to a contravention of clause 180 (1).

Insert instead “statement”.



New South Wales

Environmental Planning and Assessment Amendment (Review of Determination and Modification of Consent) Regulation 2003

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

ANDREW REFSHAUGE, M.P.,
Minister for Planning

Explanatory note

The object of this Regulation is, consequent on the enactment of the *Land and Environment Court Amendment Act 2002*, to amend the *Environmental Planning and Assessment Regulation 2000*:

- (a) to specify the process for the public notification of, and public participation in the determination of, applications made under section 82A of the *Environmental Planning and Assessment Act 1979* for the review of a council's determination, and
- (b) to specify the process for the public notification of, and public participation in the determination of, applications made under section 96AA of the *Environmental Planning and Assessment Act 1979* for the modification by a consent authority of a consent granted by the Land and Environment Court, and
- (c) to prescribe the fees for such applications, and
- (d) to make savings and transitional provisions, and
- (e) to make amendments by way of law revision.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 82A, 96AA and 157 and clause 1 of Schedule 6.

Clause 1 Environmental Planning and Assessment Amendment (Review of Determination and Modification of Consent) Regulation 2003

Environmental Planning and Assessment Amendment (Review of Determination and Modification of Consent) Regulation 2003

under the

Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Review of Determination and Modification of Consent) Regulation 2003*.

2 Commencement

This Regulation commences on 10 February 2003.

3 Amendment of Environmental Planning and Assessment Regulation 2000

The *Environmental Planning and Assessment Regulation 2000* is amended as set out in Schedule 1.

Environmental Planning and Assessment Amendment (Review of Determination and Modification of Consent) Regulation 2003

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 113A

Insert after clause 113:

113A Public participation: application under section 82A of the Act for review of council's determination

- (1) This clause applies to an application under section 82A of the Act for review by a council of its determination of a development application.
- (2) An application to which this clause applies must be notified or advertised for a period not exceeding 14 days, but otherwise in the same manner as the original development application was notified or advertised.
- (3) However, if the application is made to a council that has provided in a development control plan for the notification or advertising of such an application, the application is to be notified or advertised in accordance with the development control plan.
- (4) The council must cause copies of the application to be given to each concurrence authority for the development to which the application relates.
- (5) The notice or advertisement referred to in subclause (2) must contain the following information:
 - (a) a brief description of the original development application and the land to which it relates,
 - (b) a statement that submissions concerning the application for review may be made to the council within the period referred to in section 82A (4) (b) of the Act.
- (6) For the purposes of section 82A (4) (b) of the Act, the period within which submissions may be made in relation to such an application is the period specified:
 - (a) in subclause (2), except as provided by paragraph (b), or
 - (b) if the council has made a development control plan specifying such a period, in the development control plan.

Environmental Planning and Assessment Amendment (Review of
Determination and Modification of Consent) Regulation 2003

Schedule 1 Amendments

- (7) During the period referred to in subclause (2) or, if a development control plan provides for a period for notification or advertising of an application, during that period, any person may inspect the application and any accompanying information and make extracts from or copies of them.

[2] Clause 115 What are the requirements for an application for modification of a development consent?

Insert “or 96AA (1)” after “section 96 (1), (1A) or (2)” in clause 115 (1).

[3] Clause 115 (1) (i)

Insert at the end of clause 115 (1) (h):

- (i) a statement as to whether the application is being made to the Court (under section 96) or to the consent authority (under section 96AA),

[4] Clause 115 (1A)

Insert “or 96AA (1)” after “section 96 (2)”.

[5] Clause 115 (3)

Insert after clause 115 (2):

- (3) A development consent may not be modified by the Land and Environment Court under section 96 of the Act if an application for modification of the consent has been made to the consent authority under section 96AA of the Act and has not been withdrawn.

[6] Clause 116 Applications for modification of development consents granted by the Land and Environment Court or the Minister

Omit clause 116 (2).

[7] Clause 117 Public participation—applications for modification of development consents involving minimal environmental impact

Insert “or under section 96AA of the Act in respect of a modification which, in the opinion of the consent authority, is of minimal environmental impact” after “the Act” in clause 117 (1).

Environmental Planning and Assessment Amendment (Review of
Determination and Modification of Consent) Regulation 2003

Amendments

Schedule 1

[8] Clause 117 (3)

Insert “, in the case of an application under section 96 (1A) of the Act,” after “must”.

[9] Clause 118 Public participation—application under sections 96 (2) and 96AA for modification of certain development consents

Insert “or 96AA (1)” after “section 96 (2)” in clause 118 (1).

[10] Clause 118 (4)

Insert “, in the case of an application under section 96 (2) of the Act,” after “must”.

[11] Clause 118 (6)

Omit “section 96 (2) (d)”. Insert instead “sections 96 (2) (d) and 96AA (1) (d)”.

[12] Clause 118 (6)

Omit “subclause (4) (c)”. Insert instead “subclause (5) (c)”.

[13] Clause 118 (7)

Omit “subclause (4) (c)”. Insert instead “subclause (5) (c)”.

[14] Clause 119 Public participation—application under sections 96 (2) and 96AA for modification of other development consents

Insert “or under section 96AA (1) of the Act to which clauses 117 and 118 do not apply” after “apply” in clause 119 (1).

[15] Clause 119 (5)

Insert “, in the case of an application under section 96 (2) of the Act,” after “must”.

Environmental Planning and Assessment Amendment (Review of
Determination and Modification of Consent) Regulation 2003

Schedule 1 Amendments

[16] Clause 123A

Insert after clause 123:

**123A Effect of amendments made by Land and Environment Court
Amendment Act 2002**

- (1) The Act, as in force immediately before the commencement of the *Land and Environment Court Amendment Act 2002*, continues to apply to and in respect of:
 - (a) a review of a determination requested under section 82A of the Act, but not completed, before that commencement, and
 - (b) an appeal made under section 97 of the Act, but not finally determined, before that commencement.
- (2) The Act, as in force immediately before the commencement of the *Land and Environment Court Amendment Act 2002*, continues to apply to and in respect of the modification of a development consent the application for which was made, but not finally determined, before that commencement.

**[17] Clause 257 What is the fee for a request for a review of a
determination?**

Insert after paragraphs (a), (b) and (c) of clause 257:

plus an additional amount of not more than \$500 if notice of the application is required to be given under section 82A of the Act.

**[18] Clause 258 What is the fee for an application for modification of a
consent for local development or State significant development?**

Insert “, or under section 96AA (1) of the Act in respect of a modification which, in the opinion of the consent authority, is of minimal environmental impact,” after “Act” in clause 258 (1A).

[19] Clause 258 (2)

Omit “for the modification of a development consent”. Insert instead “, or under section 96AA (1) of the Act in respect of a modification which, in the opinion of the consent authority, is not of minimal environmental impact,”.

Environmental Planning and Assessment Amendment (Review of
Determination and Modification of Consent) Regulation 2003

Amendments

Schedule 1

[20] Clause 258 (2)

Insert “or 96AA (1)” after “section 96 (2)” where secondly occurring.

[21] Clause 258 (3)

Insert “or 96AA (1)” after “section 96 (2)”.



Fair Trading (General) Amendment (Employment Placement Services) Regulation 2003

under the

Fair Trading Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fair Trading Act 1987*.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to prescribe an information standard for employment placement services. That standard requires persons who provide employment placement services to job seekers to give each job seeker a written notice setting out certain information. Section 60R of the *Fair Trading Act 1987* (as inserted by the *Fair Trading Amendment (Employment Placement Services) Act 2002*) makes it an offence for a person who provides employment placement services to fail to comply with the requirements of any prescribed information standard.

The Regulation also enables penalty notices to be issued for certain offences under the *Fair Trading Act 1987* relating to employment placement services.

This Regulation is made under the *Fair Trading Act 1987*, including sections 60R, 64 and 92 (the general regulation-making power).

Clause 1 Fair Trading (General) Amendment (Employment Placement Services)
Regulation 2003

Fair Trading (General) Amendment (Employment Placement Services) Regulation 2003

under the

Fair Trading Act 1987

1 Name of Regulation

This Regulation is the *Fair Trading (General) Amendment (Employment Placement Services) Regulation 2003*.

2 Commencement

This Regulation commences on 17 February 2003.

3 Amendment of Fair Trading (General) Regulation 2002

The *Fair Trading (General) Regulation 2002* is amended as set out in Schedule 1.

Fair Trading (General) Amendment (Employment Placement Services)
Regulation 2003

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Part 3A

Insert after Part 3:

Part 3A Employment placement services

87A Information standard for employment placement services

- (1) For the purposes of section 60R of the Act, the requirements of this clause are prescribed as an information standard for employment placement services.
- (2) A person who provides employment placement services must, before providing those services to a person seeking employment (*a job seeker*), give the job seeker a written notice that sets out the following statements:
 - (a) A person who provides employment placement services must not charge a job seeker a fee for the purpose of finding the job seeker employment.
 - (b) A person who provides employment placement services must not engage in misleading or deceptive conduct (such as advertising a position as being available when the person knows no such position exists or knowingly giving misleading information to a job seeker about the nature of a position).
 - (c) If a job seeker believes that a person has acted inappropriately in the course of providing employment placement services, the job seeker may contact the Department of Fair Trading for information on possible action that may be taken.

[2] Schedule 1 Penalty notice offences

Insert at the end of the Schedule in Columns 1 and 2:

Section 60Q (1)	\$550
Section 60R (3)	\$550



New South Wales

Greyhound Racing Authority (Appeals) Amendment Regulation 2003

under the

Greyhound Racing Act 2002

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Greyhound Racing Act 2002*.

J. RICHARD FACE, M.P.,
Minister for Gaming and Racing

Explanatory note

The *Greyhound Racing Authority (Appeals) Regulation 1999* is taken to be a regulation made under the *Greyhound Racing Act 2002* by clause 22 of Schedule 6 to that Act. The object of this Regulation is to update references in that Regulation to certain bodies and provisions so as to accord with that Act and to change the name of that Regulation.

This Regulation is made under the *Greyhound Racing Act 2002*, including sections 30 and 59 (the general regulation-making power).

Clause 1 Greyhound Racing Authority (Appeals) Amendment Regulation 2003

Greyhound Racing Authority (Appeals) Amendment Regulation 2003

under the

Greyhound Racing Act 2002

1 Name of Regulation

This Regulation is the *Greyhound Racing Authority (Appeals) Amendment Regulation 2003*.

2 Commencement

This Regulation commences on 10 February 2003.

3 Amendment of Greyhound Racing Authority (Appeals) Regulation 1999

The *Greyhound Racing Authority (Appeals) Regulation 1999* is amended as set out in Schedule 1.

Greyhound Racing Authority (Appeals) Amendment Regulation 2003

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 1 Name of Regulation

Omit “*Authority*”.

[2] Clause 3 Definitions

Insert in alphabetical order:

chief executive officer means the chief executive officer of the Authority.

[3] Clause 3, definition of “the Act”

Omit “*Greyhound Racing Authority Act 1985*”.

Insert instead “*Greyhound Racing Act 2002*”.

[4] Clauses 5 and 16

Omit “section 18A” wherever occurring. Insert instead “section 27”.

[5] Clause 7 Procedure for initiating and hearing appeals

Omit “Regulatory Committee” from clause 7 (3) (c).

Insert instead “Authority”.



Land and Environment Court Amendment (Fees) Regulation 2003

under the

Land and Environment Court Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Land and Environment Court Act 1979*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

The object of this Regulation is to prescribe a filing fee of \$169 for initiating process under section 96AA of the *Environmental Planning and Assessment Act 1979*.

This Regulation is made under the *Land and Environment Court Act 1979*, including section 78 (the general power to make regulations).

Clause 1 Land and Environment Court Amendment (Fees) Regulation 2003

Land and Environment Court Amendment (Fees) Regulation 2003

under the

Land and Environment Court Act 1979

1 Name of Regulation

This Regulation is the *Land and Environment Court Amendment (Fees) Regulation 2003*.

2 Commencement

This Regulation commences on 10 February 2003.

3 Amendment of Land and Environment Court Regulation 2000

Item 3 of Schedule 1 to the *Land and Environment Court Regulation 2000* is amended by inserting “96AA or” after “section”.



Police Amendment (Appointments) Regulation 2003

under the

Police Act 1990

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Police Act 1990*.

MICHAEL COSTA, M.L.C.,
Minister for Police

Explanatory note

The objects of this Regulation are:

- (a) to enable the probationary period for constables who have previously served as police officers, previously reducible to one month, to be waived completely, and
- (b) to require applicants for appointment to positions of the rank of sergeant, inspector and superintendent to satisfy certain requirements as to time at rank and pre-qualifying assessment, and (depending on the position) as to specialist, middle manager or senior manager assessment, and
- (c) to facilitate access by the Police Integrity Commission and the Ombudsman to the complaints information system (as opposed to the information contained in the system), and
- (d) to authorise bodies that are formed principally for the object of providing entertainment (such as musical groups) to carry on business under an operating name that includes the word “police”, and
- (e) to allow references to the *Police Service Act 1990* to be construed as references to the *Police Act 1990*.

This Regulation is made under the *Police Act 1990*, including section 219 (the general power to make regulations), sections 128, 204A and 219 and clause 2 of Schedule 4.

Clause 1 Police Amendment (Appointments) Regulation 2003

Police Amendment (Appointments) Regulation 2003

under the

Police Act 1990

1 Name of Regulation

This Regulation is the *Police Amendment (Appointments) Regulation 2003*.

2 Commencement

This Regulation commences on 7 February 2003.

3 Amendment of Police Regulation 2000

The *Police Regulation 2000* is amended as set out in Schedule 1.

Police Amendment (Appointments) Regulation 2003

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 13 Appointment of constables on probation

Omit “(but more than 1 month)” from clause 13 (2).

Insert instead “, or may waive the period of probation completely,”.

[2] Clause 16 Promotion of constables

Insert at the end of clause 16:

- (2) A police officer of the grade of senior constable who has served as a police officer for a period or periods totalling less than 9 years, and who has never previously been permanently appointed to a position of higher rank, may only apply for permanent appointment to a position of the rank of sergeant.

[3] Part 2, Divisions 2A, 2B and 2C

Insert after Division 2 of Part 2:

Division 2A Appointment of sergeants

18A Application of Division

This Division applies to appointments under Division 4 of Part 6 of the Act.

18B Time at rank and pre-qualifying assessment requirements

- (1) A person is not eligible to be appointed to a position of the rank of sergeant unless, as at the time the person applies for appointment, the person:
 - (a) is, or has previously been, permanently appointed to a position of the rank of sergeant or above, or
 - (b) is a senior constable:
 - (i) who has satisfied the requirements of clause 16 with respect to promotion to a position of the grade of senior constable, and

Police Amendment (Appointments) Regulation 2003

Schedule 1 Amendments

-
- (ii) who has, within the period of 3 years prior to the date on which the application is made, successfully completed the sergeant's pre-qualifying assessment, as determined by the Commissioner.
- (2) Subclause (1) (b) (ii) does not apply to an appointment for which an application was made before 1 January 2002.

18C Special assessment

A person is not eligible to be appointed to a position of the rank of sergeant (being a position identified by the Commissioner as a position for which special assessment is appropriate) unless, as at the time the person applies for appointment, the person has, within the period of 5 years prior to the date on which the application is made, successfully completed the specialist sergeant assessment process approved by the Commissioner.

Division 2B Appointment of inspectors**18D Application of Division**

This Division applies to appointments under Division 3 of Part 6 of the Act.

18E Time at rank and pre-qualifying assessment requirements

- (1) A person is not eligible to be appointed to a position of the rank of inspector unless, as at the time the person applies for appointment, the person:
- (a) is, or has previously been, permanently appointed to a position of the rank of inspector or above, or
 - (b) is a person:
 - (i) who has been appointed (including by way of a temporary appointment under section 66 of the Act or an appointment to act in an executive position under section 37 of the Act) to a position of the rank of sergeant or above for a period or periods totalling at least 12 months, and

Police Amendment (Appointments) Regulation 2003

Amendments

Schedule 1

-
- (ii) who has, within the period of 3 years prior to the date on which the application is made, successfully completed the inspector's pre-qualifying assessment, as determined by the Commissioner.
- (2) Subclause (1) (a) and (b) (i) do not apply to an appointment for which an application was made before the commencement of this clause.
 - (3) Subclause (1) (b) (ii) does not apply to an appointment for which an application was made before 1 January 2002.

18F Special assessment

A person is not eligible to be appointed to a position of the rank of inspector unless, as at the time the person applies for appointment, the person has, within the period of 5 years prior to the date on which the application is made, successfully completed the middle manager assessment process approved by the Commissioner.

Division 2C Appointment of superintendents

18G Application of Division

This clause applies to appointments under Division 3 of Part 6 of the Act.

18H Time at rank and pre-qualifying assessment requirements

- (1) A person is not eligible to be appointed to a position of the rank of superintendent unless, as at the time the person applies for appointment, the person:
 - (a) is, or has previously been, permanently appointed to a position of the rank of superintendent or above, or
 - (b) is a person:
 - (i) who has been appointed (including by way of a temporary appointment under section 66 of the Act or an appointment to act in an executive position under section 37 of the Act) to a position of the rank of inspector or above, or a position of duty officer, for a period or periods totalling at least 12 months, and

Police Amendment (Appointments) Regulation 2003

Schedule 1 Amendments

-
- (ii) who has, within the period of 3 years prior to the date on which the application is made, successfully completed the superintendent's pre-qualifying assessment, as determined by the Commissioner.
- (2) Subclause (1) (a) and (b) (i) do not apply to an appointment for which an application was made before the commencement of this clause.
- (3) Subclause (1) (b) (ii) does not apply to an appointment for which an application was made before 1 January 2002.

18I Special assessment

A person is not eligible to be appointed to a position of the rank of superintendent unless, as at the time the person applies for appointment, the person has, within the period of 5 years prior to the date on which the application is made, successfully completed the senior manager assessment process approved by the Commissioner.

[4] Clause 25 Establishment of complaints information system

Insert after clause 25 (1):

- (1A) The system is to be operated and maintained by the Commissioner.
- (1B) The Commissioner:
- (a) must allow the Police Integrity Commission and the Ombudsman to have access to the system, and
 - (b) must provide the Police Integrity Commission and the Ombudsman with such information as that body or person may request with respect to the design of the system and the procedures in accordance with which the system is operated and maintained,

but not so as to allow unauthorised access to information the subject of a caveat under section 129 (4) of the Act.

Police Amendment (Appointments) Regulation 2003

Amendments

Schedule 1

[5] Clause 107 Bodies authorised to carry on business under operating name that includes “police”: section 204A

Insert at the end of clause 107:

Any body that has, among its primary objects, the object of providing public entertainment (other than a body that also has, among its primary objects, the object of promoting or conducting any sporting activity)

[6] Clause 108

Insert after clause 107:

108 Construction of certain references

- (1) A reference in any Act or instrument to the *Police Service Act 1990* includes a reference to the *Police Act 1990*.
- (2) This clause is taken to have commenced on 12 July 2002 (being the date on which the name of the Act was changed from the *Police Service Act 1990* to the *Police Act 1990*).



New South Wales

Public Authorities (Financial Arrangements) Amendment (Education Entities Further Provision) Regulation 2003

under the

Public Authorities (Financial Arrangements) Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Public Authorities (Financial Arrangements) Act 1987*.

MICHAEL EGAN, M.L.C.,
Treasurer

Explanatory note

The object of this Regulation is to amend the *Public Authorities (Financial Arrangements) Regulation 2000* to reactivate a provision prescribing the Department of Education and Training and the TAFE Commission as not being within the definition of **authority** in section 3 (1) of the *Public Authorities (Financial Arrangements) Act 1987* for the purposes of Part 2D of that Act. The reactivated provision will cease to have effect on 31 October 2003.

This Regulation is made under the *Public Authorities (Financial Arrangements) Act 1987*, including the definition of **authority** in section 3 (1) and section 43 (the general regulation-making power).

Clause 1 Public Authorities (Financial Arrangements) Amendment (Education Entities Further Provision) Regulation 2003

**Public Authorities (Financial Arrangements)
Amendment (Education Entities Further Provision)
Regulation 2003**

under the

Public Authorities (Financial Arrangements) Act 1987

1 Name of Regulation

This Regulation is the *Public Authorities (Financial Arrangements) Amendment (Education Entities Further Provision) Regulation 2003*.

2 Amendment of Public Authorities (Financial Arrangements) Regulation 2000

The *Public Authorities (Financial Arrangements) Regulation 2000* is amended as set out in Schedule 1.

Public Authorities (Financial Arrangements) Amendment (Education Entities
Further Provision) Regulation 2003

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 2)

Clause 57A Entities excluded from definition of “authority”

Omit clause 57A (2).

Insert instead:

- (2) The Department of Education and Training and the TAFE Commission are prescribed as not being within the definition of *authority* in section 3 (1) of the Act for the purposes of Part 2D of the Act. This subclause ceases to have effect on 31 October 2003.



New South Wales

Rail Safety (General) Regulation 2003

under the

Rail Safety Act 2002

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Rail Safety Act 2002*.

CARL SCULLY, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to make provision for the following matters related to rail safety and railway employees:

- (a) the validity of tickets used for railway journeys,
- (b) offences relating to the misuse of tickets, failure to obtain a ticket, failure to present a ticket for inspection and failure to offer a ticket for collection or processing,
- (c) offences relating to travelling on a train without paying the fare,
- (d) offences prohibiting certain conduct on a train or railway land,
- (e) offences relating to the crossing of running lines by vehicles, pedestrians or animals,
- (f) offences relating to animals on railway land or trains and the use of vehicles on railway land,
- (g) requirements imposed on accredited persons relating to standards for employees, the making of rules relating to railway network operations and operations of the accredited persons and the management of fatigue in railway employees,
- (h) offences relating to closing gates at level crossings, throwing things, trespassing, the return of lost property and other matters,
- (i) savings provisions consequent on the repeal of the *Rail Safety Regulation 1999*.

Rail Safety (General) Regulation 2003

Explanatory note

This Regulation is made under the *Rail Safety Act 2002*, including sections 95, 105 and 117 (the general regulation-making power).

Rail Safety (General) Regulation 2003

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Rail Safety (General) Regulation 2003

Clause 1

Preliminary

Part 1

Rail Safety (General) Regulation 2003

under the

Rail Safety Act 2002

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Rail Safety (General) Regulation 2003*.

2 Commencement

This Regulation commences on 8 February 2003.

3 Definitions

In this Regulation:

assistance animal means an animal referred to in section 9 (Disability discrimination—guide dogs, hearing assistance dogs and trained animals) of the *Disability Discrimination Act 1992* of the Commonwealth.

concession ticket means a ticket issued free or at a reduced fare.

disability has the same meaning as it has in the *Disability Discrimination Act 1992* of the Commonwealth.

drive includes ride or draw (in relation to a vehicle) and ride or lead (in relation to an animal).

hold, in relation to a ticket or reservation, means be able to produce the ticket or reservation on request.

light rail stop means any place designated for the picking up or setting down of passengers on a route declared, under section 104N (2) of the *Transport Administration Act 1988*, to be the route of a light rail system.

light rail system has the same meaning as in section 104N of the *Transport Administration Act 1988*.

Clause 3 Rail Safety (General) Regulation 2003

Part 1 Preliminary

monorail works means any station, platform, monorail running line or supporting column associated with a monorail transport system.

railway land means:

- (a) land vested in, or under the control of, an accredited person for a railway and used in connection with the railway (other than land of which the accredited person is the lessor), and
- (b) land over which a light rail system operates (whether by way of easements or otherwise).

restricted area of a station means the platform and all other parts of the station between the platform and the ticket barrier.

station means:

- (a) a monorail station (whether or not on railway land), and
- (b) any other station on railway land,

and includes any place (other than a light rail stop) designated for the picking up and setting down of passengers on a railway.

the Act means the *Rail Safety Act 2002*.

ticket includes a pass or other thing issued to a person, by or on behalf of the accredited person for a railway, for the purpose of authorising the person to travel on a train on the railway.

train means:

- (a) a train operated by the State Rail Authority, or
- (b) a light rail vehicle operated on a light rail system, or
- (c) the class of trains operated by an accredited person.

valid ticket means a ticket that meets the requirements for validity set out in clause 7.

vehicle includes a bicycle.

Note. Section 4 (1) of the *Rail Safety Act 2002* defines the **infrastructure of a railway** as "those facilities that are necessary to enable a railway to operate safely". The section provides that the infrastructure includes, but is not limited to, railway track, associated track structures, tunnels, bridges, stations, platforms, signalling systems, train control systems, communication systems, overhead electrical power supply systems, buildings (including buildings used for administrative purposes), workshops and associated plant, machinery and equipment.

Rail Safety (General) Regulation 2003

Clause 4

Preliminary

Part 1

4 Notes

The notes in the text of this Regulation do not form part of this Regulation.

Clause 5 Rail Safety (General) Regulation 2003

Part 2 Tickets and payment of fares

Part 2 Tickets and payment of fares

5 Fare to be paid and ticket to be held

- (1) A person must not, without reasonable excuse, travel on a train unless:
- (a) the fare for the person's travel has been paid, and
 - (b) the person (or someone accompanying the person) holds a valid ticket for the person's travel.

Maximum penalty: 5 penalty units.

Note. Clause 3 (1) defines *hold*, in relation to a ticket, as meaning "be able to produce the ticket on request".

- (2) It is a defence to a prosecution under this clause if the person proves:
- (a) that it appeared to the person, after reasonable investigation, that no facilities were available, at the station or stop at which the person got on the train, to enable the person to pay the fare or obtain the ticket before getting on the train, or
 - (b) that the person:
 - (i) arrived at the station or stop at a time that should, in the circumstances ordinarily existing at that time of day and on that day of the week, have enabled the person to pay the fare or obtain the ticket before getting on the train, and
 - (ii) diligently took all steps reasonably necessary to pay the fare or obtain the ticket,but was unable to pay the fare or obtain the ticket due to circumstances beyond the person's control.
- (3) Subject to subclause (2), it is not a defence to a prosecution under this clause for a person to prove:
- (a) that the time taken or likely to have been taken to pay the fare or obtain the ticket before getting on the train would have prevented the person from getting on the train, or
 - (b) that the person intended to pay the fare or obtain the ticket while travelling or on arriving at a particular place.
- (4) In this clause, *train* includes any other form of transport (such as a bus) provided by the State Rail Authority in substitution for a train.

Rail Safety (General) Regulation 2003

Clause 6

Tickets and payment of fares

Part 2

6 Other offences in relation to fares and tickets

- (1) A person who is travelling on a train without having paid the fare for the travel concerned must not, without reasonable excuse, fail to pay the fare:
- (a) on demand made by an officer authorised in that regard by the accredited person for the train system, or
 - (b) if the fare has not already been paid pursuant to such a demand, immediately on leaving the train at the station or stop at which the person's travel is completed.

Maximum penalty: 5 penalty units.

- (2) A person must not, knowingly and without reasonable excuse, travel on a train in a carriage or compartment of a class to which the person's ticket does not apply.

Maximum penalty: 5 penalty units.

- (3) In this clause, *train* includes any other form of transport (such as a bus) provided by the State Rail Authority in substitution for a train.

7 Validity of tickets

- (1) A ticket is valid for travel only:
- (a) between the stations or light rail stops (or within the zone or area) specified on it, and
 - (b) on the issue date specified on it (or, if an expiry date or time is specified, until and including that date or until that time), and
 - (c) between the times (if any) specified on it, and
 - (d) in the case of a single or return ticket—if the ticket has not previously been used to authorise the travel concerned, and
 - (e) in the case of a ticket showing the name of the person to whom it was issued—by that person.
- (2) A ticket transferred in contravention of clause 8 is not a valid ticket.
- (3) A ticket is not valid unless:
- (a) the number of the ticket, and
 - (b) the issue date or the expiry date (or both) of the ticket, and
 - (c) the names of stations or light rail stops between which (or the zone or area within which) the ticket authorises travel, and

Clause 8 Rail Safety (General) Regulation 2003

Part 2 Tickets and payment of fares

(d) the name (if shown) of the person to whom the ticket was issued,

are legible on the ticket, and the ticket is not defaced, mutilated or altered.

- (4) However, an illegible, defaced, mutilated or altered ticket is valid if the illegibility, defacing, mutilation or alteration occurred as the result of the ordinary use of the ticket.

8 Tickets not transferable

- (1) A person who is issued with a ticket must not transfer (or offer to transfer) the ticket, or a portion of the ticket, to another person.

Maximum penalty: 5 penalty units.

- (2) This clause does not apply if:
- (a) the ticket was bought on behalf of that other person, or
 - (b) the transfer is authorised by an accredited person for the railway to which the ticket relates.

9 Concession tickets

- (1) A person must not travel on a train on the authority of a concession ticket unless the person is, because his or her age, occupation or status, entitled to the concession ticket.

Maximum penalty: 5 penalty units.

- (2) An authorised officer may require a person:
- (a) who is travelling on a train on the authority of a concession ticket, or
 - (b) who makes a concession ticket available for inspection under clause 10, or
 - (c) who offers a concession ticket for collection or processing under clause 11 or 12,

to produce to the authorised officer evidence (for example, the person's pensioner or student concession card) that the person is entitled to the concession ticket.

- (3) A person must comply with a requirement made under subclause (2).

Maximum penalty: 5 penalty units.

Rail Safety (General) Regulation 2003

Clause 10

Tickets and payment of fares

Part 2

-
- (4) A person must not:
- (a) in or in connection with an application for a concession ticket, or
 - (b) in purported compliance with a requirement made under this clause,

knowingly give any information or tender any document that contains a false or misleading particular with respect to the age, occupation or status of the person to whom the application or direction relates.

Maximum penalty: 5 penalty units.

10 Inspection of tickets

A person who is on a train or in a restricted area of a station must make his or her ticket available for inspection or processing by an authorised officer on that officer's request. In the case of a return ticket, this requirement extends to making the return portion of the ticket available on the forward journey, if an authorised officer so requests.

Maximum penalty: 5 penalty units.

11 Entry to restricted area of station

- (1) A person must not, without reasonable excuse, enter the restricted area of a station (otherwise than by getting off a train) without offering the person's ticket for processing in accordance with this clause.

Maximum penalty: 5 penalty units.

- (2) For the purposes of this clause, a person offers a ticket for processing:
- (a) by putting it into an automatic gate or other equipment provided to read or record any details on the ticket, or
 - (b) by showing the ticket to an authorised officer on that officer's request.
- (3) A person must offer his or her ticket for processing in the manner specified in subclause (2) (a), unless:
- (a) the person's ticket is not designed for insertion in automatic equipment, or

Clause 12 Rail Safety (General) Regulation 2003

Part 2 Tickets and payment of fares

- (b) the station concerned is not supplied with automatic equipment, or
- (c) the person has a reasonable excuse for not using the automatic equipment (for example, the equipment is not operating or the person is accompanied by luggage that would make use of the equipment difficult).

12 Leaving restricted area of station

- (1) A person must not, without reasonable excuse, leave the restricted area of a station (otherwise than by getting on a train) without offering the person's ticket for collection or processing in accordance with this clause.

Maximum penalty: 5 penalty units.

- (2) For the purposes of this clause, a person offers a ticket for collection or processing:
- (a) by putting it into or passing it across an automatic gate or other equipment provided to accept the ticket (or part of the ticket) or to read or record any details on the ticket, or
 - (b) by giving (or, in the case of a ticket of continuing validity, showing) the ticket to an authorised officer on that officer's request.
- (3) A person must offer his or her ticket for collection or processing in the manner specified in subclause (2) (a), unless:
- (a) the person's ticket is not designed for insertion in or passing across automatic equipment, or
 - (b) the station concerned is not supplied with automatic equipment, or
 - (c) the person has a reasonable excuse for not using the automatic equipment (for example, the equipment is not operating or the person is accompanied by luggage that would make use of the equipment difficult).

Rail Safety (General) Regulation 2003

Clause 13

Conduct on trains and railway land

Part 3

Part 3 Conduct on trains and railway land

13 Conduct generally

A person must not on any train, on any railway land or on any part of monorail works wilfully:

- (a) use offensive language, or
- (b) behave offensively, or
- (c) put his or her feet on seats, or
- (d) spit.

Maximum penalty: 5 penalty units.

14 Luggage and soiled clothing

- (1) If, in the opinion of an authorised officer, a person's clothing or luggage (or any other thing that the person has, or appears to intend to take, on a train):

- (a) may soil or damage the train or the clothing or luggage of other passengers, or
- (b) has such dimensions that it cannot be accommodated in the train without inconvenience to other passengers,

the authorised officer may direct the person to leave, or not to enter, the train.

- (2) A person must comply with a direction given under subclause (1).

Maximum penalty: 5 penalty units.

15 Smoking generally prohibited

- (1) A person must not smoke on any train or on any part of railway land or any part of monorail works that is roofed or otherwise covered.

Maximum penalty: 5 penalty units.

- (2) This clause does not apply to a part of a train, railway land or monorail works in or on which smoking is permitted by the display of signs.

- (3) In this clause, *smoke* includes be in possession of a lighted cigarette, cigar, pipe or similar article.

Clause 16 Rail Safety (General) Regulation 2003

Part 3 Conduct on trains and railway land

16 Eating and drinking on trains

- (1) A person must not eat or drink on any train in which eating and drinking is prohibited by signs displayed in the train, except with the permission of an authorised officer.

Maximum penalty: 5 penalty units.

- (2) This clause does not apply to a person who is eating or drinking on a train for medical reasons.

17 Drinking of alcohol generally prohibited

- (1) A person must not drink any intoxicating liquor on any train, any railway land or any part of monorail works.

Maximum penalty: 5 penalty units.

- (2) This clause does not apply if the liquor that is drunk was supplied on the train, railway land or monorail works concerned by, or with the permission of, the accredited person for the railway.

- (3) In this clause, *drink* includes be in possession of an opened container of intoxicating liquor.

18 Passengers who are intoxicated

- (1) If, in the opinion of an authorised officer, a person on a station or a train, or at a light rail stop:

- (a) is under the influence of intoxicating liquor or another drug, and
(b) is causing, or is likely to cause, a nuisance or annoyance to other persons on the station or train or at the light rail stop,

the authorised officer may direct the person to leave the station, train or light rail stop.

- (2) A person must comply with a direction given under subclause (1).

Maximum penalty: 5 penalty units.

19 No unauthorised commercial activities

- (1) A person must not carry on a commercial activity on any train, on any railway land or on any part of monorail works without the written permission of the accredited person for the relevant railway.

Maximum penalty: 5 penalty units.

Rail Safety (General) Regulation 2003

Clause 20

Conduct on trains and railway land

Part 3

-
- (2) For the purposes of this clause, a *commercial activity* means any one or more of the following:
- (a) the sale or hire (or the offer of sale or hire) of any thing otherwise than by means of a mobile phone call to a person who is not present on the train, railway land or monorail works concerned,
 - (b) the touting or soliciting for custom, hire or employment otherwise than by means of a mobile phone call to a person who is not present on the train, railway land or monorail works concerned,
 - (c) the distribution of handbills to any person,
 - (d) the soliciting of money from any person (whether by way of busking or otherwise).

20 Entry to and exit from railway premises

A person must not, without reasonable excuse, enter or leave a station, platform or other work or premises connected with a railway otherwise than by a place designated by the accredited person for the railway for entry or exit.

Maximum penalty: 5 penalty units.

21 Entry to and exit from trains

A person must not, without reasonable excuse, enter or leave a train:

- (a) while the train is moving, or
- (b) by getting through a window, or
- (c) in the case of a train operated on a railway other than a light rail system—except at the side of the train adjoining the platform or other place designated by the accredited person for the railway for persons to enter or leave the train, or
- (d) in the case of a train operated on a railway that is a light rail system—except at the side of the train adjoining the light rail stop designated by the accredited person for persons to enter or leave the train.

Maximum penalty: 5 penalty units.

22 Passengers to remain wholly within trains

A person who is on a train must not, without reasonable excuse:

Clause 23 Rail Safety (General) Regulation 2003

Part 3 Conduct on trains and railway land

(a) protrude any part of the person's body from an open door or window of the train, or

(b) touch any building, structure or other object outside the train.

Maximum penalty: 5 penalty units.

23 Certain unauthorised travel on trains

(1) A person must not board a train, for the purpose of travelling on it, at a station at which the train is not scheduled to pick up passengers, except with the permission of an authorised officer.

Maximum penalty: 5 penalty units.

(2) A person must not leave a train at a station at which the train is not scheduled to set down passengers, except with the permission of an authorised officer.

Maximum penalty: 5 penalty units.

24 Compulsory reservation of sleeping berths or seats

(1) A person must not, except with the permission of an authorised officer, travel on a train on which booking is compulsory without holding:

(a) both a valid ticket for the travel concerned, and a reservation for a sleeping berth or seat, or

(b) a combined travel and reservation ticket.

Maximum penalty: 5 penalty units.

(2) Subclause (1) does not apply to a person who is travelling with another person who holds a valid ticket and reservation, or a combined ticket and reservation (or tickets and reservations, or combined tickets and reservations) authorising, for both persons, travel on the train concerned.

Note. Clause 3 (1) defines *hold*, in relation to a ticket or reservation, as meaning "be able to produce the ticket or reservation on request".

(3) A person is not liable to be punished under both this clause and clause 6 (2) in respect of the same travel.

25 Unauthorised occupation of reserved seats

(1) The accredited person for a railway may, by an appropriate notice attached to (or in the vicinity of) a seat in a train used on the railway, reserve the seat for a passenger.

Rail Safety (General) Regulation 2003

Clause 26

Conduct on trains and railway land

Part 3

-
- (2) An authorised officer may direct a person to leave a seat reserved for another person if the authorised officer is not satisfied that the person is occupying the seat with the permission of either the person for whom it is reserved or an authorised officer.
 - (3) A person must comply with a direction given under subclause (2).
Maximum penalty: 5 penalty units.

26 Unauthorised occupation of sleeping berths

- (1) A person must not, except with the permission of an authorised officer, occupy a sleeping berth on a train:
 - (a) other than the berth allotted to the person, or
 - (b) without holding or having delivered up on the train a sleeping berth ticket or other receipt for the fare for the berth.
Maximum penalty: 5 penalty units.
- (2) An authorised officer may direct a person contravening subclause (1) to leave the berth.
- (3) A person must comply with a direction given under subclause (2).
Maximum penalty: 5 penalty units.

27 Unauthorised occupation of seats for aged persons or persons with a disability

- (1) The accredited person for a railway may, by appropriate notice attached to (or in the vicinity of) seating in a train used on the railway, set aside that seating for persons who are aged or have a disability.
- (2) A person who is not aged and does not have a disability must not continue to occupy a seat set aside for the aged and persons with disabilities if an aged person or a person with a disability wanting to use the seat (or a person on behalf of that person) asks the person to vacate it.
Maximum penalty: 5 penalty units.

28 No interference with train doors

- A person must not, without reasonable excuse:
- (a) block a train door, or
 - (b) open a locked train door at any time, or

Clause 29 Rail Safety (General) Regulation 2003

Part 3 Conduct on trains and railway land

- (c) open an unlocked train door (other than an internal door or a door between carriages) while the train is moving, or
- (d) in any way interfere with an automatically operated train door.

Maximum penalty: 5 penalty units.

29 No entry to crew compartment of train

- (1) A person must not:
 - (a) enter any crew compartment of a train without the permission of an authorised officer, or
 - (b) remain in the crew compartment of a train after having been requested to leave the compartment by an authorised officer.

Maximum penalty: 5 penalty units.

- (2) This clause does not apply to an authorised officer in the execution of his or her duty.

30 Travel not allowed on certain parts of train

- (1) A person must not, without reasonable excuse, travel on any part of a train not intended for the conveyance of passengers.

Maximum penalty: 5 penalty units.

- (2) Without limiting subclause (1), parts of a train not intended for the conveyance of passengers include the following:
 - (a) the engine or locomotive,
 - (b) the roof, steps and footboard,
 - (c) the stairs of a double-decker train.

31 Unauthorised use of certain equipment

- (1) A person must not, without reasonable excuse, do any of the following:
 - (a) use the public address system of a train or on a station or at a light rail stop,
 - (b) use any other communications system or information system of a train or on a station or at a light rail stop or on any other part of the infrastructure of a railway, or any emergency help point for passengers, for a purpose other than the purpose for which it is provided,

Rail Safety (General) Regulation 2003

Clause 32

Conduct on trains and railway land

Part 3

-
- (c) apply or release any brake on a train,
 - (d) use or interfere with any emergency or safety equipment on a train or on a station or at a light rail stop or on any other part of the infrastructure of a railway,
 - (e) operate or otherwise interfere with any electrical or mechanical apparatus or device that is on railway land or is attached to, or forms part of, any train or any part of monorail works, or
 - (f) throw any article or thing at or towards, or otherwise interfere with, any electricity supply line or any electrical or mechanical apparatus on railway land or situated on or about, or attached to, any part of monorail works.

Maximum penalty: 5 penalty units.

- (2) In this clause, *emergency or safety equipment* includes closed circuit television cameras, emergency help points for passengers, emergency breakdown equipment, alarms, stretchers, fire extinguishers and the like.

32 No obstruction or hindrance

- (1) A person must not, without reasonable excuse:
 - (a) obstruct any facility on railway land or monorail works, or
 - (b) hinder (whether by obstruction or by any other means) another person's use of any facility on railway land or monorail works.

Maximum penalty: 5 penalty units.

- (2) Without limiting subclause (1), a facility on railway land or monorail works includes the following:
 - (a) the entrance to a station or light rail stop,
 - (b) the exit from a station or light rail stop,
 - (c) stairways and escalators at a station or light rail stop.

33 Pedestrians

A person must not, while proceeding on foot on any railway land or on any part of monorail works, proceed at a pace or in a manner that may cause injury or damage or that may endanger any person or property.

Maximum penalty: 5 penalty units.

Clause 34 Rail Safety (General) Regulation 2003

Part 3 Conduct on trains and railway land

34 Use of escalators and lifts

- (1) A person must not, while on railway land or monorail works:
 - (a) ride on a travelling handrail of an escalator, or
 - (b) without reasonable excuse, move while on an escalator in a direction opposite to that in which it is travelling, or
 - (c) without reasonable excuse, convey any goods on an escalator or in a lift, or
 - (d) without reasonable excuse, interfere in any manner with an escalator or lift or the working of an escalator or lift.

Maximum penalty: 5 penalty units.

- (2) In this clause, *goods* does not include shopping, strollers, prams, bicycles, surfboards or luggage.

35 Railway property not to be removed

- (1) A person must not remove any property belonging to an accredited person from any train, any railway land or any part of monorail works.

Maximum penalty: 5 penalty units.

- (2) This clause does not apply to an authorised officer or other person in the execution of the officer's or person's duty.

36 Graffiti and vandalism

- (1) A person must not:
 - (a) write, draw or affix any word, representation, character or poster on or to, or
 - (b) destroy, damage or deface,

any train, any part of the infrastructure of a railway or any property on railway land or monorail works.

Maximum penalty: 5 penalty units.

- (2) A person must not, without reasonable excuse, have in his or her possession on any train, any part of a railway, on any railway land or on any part of monorail works any thing intended for use in damaging property.

Maximum penalty: 5 penalty units.

Rail Safety (General) Regulation 2003

Clause 37

Conduct on trains and railway land

Part 3

-
- (3) This clause does not apply to an authorised officer in the execution of his or her duty.

37 No littering

- (1) A person must not on any train, any part of a railway, on any railway land or on any part of monorail works:
- (a) deposit any litter, or
 - (b) deposit any thing that may endanger any person or property, otherwise than in a receptacle provided for that purpose.

Maximum penalty: 5 penalty units.

- (2) A person must not abandon any building material on any train, any part of a railway, on any railway land or on any part of monorail works.

Maximum penalty: 5 penalty units.

38 Lighting fires

A person must not:

- (a) light a fire on, or
- (b) bring any burning substance into or onto, or cause a burning substance to be brought into or onto, or
- (c) throw or drop any burning substance on or from, or cause any burning substance to be thrown or dropped on or from,

any train, any part of a railway, any railway land or monorail works.

Maximum penalty: 5 penalty units.

39 Direction to leave train or premises

- (1) If, in the opinion of an authorised officer, a person is committing an offence under this Part, the authorised officer may direct the person to leave the train, railway land or part of the monorail works concerned.

- (2) A person must comply with a direction given under subclause (1).

Maximum penalty: 5 penalty units.

Clause 40 Rail Safety (General) Regulation 2003

Part 4 Crossing running lines

Part 4 Crossing running lines

40 Definitions

In this Part:

level crossing does not include any crossing over the running lines of the light rail system in a road or road related area.

road and *road related area* have the same meanings as in the *Road Transport (General) Act 1999*.

41 Crossing running lines—generally

- (1) A person must not cross or drive a vehicle over a running line except by means of a level crossing, bridge or subway constructed for that purpose.

Maximum penalty: 5 penalty units.

- (2) This clause does not apply to or in respect of:
- (a) an authorised officer or other person in the execution of his or her duty, or
 - (b) a person who takes any action referred to in this clause at the request or direction of an authorised officer or other person in the execution of the officer's or person's duty, or
 - (c) a running line used in a road or road related area for the purpose of a light rail system.

42 Pedestrians crossing running line

- (1) A person on foot (unless in charge of an animal) must not, without reasonable excuse, cross over a running line at ground level at a level crossing if a bridge or subway is provided at the crossing.

Maximum penalty: 5 penalty units.

- (2) A person on foot must not cross over a running line at a level crossing:
- (a) if warned not to do so by an authorised officer, or
 - (b) contrary to a warning displayed at the level crossing.

Maximum penalty: 5 penalty units.

- (3) A person on foot must not cross over a running line at a level crossing at which are installed barriers or a bell, alarm, red light or other warning device:

Rail Safety (General) Regulation 2003

Clause 43

Crossing running lines

Part 4

-
- (a) if barriers are installed—while those barriers are in any position other than the fully open position, or
 - (b) whether or not barriers are installed—while any bell, alarm, red light or other warning device is operating.

Maximum penalty: 5 penalty units.

- (4) This clause does not apply to:
 - (a) an authorised officer or other person in the execution of the officer's or person's duty, or
 - (b) a person who takes any action referred to in this clause at the request or direction of an authorised officer or other person in the execution of the officer's or person's duty.

43 Certain vehicles crossing running line at level crossing

- (1) A person must not drive a vehicle across a level crossing:
 - (a) if the vehicle is carrying a load that is likely to cause any damage to railway property or to cause an obstruction, or
 - (b) contrary to a sign displayed at the level crossing, or
 - (c) if directed not to do so by an authorised officer.

Maximum penalty: 5 penalty units.

- (2) Subclause (1) (a) does not apply if the vehicle and load comply with the relevant regulations under the *Roads Act 1993* (or are the subject of a relevant permit under that Act).

44 Driving animals across running line at ground level

A person (with or without a vehicle) must not, at ground level, drive an animal across a running line at a level crossing:

- (a) if warned not to do so by an authorised officer, or
- (b) if a train is in sight and moving towards the level crossing, or
- (c) if warning of the approach of a train has been given by a whistle or other device.

Maximum penalty: 5 penalty units.

Clause 45 Rail Safety (General) Regulation 2003

Part 5 Animals and vehicles

Part 5 Animals and vehicles

45 Control of dogs on stations

A person must not, without the permission of an authorised officer, take a dog onto any part of a station, or have a dog in his or her charge on a station, unless the dog is under the person's direct physical control by means of a lead, chain or frame (such as those used to control assistance animals) or otherwise.

Maximum penalty: 5 penalty units.

46 Animals on trains or railway land

- (1) A person must not take an animal onto a train intended for the conveyance of passengers, or have an animal in his or her charge on such a train, except under the conditions imposed by the accredited person for the relevant railway for the conveyance of the animal.

Maximum penalty: 5 penalty units.

- (2) A person must not allow an animal under the person's care or control on, or to stray onto, railway land, except as provided by subclause (1).

Maximum penalty: 5 penalty units.

- (3) This clause does not apply to:

- (a) an assistance animal accompanying a person with a disability, or
- (b) an assistance animal in training.

47 Person not to drive or ride in certain areas

- (1) A person must not:

- (a) drive a vehicle or an animal (other than a dog controlled in accordance with clause 45 or an animal referred to in clause 46 (3)), or
- (b) allow an animal under the person's care or control to be, or
- (c) use a skateboard, roller skates or rollerblades,

on or along a platform or a pathway, subway or other way on railway land or any part of monorail works used in connection with a station and set apart for the exclusive use of pedestrians.

Maximum penalty: 5 penalty units.

Rail Safety (General) Regulation 2003

Clause 48

Animals and vehicles

Part 5

-
- (2) This clause does not apply:
- (a) to vehicles designed to carry persons unable to walk (such as invalid carriages), or
 - (b) to a motorised trolley being used by an authorised officer in the execution of his or her duty, or
 - (c) in respect of:
 - (i) an animal being taken onto or from a train in accordance with the conditions referred to in clause 46 (1), or
 - (ii) an animal referred to in clause 46 (3).

48 Restrictions on vehicles driven on certain railway structures

- (1) The accredited person for a railway may by notice exhibited conspicuously on or near a railway road bridge or other railway structure, fix a vehicle's maximum loaded mass, maximum axle load or other load limit in respect of the bridge or structure.
- (2) A person must not drive on or over a railway road bridge or other railway structure a vehicle whose loaded mass, axle load or other load exceeds the maximum limit so fixed and notified unless:
- (a) the person has obtained the written permission of the accredited person for the railway concerned to do so, and
 - (b) the vehicle is driven in conformity with any conditions determined by the accredited person in respect of it.

Maximum penalty: 5 penalty units.

- (3) In this clause, a reference to a railway road bridge or other railway structure is a reference to a bridge or other structure that is provided for the purpose of enabling vehicles to cross a running line.

49 Bicycles not to be left in certain areas

A person must not leave a bicycle on railway land or any part of monorail works or chained or otherwise attached to any building, fence or other railway installation on railway land or any part of monorail works, except in a cloak room, parcels office or other place designated by the accredited person for the relevant railway for that purpose.

Maximum penalty: 5 penalty units.

Clause 50 Rail Safety (General) Regulation 2003

Part 6 Miscellaneous

Part 6 Miscellaneous

50 Health and fitness of railway employees

- (1) An accredited person must not employ a person as a railway employee unless the person meets any applicable standards.

Maximum penalty:

- (a) in the case of a corporation—250 penalty units, or
- (b) in the case of an individual—50 penalty units.
- (2) The Director-General may from time to time issue, amend or revoke guidelines containing standards for the employment of railway employees.
- (3) A guideline issued under this clause, or an amendment to or revocation of any such guideline, is to be published in the Gazette.
- (4) A guideline takes effect on the date of publication or any later date specified in the guideline.
- (5) In this clause, *applicable standard* means:
- (a) a standard approved by the Director-General for the purposes of this clause that is contained in any industrial agreement or other agreement applicable to the employment of the person, or
- (b) a standard issued by the Director-General for the purposes of this clause that is applicable to the employment of the person as such a railway employee.

51 Network rules and operations

- (1) The Director-General may from time to time issue, amend or revoke guidelines as to the making of rules relating to railway network operations and operations of specified accredited persons.
- (2) A guideline issued under this clause, or an amendment to or revocation of any such guideline, is to be published in the Gazette.
- (3) A guideline takes effect on the date of publication or any later date specified in the guideline.

Rail Safety (General) Regulation 2003

Clause 52

Miscellaneous

Part 6

-
- (4) An accredited person that makes a rule relating to network operations or other operations of the accredited person must not fail to comply with any applicable guideline made under this clause.

Maximum penalty:

- (a) in the case of a corporation—250 penalty units, or
- (b) in the case of an individual—50 penalty units.

52 Fatigue management

- (1) The following accredited persons are exempt from the condition of accreditation that an accredited person must provide conditions of work in accordance with Schedule 2 to the Act:

- (a) BHP (Port Kembla),
- (b) Perisher Blue Pty Ltd,
- (c) State Rail Authority, but only in relation to New Year's Eve and Special Events,
- (d) CGEA Transportation Systems.

- (2) An accredited person must not permit or require a railway employee to work in a manner that does not comply with a guideline issued by the Director-General under section 43 of the Act.

Maximum penalty:

- (a) in the case of a corporation—250 penalty units, or
- (b) in the case of an individual—50 penalty units.

53 Gates to be closed

A person who uses a gate at a level crossing, or any other gate set up at the side of the railway, must shut and securely fasten the gate immediately after use.

Maximum penalty: 5 penalty units.

54 Throwing things

A person must not, without reasonable excuse, throw any thing at or from a train, a station, a light rail stop or any other part of the infrastructure of a railway.

Maximum penalty: 5 penalty units.

Clause 55 Rail Safety (General) Regulation 2003

Part 6 Miscellaneous

55 No trespassing

- (1) A person must not, without reasonable excuse, go onto or into, or remain on or in:
- (a) the restricted area of a station, or
 - (b) any running lines or associated part of the infrastructure of a railway, or
 - (c) any workshops forming part of the infrastructure of a railway, or
 - (d) any offices or administrative areas of a railway, or
 - (e) any other railway land or any part of monorail works.

Maximum penalty: 5 penalty units.

- (2) Subclause (1) does not apply to:
- (a) an authorised officer in the execution of his or her duty, or
 - (b) a person who has the permission of the accredited person for the railway to enter the railway land or part of the monorail works concerned.
- (3) An authorised officer who has reason to believe that a person is committing an offence under subclause (1) may direct the person to leave the restricted area of the station, running lines, associated part of the infrastructure of the railway, workshop, office or administrative area concerned.
- (4) A person must comply with a direction given under subclause (3).

Maximum penalty: 5 penalty units.

56 No placing of objects on running lines

- (1) A person must not leave any object on a running line.
- Maximum penalty: 5 penalty units.
- (2) Subclause (1) does not apply to an authorised officer in the execution of his or her duty.

57 Attempt to do prohibited act

A person who attempts to do any thing that is prohibited by a provision of this Regulation is taken to have committed an offence under that provision and is punishable accordingly.

Rail Safety (General) Regulation 2003

Clause 58

Miscellaneous

Part 6

58 Removal of persons

A person who refuses or fails to comply with a direction given under this Regulation to leave any train or railway land or part of monorail works may be removed from the train or land or part of the monorail works by an authorised officer.

59 Lost property

- (1) A person who finds any article in or on a train or railway land or part of monorail works:
- (a) must return it to its owner, or
 - (b) must give it, or report its location, to an authorised officer.

Maximum penalty: 5 penalty units.

- (2) An article that is given to an authorised officer under this clause is to be dealt with in accordance with directions given by the Director-General (which may, if the Director-General thinks it appropriate, include directions for the disposal of the article).

60 Protection of monorail works

- (1) A person must not enter the monorail envelope, or cause or permit anything to enter the monorail envelope, otherwise than:
- (a) for the purpose of entering or leaving or travelling in a monorail train, or
 - (b) in accordance with an approval granted by an authorised person.

Maximum penalty: 5 penalty units.

- (2) In this clause, *monorail envelope* means the space around the Darling Harbour monorail, being the rectangular space within 2 metres on either side of, 4.5 metres above and 1 metre below an imaginary line running along the centre of the bottom surface of the monorail beam.

61 Penalty notice offences

- (1) For the purposes of section 105 of the Act:
- (a) each offence created by a provision specified in Column 1 of Schedule 1 is declared to be a penalty notice offence, and
 - (b) subject to subclause (2), the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 1.

Clause 62 Rail Safety (General) Regulation 2003

Part 6 Miscellaneous

- (2) In the case of an offence arising under clause 5, 6, 8, 9, 10, 11 or 12 of this Regulation, the prescribed penalty for the offence is \$50 if the person alleged to have committed the offence is under the age of 18 years.

62 Delegation

The Chief Executive Officer of the State Rail Authority and the Chief Executive Officer of the Rail Infrastructure Corporation are prescribed as persons to whom the Director-General may, in accordance with section 112 (2) of the Act, delegate functions under the Act.

63 Repeal and savings

- (1) The *Rail Safety Regulation 1999* is repealed.
- (2) Any act, matter or thing that, immediately before the commencement of this Regulation, had effect under the *Rail Safety Regulation 1999* continues to have effect under this Regulation.

Rail Safety (General) Regulation 2003

Penalty notice offences

Schedule 1

Schedule 1 Penalty notice offences

(Clause 61)

Part 1 Offences under the Rail Safety Act 2002

Column 1	Column 2
Offence	Penalty
Section 96 (2) (a)	\$100
Section 96 (2) (b)	\$100
Section 97	\$200

Part 2 Offences under the Rail Safety (General) Regulation 2003

Column 1	Column 2
Offence	Penalty
Clause 5 (1)	\$100
Clause 6 (1) (a)	\$100
Clause 6 (1) (b)	\$100
Clause 8 (1)	\$100
Clause 9 (1)	\$100
Clause 9 (3)	\$100
Clause 9 (4) (a)	\$100
Clause 9 (4) (b)	\$100
Clause 10	\$100

Rail Safety (General) Regulation 2003

Schedule 1 Penalty notice offences

Column 1	Column 2
Offence	Penalty
Clause 11 (1)	\$100
Clause 12 (1)	\$100
Clause 13 (a)	\$200
Clause 13 (b)	\$200
Clause 13 (c)	\$100
Clause 13 (d)	\$100
Clause 14 (2)	\$100
Clause 15 (1)	\$200
Clause 16 (1)	\$100
Clause 17 (1)	\$200
Clause 18 (2)	\$100
Clause 19 (1)	\$100
Clause 20	\$100
Clause 21 (a)	\$200
Clause 21 (b)	\$200
Clause 21 (c)	\$200
Clause 21 (d)	\$200
Clause 22 (a)	\$200
Clause 22 (b)	\$200
Clause 23 (1)	\$100

Rail Safety (General) Regulation 2003

Penalty notice offences

Schedule 1

Column 1	Column 2
Offence	Penalty
Clause 23 (2)	\$100
Clause 24 (1)	\$100
Clause 25 (3)	\$100
Clause 26 (1) (a)	\$100
Clause 26 (1) (b)	\$100
Clause 26 (3)	\$100
Clause 27 (2)	\$100
Clause 28 (a)	\$200
Clause 28 (b)	\$200
Clause 28 (c)	\$200
Clause 28 (d)	\$200
Clause 29 (1) (a)	\$200
Clause 29 (1) (b)	\$200
Clause 30 (1)	\$200
Clause 31 (1) (a)	\$200
Clause 31 (1) (b)	\$200
Clause 31 (1) (c)	\$200
Clause 31 (1) (d)	\$200
Clause 31 (1) (e)	\$200
Clause 31 (1) (f)	\$200

Rail Safety (General) Regulation 2003

Schedule 1 Penalty notice offences

Column 1	Column 2
Offence	Penalty
Clause 32 (1) (a)	\$100
Clause 32 (1) (b)	\$100
Clause 33	\$200
Clause 34 (1) (a)	\$200
Clause 34 (1) (b)	\$200
Clause 34 (1) (c)	\$100
Clause 34 (1) (d)	\$100
Clause 35 (1)	\$100
Clause 36 (1) (a)	\$200
Clause 36 (1) (b)	\$200
Clause 36 (2)	\$200
Clause 37 (1) (a)	\$100
Clause 37 (1) (b)	\$200
Clause 37 (2)	\$200
Clause 38 (a)	\$200
Clause 38 (b)	\$200
Clause 38 (c)	\$200
Clause 39 (2)	\$100
Clause 41 (1)	\$200
Clause 42 (1)	\$200

Rail Safety (General) Regulation 2003

Penalty notice offences

Schedule 1

Column 1	Column 2
Offence	Penalty
Clause 42 (2) (a)	\$200
Clause 42 (2) (b)	\$200
Clause 42 (3) (a)	\$200
Clause 42 (3) (b)	\$200
Clause 43 (1) (a)	\$200
Clause 43 (1) (b)	\$200
Clause 43 (1) (c)	\$200
Clause 44 (a)	\$200
Clause 44 (b)	\$200
Clause 44 (c)	\$200
Clause 45	\$100
Clause 46 (1)	\$100
Clause 46 (2)	\$100
Clause 47 (1) (a)	\$100
Clause 47 (1) (b)	\$100
Clause 47 (1) (c)	\$100
Clause 48 (2) (a)	\$200
Clause 48 (2) (b)	\$200
Clause 49	\$100
Clause 53	\$200

Rail Safety (General) Regulation 2003

Schedule 1 Penalty notice offences

Column 1	Column 2
Offence	Penalty
Clause 54	\$200
Clause 55 (1) (a)	\$200
Clause 55 (1) (b)	\$200
Clause 55 (1) (c)	\$200
Clause 55 (1) (d)	\$200
Clause 55 (1) (e)	\$200
Clause 55 (4)	\$200
Clause 56 (1)	\$200
Clause 59 (1)	\$100
Clause 60 (1)	\$100



New South Wales

Road Transport (Driver Licensing) Amendment (T-Way Lanes) Regulation 2003

under the

Road Transport (Driver Licensing) Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (Driver Licensing) Act 1998*.

CARL SCULLY, M.P.,
Minister for Roads

Explanatory note

The object of this Regulation is to provide that the demerit points for driving in a T-Way lane in contravention of clause 96B of the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* are 3 demerit points (for offences that are not committed over a long weekend) and 4 demerit points (for offences committed over a long weekend).

This Regulation is made under the *Road Transport (Driver Licensing) Act 1998*, including sections 15 and 19 (the general regulation-making power).

Clause 1 Road Transport (Driver Licensing) Amendment (T-Way Lanes) Regulation
 2003

Road Transport (Driver Licensing) Amendment (T-Way Lanes) Regulation 2003

under the

Road Transport (Driver Licensing) Act 1998

1 Name of Regulation

This Regulation is the *Road Transport (Driver Licensing) Amendment (T-Way Lanes) Regulation 2003*.

2 Commencement

This Regulation commences on 7 February 2003.

3 Amendment of Road Transport (Driver Licensing) Regulation 1999

The *Road Transport (Driver Licensing) Regulation 1999* is amended as set out in Schedule 1.

Road Transport (Driver Licensing) Amendment (T-Way Lanes) Regulation
2003

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 3)

Schedule 1 Demerit points offences and penalties

Insert after the matter relating to “Drive in bus lane” in Part 2:

Drive in T-Way lane	3	4	Clause 96B (1) of <i>Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999</i>
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Road Transport (General) (Penalty Notice Offences) Amendment (T-Way Lanes) Regulation 2003

under the

Road Transport (General) Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (General) Act 1999*.

CARL SCULLY, M.P.,
Minister for Roads

Explanatory note

The object of this Regulation is to prescribe offences under clause 96B of the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* relating to driving or stopping in T-Way lanes to be penalty notice offences.

This Regulation is made under the *Road Transport (General) Act 1999*, including sections 15 and 71 (the general regulation-making power).

Clause 1 Road Transport (General) (Penalty Notice Offences) Amendment (T-Way Lanes) Regulation 2003

Road Transport (General) (Penalty Notice Offences) Amendment (T-Way Lanes) Regulation 2003

under the

Road Transport (General) Act 1999

1 Name of Regulation

This Regulation is the *Road Transport (General) (Penalty Notice Offences) Amendment (T-Way Lanes) Regulation 2003*.

2 Commencement

This Regulation commences on 7 February 2003.

3 Amendment of Road Transport (General) (Penalty Notice Offences) Regulation 2002

The *Road Transport (General) (Penalty Notice Offences) Regulation 2002* is amended as set out in Schedule 1.

Road Transport (General) (Penalty Notice Offences) Amendment (T-Way Lanes) Regulation 2003

Amendment

Schedule 1

Schedule 1 Amendment

(Clause 3)

Schedule 2 Penalty notice offences

Insert before the matter relating to clause 123A (1) of the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*:

Clause 96B (1)	1	221
Clause 96B (2)	1, 12, 16	221

Road Transport (Safety and Traffic Management) (Road Rules) Amendment (Pay Parking) Regulation 2003

under the

Road Transport (Safety and Traffic Management) Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (Safety and Traffic Management) Act 1999*.

CARL SCULLY, M.P.,
Minister for Roads

Explanatory note

The objects of this Regulation are as follows:

- (a) to require a metered parking scheme or ticket parking scheme established and operated by a parking authority (such as a council) to facilitate the payment of parking fees in cash (notes or coins, or both),
- (b) to make it clear that other methods of payment of parking fees may be provided for by such a scheme, but only in accordance with guidelines of the Roads and Traffic Authority,
- (c) to allow a parking authority to establish and operate a metered parking scheme or a ticket parking scheme, on a trial basis, that does not facilitate the payment of parking fees in cash, but only in accordance with the approval of the Roads and Traffic Authority and any conditions of that approval.

Road Transport (Safety and Traffic Management) (Road Rules) Amendment (Pay Parking)
Regulation 2003

Explanatory note

This Regulation is made under the *Road Transport (Safety and Traffic Management) Act 1999*, including section 71 (the general regulation-making power and clause 2 of Schedule 1 (Parking)).

Road Transport (Safety and Traffic Management) (Road Rules)
Amendment (Pay Parking) Regulation 2003

Clause 1

Road Transport (Safety and Traffic Management) (Road Rules) Amendment (Pay Parking) Regulation 2003

1 Name of Regulation

This Regulation is the *Road Transport (Safety and Traffic Management) (Road Rules) Amendment (Pay Parking) Regulation 2003*.

2 Amendment of Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999

The *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* is amended as set out in Schedule 1.

Road Transport (Safety and Traffic Management) (Road Rules)
Amendment (Pay Parking) Regulation 2003

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 2)

[1] Clause 64 Misuse of parking meters

Omit “coins” from clause 64 (a).
Insert instead “cash (notes or coins)”.

[2] Clause 70 Misuse of ticket machines

Omit “coins” from clause 70 (a).
Insert instead “cash (notes or coins)”.

[3] Clause 97 Metered parking schemes

Insert after clause 97 (6):

- (7) A metered parking scheme must facilitate the payment of fees for parking in cash (notes or coins, or both).
- (8) Subject to subclause (7), a metered parking scheme may provide for other methods of payment of fees for parking in accordance with Authority guidelines.
- (9) A parking authority may establish and operate on a trial basis, in accordance with the approval of the Authority (and any conditions of that approval), a metered parking scheme that does not facilitate the payment of fees for parking in cash, despite subclause (7). In such a case, the parking scheme may provide for such methods of payment of fees for parking as accord with the approval of the Authority (and any conditions of that approval).

[4] Clause 99 Parking meters

Omit clause 99 (1) (b)–(d). Insert instead:

- (b) that the fee may be paid using cash (notes or coins, or both) and the denomination of notes or coins that may be used to pay the fee by that method, and

Road Transport (Safety and Traffic Management) (Road Rules)
Amendment (Pay Parking) Regulation 2003

Amendments

Schedule 1

-
- (c) any other method that may be used to pay the fee for parking, such as the use of a smart card or another device, and how to use that method of payment.

[5] Clause 99 (3)

Insert after clause 99 (2):

- (3) Subclause (1) (b) does not apply in respect of a parking meter that does not permit payment of the fee in cash (if the meter is used in connection with a scheme operated on a trial basis as referred to in clause 97 (9)).

[6] Clause 101 Ticket parking schemes

Omit clause 101 (2) (c).

[7] Clause 101 (2) (d)

Omit “(pay parking devices)”.

[8] Clause 101 (6)–(8)

Insert after clause 101 (5):

- (6) A ticket parking scheme must facilitate the payment of fees for parking in cash (notes or coins, or both).
- (7) Subject to subclause (6), a ticket parking scheme may provide for other methods of payment of fees for parking in accordance with Authority guidelines.
- (8) A parking authority may establish and operate on a trial basis, in accordance with the approval of the Authority (and any conditions of that approval), a ticket parking scheme that does not facilitate the payment of fees for parking in cash, despite subclause (6). In such a case, the parking scheme may provide for such methods of payment of fees for parking as accord with the approval of the Authority (and any conditions of that approval).

Road Transport (Safety and Traffic Management) (Road Rules)
Amendment (Pay Parking) Regulation 2003

Schedule 1 Amendments

[9] Clause 104

Omit the clause. Insert instead:

104 Parking ticket machines

- (1) The parking ticket machine for a ticket parking area must indicate:
 - (a) the fees fixed for the area under this Division, and
 - (b) that the fee may be paid using cash (notes or coins, or both) and the denomination of notes or coins that may be used to pay the fee by that method, and
 - (c) any other method that may be used to pay the fee for parking, such as the use of a smart card or another device, and how to use that method of payment.
- (2) Subclause (1) (b) does not apply in respect of a parking ticket machine that does not permit payment of the fee in cash (if the ticket machine is used in connection with a scheme operated on a trial basis as referred to in clause 101 (8)).

[10] Clause 113 Authority guidelines and approval

Omit “clause 101” from clause 113 (2).

Insert instead “clause 97, 101”.



New South Wales

Road Transport (Safety and Traffic Management) (Road Rules) Amendment (T-Way Lanes) Regulation 2003

under the

Road Transport (Safety and Traffic Management) Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (Safety and Traffic Management) Act 1999*.

CARL SCULLY, M.P.,
Minister for Roads

Explanatory note

The object of this Regulation is to amend the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*:

- (a) to make it an offence for a driver (other than a driver of an authorised T-Way vehicle) to drive or stop in a T-Way lane, and
- (b) to apply the provisions of Division 2 (Public buses) of Part 17 of the *Australian Road Rules* to authorised T-Way vehicles driving in T-Way lanes, and
- (c) to allow an unattended motor vehicle or trailer that is unlawfully standing on a T-Way lane to be removed from the lane, and
- (d) to permit certain garbage collection vehicles to stop in bus lanes.

This Regulation is made under the *Road Transport (Safety and Traffic Management) Act 1999*, including section 71 (the general regulation-making power) and Schedule 1.

Clause 1 Road Transport (Safety and Traffic Management) (Road Rules)
Amendment (T-Way Lanes) Regulation 2003

Road Transport (Safety and Traffic Management) (Road Rules) Amendment (T-Way Lanes) Regulation 2003

under the

Road Transport (Safety and Traffic Management) Act 1999

1 Name of Regulation

This Regulation is the *Road Transport (Safety and Traffic Management) (Road Rules) Amendment (T-Way Lanes) Regulation 2003*.

2 Commencement

This Regulation commences on 7 February 2003.

3 Amendment of Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999

The *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* is amended as set out in Schedule 1.

Road Transport (Safety and Traffic Management) (Road Rules)
Amendment (T-Way Lanes) Regulation 2003

Amendments

Schedule 1

Schedule 1 Amendments

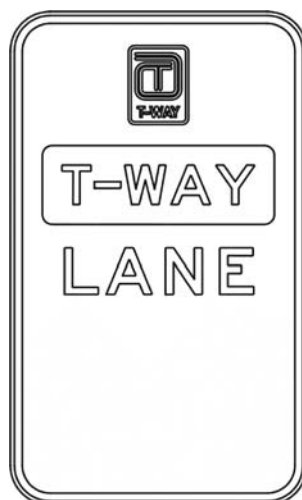
(Clause 3)

[1] Clause 96B

Insert after clause 96A:

96B T-Way lanes

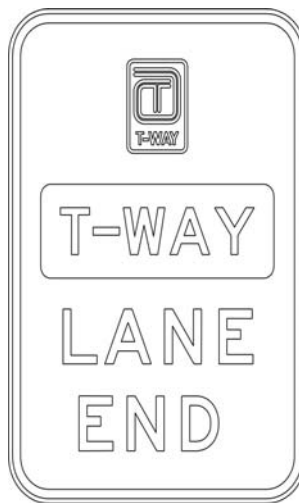
- (1) A driver (except the driver of an authorised T-Way vehicle) must not drive in a T-Way lane.
Maximum penalty: 20 penalty units.
- (2) A driver (except the driver of an authorised T-Way vehicle) must not stop in a T-Way lane.
Maximum penalty: 20 penalty units.
- (3) A *T-Way lane* is a marked lane, or part of a marked lane:
 - (a) beginning with a T-Way lane sign, and
 - (b) ending with the nearest of the following:
 - (i) an end T-Way lane sign,
 - (ii) an intersection.
- (4) A traffic sign that is a reasonable likeness (within the meaning of rule 316 (4) of the *Australian Road Rules*) of the following diagram is a *T-Way lane sign* for the purposes of this clause:



Road Transport (Safety and Traffic Management) (Road Rules)
Amendment (T-Way Lanes) Regulation 2003

Schedule 1 Amendments

- (5) A traffic sign that is a reasonable likeness (within the meaning of rule 316 (4) of the *Australian Road Rules*) of the following diagram is an **end T-Way lane sign** for the purposes of this clause:



- (6) For the purposes of the application of rule 316 (4) of the *Australian Road Rules* with respect to a traffic sign comprising a T-Way lane sign or end T-Way lane sign, the traffic sign may be a reasonable likeness of a diagram specified in subclause (4) or (5) even though, in addition to any of the matters referred to in rule 316 (4) (a)–(e) and (j) of the *Australian Road Rules*, the colour of the sign is different.
- (7) Divisions 2 and 3 of Part 20 of the *Australian Road Rules* are taken to apply to the determination of when a T-Way lane sign or an end T-Way lane sign applies to a marked lane, length of road or person as if the sign were a traffic sign for the purposes of those Rules.

Road Transport (Safety and Traffic Management) (Road Rules)
Amendment (T-Way Lanes) Regulation 2003

Amendments

Schedule 1

(8) In this clause:

authorised T-Way vehicle means a vehicle (or a vehicle belonging to a class of vehicles) approved by the Authority that displays in a prominent position on the vehicle adjacent to each number-plate a label or plate that is a reasonable likeness of the following diagram:



intersection has the same meaning as it has in the *Australian Road Rules*.

marked lane has the same meaning as it has in the *Australian Road Rules*.

traffic sign has the same meaning as it has in the *Australian Road Rules*.

[2] Clause 155 Removal of unattended vehicles: section 76

Insert after clause 155 (1) (c):

- (d) a T-Way lane within the meaning of clause 96B.

Road Transport (Safety and Traffic Management) (Road Rules)
Amendment (T-Way Lanes) Regulation 2003

Schedule 1 Amendments

[3] Schedule 1 Qualifications on application of Australian Road Rules

Insert after clause 15:

16 Certain garbage collection vehicles may stop in bus lanes

- (1) Rule 187 (1) of the *Australian Road Rules* does not apply to the driver of a garbage collection vehicle who stops in a bus lane if that driver is permitted to drive the vehicle in that lane under rule 158 (2) (b) of those Rules.

Note. Rule 158 (2) (b) of the *Australian Road Rules* provides that a driver of any vehicle may drive in a bus lane if information on or with a traffic sign applying to the lane indicates that the driver may drive in the lane.

- (2) In this clause:

bus lane has the same meaning as it has in the *Australian Road Rules*.

17 Division 2 of Part 17 of the Australian Road Rules applies to certain additional vehicles

- (1) Despite rule 280 of the *Australian Road Rules*, Division 2 of Part 17 of those Rules is taken to apply to the driver of an authorised T-Way vehicle in the same way as it applies to the driver of a public bus within the meaning of those Rules, but only while the driver is driving in or entering a T-Way lane to which B lights apply.
- (2) Divisions 2 and 3 of Part 20 of the *Australian Road Rules* are taken to apply to the determination of when B lights apply to a T-Way lane or person for the purposes of subclause (1).
- (3) In this clause:

authorised T-Way vehicle has the same meaning as it has in clause 96B.

B lights has the same meaning as it has in the *Australian Road Rules*.

T-Way lane has the same meaning as it has in clause 96B.



New South Wales

Strata Schemes Management Amendment Regulation 2003

under the

Strata Schemes Management Act 1996

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Strata Schemes Management Act 1996*.

JOHN AQUILINA, M.P.,
Minister for Fair Trading

Explanatory note

The *Strata Schemes Management Amendment Act 2002* is to commence on 10 February 2003.

The object of this Regulation is to amend the *Strata Schemes Management Regulation 1997* so as to prescribe an amount to give effect to an amendment made by that Act that will have the result of restricting the exercise of priority votes, to alter notes on a form provided for the appointment of proxies (as a consequence of amendments made by that Act relating to the terms of appointment of, and voting by, proxies) and to increase fees for services performed by an owners corporation.

This Regulation is made under the *Strata Schemes Management Act 1996*, in particular, clause 7 (1) of Schedule 2 to and section 246 of that Act (the general regulation-making power).

Clause 1 Strata Schemes Management Amendment Regulation 2003

Strata Schemes Management Amendment Regulation 2003

under the

Strata Schemes Management Act 1996

1 Name of Regulation

This Regulation is the *Strata Schemes Management Amendment Regulation 2003*.

2 Commencement

This Regulation commences on 10 February 2003.

3 Amendment of Strata Schemes Management Regulation 1997

The *Strata Schemes Management Regulation 1997* is amended as set out in Schedule 1.

Strata Schemes Management Amendment Regulation 2003

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 16 Fees

Omit clause 16 (2). Insert instead:

- (2) The following fees are payable to an owners corporation for the services specified below:

Service	Fee
For making records available for inspection under section 108 of the Act	\$24 and an additional \$12 for each half-hour or part of half an hour after the first hour of inspection
For giving a certificate under section 109 of the Act	\$84 and an additional \$42 for a further certificate for a lot comprising a garage, parking space or storeroom that services the lot the subject of the first certificate

[2] Clause 29

Insert after clause 28:

29 Monetary limit on exercise of priority vote

For the purposes of clause 7 (1) of Schedule 2 to the Act, the prescribed amount is the amount of \$200 multiplied by the number of lots in the strata scheme concerned.

[3] Schedule 2 Forms

Omit “*months/*meetings” from Form 3.

Insert instead “*1 meeting/*..... meetings/*1 month/*..... months/*12 months or 2 consecutive Annual General Meetings”.

[4] Schedule 2, Form 3

Omit “*Delete whichever does not apply”.

Strata Schemes Management Amendment Regulation 2003

Schedule 1 Amendments

Insert instead “**Tick or tick and complete whichever applies*”.

[5] Schedule 2, Form 3

Insert “*If no selection is made by the person giving the proxy, the proxy is effective only for one meeting.*” after “*whichever is the greater.*” in the first note.

[6] Schedule 2, Form 3

Insert “*For examples, read note 1 below.*” after “**Delete paragraph 3 if proxy is not authorised to vote on this matter.*”.

[7] Schedule 2, Form 3

Omit Note 1. Insert instead:

- 1 A proxy is not authorised to vote on a matter:
 - (a) if the person who appointed the proxy is present at the relevant meeting and personally votes on the matter, or
 - (b) so as to confer a pecuniary or other material benefit on the proxy, if the proxy is a strata managing agent, caretaker or on-site residential property manager.



New South Wales

Summary Offences Amendment (Search Observation Staff Members) Regulation 2003

under the

Summary Offences Act 1988

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Summary Offences Act 1988*.

BOB DEBUS, M.P.,
Attorney General

Explanatory note

Section 27G of the *Summary Offences Act 1988* (as inserted by the *Summary Offences Amendment (Places of Detention) Act 2002*) provides that a search of a child or of a mentally incapacitated person under section 27F of that Act at a place of detention or in its immediate vicinity must be conducted in the presence of:

- (a) an adult who accompanied the child or the mentally incapacitated person to the place of detention (or its immediate vicinity), or
- (b) if there is no such adult—a search observation member of staff.

The object of this Regulation is to prescribe the following persons as search observation staff members:

- (a) if available at the place of detention (or its immediate vicinity) where the relevant search is to be conducted—a welfare officer, psychologist, clerk or alcohol and other drug worker (being a person who is a non-correctional member of staff of the Department of Corrective Services or managed correctional centre),
- (b) if a person referred to in paragraph (a) is not so available—any other non-correctional member of staff.

This Regulation is made under the *Summary Offences Act 1988*, including sections 27A (as amended by the *Summary Offences Amendment (Places of Detention) Act 2002*) and 35 (the general regulation-making power).

Clause 1 Summary Offences Amendment (Search Observation Staff Members)
 Regulation 2003

Summary Offences Amendment (Search Observation Staff Members) Regulation 2003

under the

Summary Offences Act 1988

1 Name of Regulation

This Regulation is the *Summary Offences Amendment (Search Observation Staff Members) Regulation 2003*.

2 Commencement

This Regulation commences on 21 February 2003.

3 Amendment of Summary Offences Regulation 2000

The *Summary Offences Regulation 2000* is amended by inserting the following after clause 14A:

14B Search observation staff members

The following persons are prescribed for the purposes of the definition of *search observation staff member* in section 27A of the Act:

- (a) if available at the place of detention or its immediate vicinity where the relevant search is to be conducted—a welfare officer, psychologist, clerk or alcohol and other drug worker (being a person who is a non-correctional member of staff),
- (b) if a person referred to in paragraph (a) is not so available—any other non-correctional member of staff.



New South Wales

Transport Administration (Staff) Amendment (Promotion Appeals) Regulation 2003

under the

Transport Administration Act 1988

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Transport Administration Act 1988*.

CARL SCULLY, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to restore appeal rights in respect of promotions to SRA officer positions that are below the level of senior officer, class 1.

This Regulation is made under the *Transport Administration Act 1988*, including sections 58 (Regulations relating to staff) and 119 (the general regulation-making power).

Clause 1 Transport Administration (Staff) Amendment (Promotion Appeals)
 Regulation 2003

Transport Administration (Staff) Amendment (Promotion Appeals) Regulation 2003

under the

Transport Administration Act 1988

1 Name of Regulation

This Regulation is the *Transport Administration (Staff) Amendment (Promotion Appeals) Regulation 2003*.

2 Amendment of Transport Administration (Staff) Regulation 2000

The *Transport Administration (Staff) Regulation 2000* is amended by omitting clause 8 (1) (a) and by inserting instead the following paragraph:

- (a) the appointment is to an SRA officer's position with a maximum salary that is below the minimum salary for the position of senior officer, class 1, and

OFFICIAL NOTICES

Appointments

CRIMES (ADMINISTRATION OF SENTENCES) ACT 1999

Parole Board

Re-appointment of Deputy Chairperson

HER EXCELLENCY the Governor, on the advice of the Executive Council and pursuant to the provisions of the Crimes (Administration of Sentences) Act 1999, has approved the re-appointment of Charles GILMORE as Deputy Chairperson of the Parole Board for a period of three (3) years dating on and from 24 March 2003 until 23 March 2006.

RICHARD AMERY, M.P.,
Minister for Corrective Services
Minister for Agriculture

PLANT DISEASES ACT 1924

Appointment of Inspector

I, RICHARD FREDERICK SHELDRAKE, Director-General of the Department of Agriculture, pursuant to section 11(1) of the *Plant Diseases Act 1924* ("the Act") appoint

Jeremy James BELTON as an Inspector under the Act.

Dated this 30th day of January 2003.

R. F. SHELDRAKE,
Director General

STOCK DISEASES ACT 1923

Appointment of Member of the Board of Tick Control

HER Excellency the Governor, with the advice of the Executive Council, pursuant to section 5 (5) (b) of the Stock Diseases Act 1923, has been pleased to appoint Chris O'REILLY, vice Wayne Bruce HAIGH, as a member of the Board of Tick Control to represent the Public Service Association of New South Wales, for a term commencing from the date hereof for three years.

Dated this 29th day of January 2003.

RICHARD AMERY, M.P.,
Minister for Agriculture

VETERINARY SURGEONS ACT 1986

Appointment of Chairperson and Members

Veterinary Surgeons Investigating Committee

I, RICHARD AMERY, M.P., Minister for Agriculture pursuant to section 24 (3) of the Veterinary Surgeons Act 1986, am pleased to appoint the following persons as Chairperson and members of the Veterinary Surgeons Investigating Committee for a term commencing on the date hereof and expiring on 31 December 2005:

1. Pursuant to section 24 (3) (a):
Mrs Lorraine SMITH (as Chairperson)
2. Pursuant to section 24 (3) (b):
Dr Theodora KLETSAS
3. Pursuant to section 24 (3) (c):
Dr John Phillip ALEXANDER
4. Pursuant to section 24 (3) (d):
Dr Richard Eldred JANE
5. Pursuant to section 24 (3) (e):
Mrs Beverley Rita OAKES

Dated this 4th day of February 2003.

RICHARD AMERY, M.P.,
Minister for Agriculture

POISONS AND THERAPEUTIC GOODS ACT, 1966

Appointment of Analysts

IT is hereby notified that in accordance with section 37A of the Poisons and Therapeutic Goods Act 1966, the Minister for Health has approved the class of persons appearing hereunder being appointed as analysts within the meaning and for the purpose of the said Act.

All fulltime or contractual employees of the Australian Forensic Drug Laboratory for the duration that they are employed by the Australian Forensic Drug Laboratory provided that:

- (a) the officers have as a minimum, a Bachelor of Science Degree, or equivalent; and
- (b) training is provided to new staff to ensure proficiency in the type of analysis which they will be required to perform.

JOHN LUMBY,
Chief Pharmacist, Pharmaceutical Services Branch
Delegate of the Minister for Health.

Department of Health, New South Wales
Sydney, 31 January 2003.

NSW Agriculture

STOCK DISEASES ACT 1923

Notification No. 1761

Footrot Protected and Protected (Control) Areas

I, RICHARD AMERY MP, Minister for Agriculture, pursuant to Section 11A of the Stock Diseases Act 1923 (“the Act”):

- (a) revoke Stock Diseases Notification No. 1713 published in *Government Gazette* No. 106 of 28 June 2002 at pages 4937-4938, and any other previous Notifications declaring lands as footrot protected areas or protected (control) areas.
- (b) declare the lands described in Schedule A to be protected areas as regards the disease footrot in sheep and goats. (Those lands are referred to as “NSW Footrot Protected Areas”, and are represented generally on the map titled “New South Wales Footrot Areas.”)
- (c) declare the lands in Schedule B to be protected (control) areas as regards the disease footrot in sheep and goats. (Those lands are referred to as “NSW Footrot Protected (Control) Areas”, and are represented generally on the map titled “New South Wales Footrot Areas.”)
- (d) prohibit a person from moving sheep or goats into any protected area or protected (control) area referred to in paragraphs (b) and (c), unless:
 - (i) the sheep or goats are moved in accordance with a permit under section 7(6) of the Act; or
 - (ii) the sheep or goats are moved in accordance with an order under section 8(1)(b) of the Act; or
 - (iii) all the requirements of section 20C(3) of the Act have been satisfied; or
 - (iv) the sheep or goats are not infected with footrot and one or more of the following conditions are satisfied:
 - the sheep or goats are transported in a vehicle from any protected area referred to in paragraph (b) directly to any other protected area referred to in paragraph (b);
 - the sheep or goats are transported in a vehicle from any protected (control) area referred to in paragraph (c) directly to any other protected (control) area referred to in paragraph (c); and
 - the sheep or goats are accompanied by a completed Owner/Vendor Declaration of Footrot Freedom form, as approved by the Chief, Division of Animal Industries (“the declaration”), and that declaration is given to the person to whom the sheep or goats are delivered.
- (e) Unless otherwise specified, in this Notification a reference to a Rural Lands Protection District includes all land in that district, and a reference to a Division or part of a Division of a Rural Lands Protection District includes all land in that Division or part of a Division. Rural Lands Protection Districts are established under the Rural Lands Protection Act 1998.

SCHEDULE A

NSW FOOTROT PROTECTED AREAS

North East Footrot Protected Area

The Rural Lands Protection Districts of Casino, Grafton, Kempsey and Tweed/Lismore.

New England Footrot Protected Area

Divisions A, B, C, D, I, and J of the Northern New England Rural Lands Protection District.

North West Footrot Protected Area

The Rural Lands Protection Districts of Moree, Narrabri, Northern Slopes, and Tamworth.

Orana Footrot Protected Area

The Rural Lands Protection Districts of Coonabarabran, Coonamble, Dubbo, Mudgee/Merriwa, Nyngan and Walgett.

Central West Footrot Protected Area

The Rural Lands Protection Districts of Condobolin, Forbes, Molong, and Division A of the Central Tablelands Rural Lands Protection District.

Hunter Footrot Protected Area

The Rural Lands Protection Districts of Gloucester, Hunter, and Maitland.

South East Footrot Protected Area

The Rural Lands Protection Districts of Bombala, Cooma, Moss Vale, and South Coast.

Riverina Footrot Protected Area

The Rural Lands Protection Districts of Hay and Riverina, and

Divisions A, B and C of the Murray Rural Lands Protection District, and

Divisions A, C, and D of the Narrandera Rural Lands Protection District, and

Divisions A and B of the Wagga Wagga Rural Lands Protection District, and

Division A, and the parts of Divisions C and D that are within the Kosciuszko National Park, of the Gundagai Rural Lands Protection District, and the part of Division F that is within the Kosciuszko National Park, of the Hume Rural Lands Protection Board.

Western Division Footrot Protected Area

The Rural Lands Protection Districts of Balranald, Bourke, Brewarrina, Broken Hill, Cobar, Hillston, Milparinka, Wanaaring, Wentworth and Wilcannia.

SCHEDULE B

NSW FOOTROT PROTECTED (CONTROL) AREAS

New England Footrot Protected (Control) Area

The Armidale Rural Lands Protection District, and Divisions E, F, G, and H of the Northern New England Rural Lands Protection District.

Central West Footrot Protected (Control) Area

The Young Rural Lands Protection District, and Divisions B, C, D, E, F, G and H of Central Tablelands Rural Lands Protection District.

South East Footrot Protected (Control) Area

The Rural Lands Protection Districts of Braidwood, Goulburn, and Yass.

Riverina Footrot Protected (Control) Area

Division D of the Murray Rural Lands Protection District, Division B of the Narrandera Rural Lands Protection District, Divisions C and D of the Wagga Wagga Rural Lands Protection District,

Division B, and the parts of Divisions C and D that are not within the Kosciuszko National Park, of the Gundagai Rural Lands Protection District, and.

Divisions A, B, C, D, E, G and H, and the part of Division F that is not within the Kosciuszko National Park, of the Hume Rural Lands Protection District.

Notes

It is an offence under section 20H(1)(a) to contravene a provision of this Notification.

Maximum penalty for such an offence is \$11,000.

A protected (Control) Area is an area with a moderate prevalence of a disease (section 11A(1) of the Act). This is different to a Protected Area, where there is a lower prevalence of a disease (section 11A(1B) of the Act).

A map of the Protected Area and the Protected (Control) Area with respect to Footrot in Sheep and Goats is published on the NSW Department of Agriculture internet web site at

A person who receives a completed Declaration form is advised to retain it as evidence of compliance with this Notification.

Notification No. 1761 is the NSW Department of Agriculture's reference.

For further information, contact the NSW Department of Agriculture on (02) 63913248.

Dated this 1st day of February 2003.

RICHARD AMERY, M.P.,
Minister for Agriculture

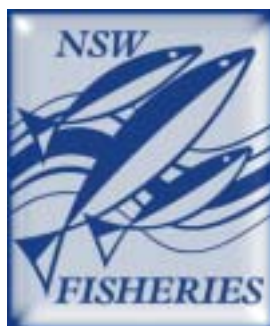
NSW Fisheries

Fishery Management Strategy

for the

Estuary General Fishery

February 2003





Fishery Management Strategy for the Estuary General Fishery

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The Fishery Management Strategy for the Estuary General Fishery will be updated from time to time. Amendments will be made available on the NSW Fisheries website: www.fisheries.nsw.gov.au.

Cover image by J Matthews

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ABBREVIATIONS

ACCF	Advisory Council on Commercial Fishing
ACFC	Advisory Council on Fisheries Conservation
ACoRF	Advisory Council on Recreational Fishing
ADT	Administrative Decisions Tribunal
AFMA	Australian Fisheries Management Authority
AQIS	Australian Quarantine and Inspection Service
BRD	Bycatch reduction device
CAMBA	Agreement between Australia and the People's Republic of China for Protection of Migratory Birds and their Environment
COE	Certificate of Exemption
CPUE	Catch per unit effort
DLWC	Department of Land and Water Conservation
DUAP	Department of Urban Affairs and Planning (now Planning NSW)
EG	Estuary General
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
EMPMP	Emergency Marine Pest Management Plan
EP&A Act	Environmental Planning and Assessment Act 1979
EPA	Environmental Protection Authority
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
ESD	Ecologically Sustainable Development
FAD	Fish aggregation device
FM Act	Fisheries Management Act 1994
FMS	Fishery Management Strategy
FP Act	Food Production (Safety) Act 1998
FRCAC	Fisheries Resources Conservation and Assessment Council
FRDC	Fisheries Research and Development Corporation
IMCRA	Interim Marine and Coastal Regionalisation for Australia
IPA	Intertidal protected area
JAMBA	Japan-Australia Agreement for the Protection of Migratory Birds, Birds in Danger of Extinction and their Environment
MAC	Management Advisory Committee
MPA	Marine Parks Authority
NCC	Nature Conservation Council
NPWS	National Parks and Wildlife Service
NRSMPA	National Representative System of Marine Protected Areas
NSW	New South Wales
NSWF	NSW Fisheries
Regulation	Fisheries Management (General) Regulation 1995
RFA	Recreational fishing area
RFO	Recognised Fishing Operation
RFG	Recognised fishing ground
RFR	Registered Fish Receiver
RRFR	Restricted Registered Fish Receiver
TAC	Total allowable catch
TCM	Total catchment management
TSC Act	Threatened Species Conservation Act 1995

Introduction to the Estuary General Fishery FMS

Background

In December 2000, the NSW Government made changes to the way fisheries are managed in NSW. These changes place increased emphasis on ensuring that fishing activities are environmentally sustainable.

The changes require the development of a fishery management strategy for each major commercial fishery, the recreational fishery, the charter boat fishery, fish stocking and for the beach safety program. They also require an assessment of the environmental impacts of those fishing activities.

Estuaries of NSW

The Estuary General Fishery operates within the State's estuaries. Estuaries represent a 'mixing zone' between completely sheltered freshwaters and the open ocean. The forces driving this mixing include tides, wind, waves and river run-off, although the relative importance of each of these varies according to estuary type and location within the estuary.

There are at least 690 such waterbodies joining the Tasman Sea along the New South Wales seaboard (Williams *et al.*, 1998). The vast majority of these are very small and only intermittently open to the sea. Only 130 have a water area greater than 0.05 km².

Most estuaries have been directly affected by works that have modified or reduced freshwater inflows, and most are surrounded by urban, industrial or agricultural developments that also impact on their ecosystems.

A wide range of competing activities take place in estuarine waters, and the Estuary General Fishery is just one of these. Other activities undertaken in estuaries include other commercial fisheries such as the estuary prawn trawl fishery, the recreational and charter boat fisheries aquaculture and non-harvesting activities such as scuba diving and recreational boating.

The Estuary General Fishery

The Estuary General Fishery is one of nine major commercial fisheries in New South Wales. It is a large and diverse fishery harvesting a wide range of finfish and shellfish for sale from estuarine waters using a range of commercial fishing gear. The fishery also includes the taking of invertebrates (such as beachworms and pipis) by hand from ocean beaches.

Estuarine fishing has been undertaken in NSW since the mid-1800s. It comprises small fishing boats and although authorised to occur in approximately 100 estuaries, the majority of fishing activity occurs in 24 of the State's estuaries.

About half of the State's commercial fishing businesses are entitled to operate in the Estuary General Fishery. A diverse range of species are harvested in estuaries and from ocean beaches, using more than 17 different types of fishing gear. In 2000/01 the value of the 5,043 tonnes of fish harvested in the Estuary General fishery was approximately \$19 million at first point of sale¹.

¹ Based on Sydney Fish Market average monthly prices, and does not account for higher prices paid for exports or in other markets.

Around 80 species are taken in the Estuary General Fishery with the main species targeted being sea mullet, luderick, bream and school prawns. The most commonly used estuarine fishing methods are meshing and hauling nets. Other methods include trapping for crabs, eels and finfish, and a small amount of hand lining and handgathering. Gathering of pipis and beachworms by hand on ocean beaches is included in the Estuary General Fishery for administrative reasons and because handgathering also occurs in estuaries.

Estuarine fishing was first regulated in NSW under the *Fisheries Act 1865*. By the end of the 19th century there were controls in place over the type, size and use of fishing nets, as well as fishing closures, and requirements for the licensing of fishers and boats. These types of controls are still in existence today, but have now been augmented by many other management arrangements.

The Fishery Management Strategy

The fishery management strategy for the Estuary General Fishery contains the rules for the fishery. But it is much more than a collection of rules. The strategy contains the goals and objectives for the fishery, a detailed description of the way the fishery operates, and describes the management framework for the future. It also outlines a program for monitoring the biological, social and economic performance of the fishery, establishes trigger points for the review of the strategy, and requires annual reporting on performance in order to ensure the objectives set out in the strategy are met. Information about the impacts of harvesting by other fishing sectors (such as recreational fishing) is also provided, however the rules applying to such sectors are dealt with under separate management arrangements and are not the subject of this strategy.

The management advisory committee (MAC) for the Estuary General Fishery provided significant input into the drafting of the strategy. Input into the draft strategy was also sought from all fishers endorsed in the Estuary General Fishery, the Minister for Fisheries' advisory councils on fisheries conservation, recreational fishing and commercial fishing (which includes commercial fishers from other fisheries), and the Fisheries Resource Conservation and Assessment Council. Government agencies, such as Planning NSW and the Commonwealth's Environment Australia, have also been consulted throughout the drafting of the fishery management strategy.

An environmental impact statement was prepared for the Estuary General Fishery in 2001. The EIS contained the draft fishery management strategy and an environmental assessment on the management rules and risk mitigation measures contained in the strategy. The structure of the EIS was based on guidelines issued by Planning NSW including an assessment of the likely biophysical, social and economic impacts of implementing the draft management strategy.

The EIS was on public exhibition between 16 November 2001 and 18 January 2002. The EIS highlighted the importance of the Estuary General Fishery to the community in terms of employment, supply of seafood to the community and economic benefits. The EIS concluded that the management rules proposed by the fishery management strategy provide for an appropriate allocation of the resource, and incorporate measures needed to address the various principles of ecologically sustainable development.

The Minister for Fisheries made a formal determination under the *Environmental Planning and Assessment Act 1979* in July 2002 with respect to the Estuary General Fishery, which in effect, allows the fishery to continue in accordance with the fishery management strategy. This process relieves estuary general fishers of the requirement to undertake individual environmental assessments.

1. Relevant Legislation

a) Objects of the Fisheries Management Act

The *Fisheries Management Act 1994* (FM Act) seeks to achieve ecologically sustainable development for the fisheries of NSW through the achievement of its stated objectives, which are:

‘To conserve, develop and share the fishery resources of the State for the benefit of present and future generations. In particular the objects of the Act include:

- (a) *to conserve fish stocks and key fish habitats, and*
- (b) *to conserve threatened species, populations and ecological communities of fish and marine vegetation, and*
- (c) *to promote ecological sustainable development, including the conservation of biological diversity,*

and, consistently with those objects:

- (d) *to promote viable commercial fishing and aquaculture industries, and*
- (e) *to promote quality recreational fishing opportunities, and*
- (f) *to appropriately share fisheries resources between the users of those resources, and*
- (g) *to provide social and economic benefits for the wider community of New South Wales.’*

i) Ecologically sustainable development

Ecologically sustainable development (ESD) has been defined under the National Strategy for ESD as “development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends”. It can be achieved through the implementation of the following principles and programs²:

- ⌘ precautionary principle – if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation
- ⌘ intra-generational equity – the benefits and costs of pursuing ESD strategies should be distributed as evenly as practicable within each generation
- ⌘ inter-generational equity – the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations
- ⌘ conservation of biological diversity and ecological integrity – conservation of biological diversity and ecological integrity should be a fundamental consideration
- ⌘ improved valuation, pricing and incentive mechanisms – such as user pays and the use of incentive structures to promote efficiency in achieving environmental goals.

² Adapted from section 6 (2) of the NSW Protection of the Environment Administration Act 1991.

b) The NSW Environmental Planning and Assessment Act

The evolution of the new environmental assessment process for commercial fisheries in NSW stems largely from a decision handed down by the Land and Environment Court in January 2000. The Court decided that the issue of an individual commercial fishing licence had to meet the requirements of the *Environmental Planning and Assessment Act 1979* (the EP&A Act). This meant that the environmental impacts of any authorised activities had to be assessed at the time the licence was issued or renewed.

It is widely accepted that in most cases the best way of assessing the impact of fishing activity is by considering the total impact of fishing, instead of the potentially minor impacts of individual fishers. The Government was concerned that requiring assessment for each individual licence would be an unnecessarily expensive and time-consuming activity. Licensed fishers would have faced a high level of uncertainty and significant individual costs.

After thorough consultation with all stakeholders, the Government decided that the best approach would be to assess the environmental impact of fishing activities at the fishery level. This provides the best approach for both our aquatic environment and stakeholders. The legislation was subsequently amended to provide for the development of fishery management strategies and the environmental assessment of those strategies.

c) The Commonwealth Environment Protection and Biodiversity Conservation Act

The *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) makes it an offence for a person to undertake an action that has the potential to significantly impact on a matter of 'national environmental significance' without first obtaining a permit from the Commonwealth Minister for Environment and Heritage. Matters of national environmental significance include: declared World Heritage areas; declared Ramsar wetlands; listed threatened species and ecological communities; listed migratory species; listed marine species; nuclear actions; and the environment of Commonwealth marine areas.

The EPBC Act was amended in January 2002 to incorporate the provisions of the Wildlife Protection Act (which was repealed at the same time). The new Part 13A of the EPBC Act has the effect of removing the previous blanket exemption from export control for marine species. As a result, the export of all marine organisms will come under the controls of the Act and be subject to ecological sustainability assessments based on the guidelines established by the Commonwealth. To give time in which those assessments may be made, the exemption will continue until 1 December 2003. Until then, current arrangements regarding export of marine species will remain in effect, that is, most marine fish and the bulk of marine invertebrates will continue to be exempt from export controls under the Act.

If a fishery is not assessed as exempt, it will more than likely be able to continue to supply product for export through an approved wildlife trade operation (section 303FN) under the EPBC Act. These declarations will have conditions attached that will bring the management and operations of the fishery in line with the Commonwealth guidelines. Once declarations are made, exporters will need to apply for and obtain from Environment Australia a permit to export.

d) The NSW Marine Parks Act

The NSW Government is using a systematic approach to identify sites for marine protected areas and to prioritise new areas for marine biodiversity conservation in NSW waters. There are three types of marine protected areas in NSW - large multiple-use marine parks, small aquatic reserves and the marine and estuarine components of national parks and nature reserves.

Marine Parks aim to conserve biodiversity by protecting representative samples of the habitats in defined 'bioregions'. Zoning and operational plans are used to guide the protection of conservation values and manage activities that occur within the marine park. Four zones are used in marine parks - sanctuary zones, habitat protection zones, general use zones and special purpose zones.

Consultation occurs with the community prior to the declaration of marine parks. Up to date information on the creation and zoning of marine parks in NSW waters is available on the Marine Park Authority website: www.mpa.nsw.gov.au

The *Marine Parks Act 1997* was introduced to provide for the declaration of marine parks in NSW. The Act and associated regulations aim to protect biodiversity and provide for a variety of users (where consistent with the primary objective) by way of zoning and operational plans. These are required for all marine parks and the zones clearly identify the conservation and management priorities within marine parks (MPA, 2000). The objects of the Act are as follows:

- (a) to conserve marine biological diversity and marine habitats by declaring and providing for the management of a comprehensive system of marine parks
- (b) to maintain ecological processes in marine parks
- (c) where consistent with the preceding objects:
 - (i) to provide for ecologically sustainable use of fish (including commercial and recreational fishing) and marine vegetation in marine parks, and
 - (ii) to provide opportunities for public appreciation, understanding and enjoyment of marine parks.

This fishery management strategy has been prepared taking into account, and ensuring consistency with, the objects of the *Marine Parks Act 1997*.

e) Share management plans

i) The role of a share management plan

The *Fisheries Management Act 1994* requires that a share management plan be developed and implemented for all share management fisheries. A share management plan for the Estuary General Fishery will be prepared as part of the transition of the fishery to a full share management regime.

The primary role of a share management plan is to provide a legislative structure for the class or classes of shares and the rights of shareholders in a share management fishery. The share management plan also makes provision for a range of fishery specific controls to be formalised into a regulation. Examples of these include the fish that may be taken, the areas for taking fish, the times or periods during which the fishery may operate, the protection of fish habitats, as well as the use of boats, fishing gear and bait in the fishery.

The share management plan for the Estuary General Fishery may also bring into operation a number of controls in the fishery that are described in this management strategy. One example of this is the share forfeiture scheme referred to in the management strategy. Whilst the management strategy relies on the share forfeiture scheme as a compliance mechanism for creating an effective deterrent, the workings and provisions of the scheme will be included in the share management plan for the fishery.

A share management plan must include objectives and performance indicators which, for the Estuary General Fishery, will be consistent with the goals and objectives of this management strategy. The share management plan must also specify at what point a review of the plan is required when a performance indicator is not being met. The review process to be included in the share management plan will complement the review process outlined in this management strategy. This will ensure that there is a robust review and reporting framework for the fishery that is underpinned by the provisions of the share management plan.

In addition to a review that may occur if a trigger point is breached, a share management plan for a category 2 share management fishery must also be subject to scheduled periodic review. With regard to the Estuary General Fishery, shares are to be issued for an initial term of 15 years and a review of the management plan is to be conducted between years five and ten of that period.

ii) Transition to share management

The Estuary General Fishery is in the process of moving from being a restricted fishery (under section 111 of the FM Act) to a category 2 share management fishery. The progression to a share management regime is a staged implementation.

The fishery is first identified as a share management fishery by being included in Schedule 1 of the Act. Criteria for the allocation of shares are then determined and when the allocation formula has been decided, a public notice is published inviting applications for shares. Based on the criteria and applications received, provisional shares are issued.

After provisional shares are issued, a legal order is placed in the NSW Government Gazette commencing the “limited access stage” of share management. Once the limited access stage commences a person must hold at least one provisional share in the fishery to be eligible to hold an endorsement. Throughout this stage, the fishery continues to operate under the regulations that applied to the restricted fishery.

Applications for appeals against the allocation of shares are lodged before the fishery is formally commenced. The Management Advisory Committee for the fishery and any other relevant commercial or recreational industry groups will be consulted on the proposed management plan. The management plan for the fishery is then put into regulation, final shares are issued and the fishery then commences as a full share management fishery.

iii) Changes to Regulations

In the most part, the current regulations that apply to the Estuary General Fishery appear in the *Fisheries Management (General) Regulation 1995* (‘the Regulation’). The Regulation sets out the working arrangements that underpin the provisions of the *Fisheries Management Act 1994*, and are made pursuant to that Act. For example, an offence appears in the Act for possessing prohibited size

fish (section 16), however it is the Regulation that prescribes the fish species subject to size limits and what those size limits are (clause 7).

This management strategy includes a number of actions that will impact on the current regulations that apply to the fishery. Examples of these include a change to the dimensions of general purpose hauling nets (to limit the previous nets of 1000 metres and 725 metres to 500 metres), and potential alterations to the dimensions of flathead nets. Where it is necessary to introduce or change controls prior to the development and implementation of a share management plan for the fishery, changes to the Regulation will be made.

If a management plan for a fishery is inconsistent with any other regulation or fishing closure, the management plan prevails. Therefore, a share management plan is an appropriate tool that can be used to implement controls that are specific to the Estuary General Fishery. The only occasion where a management plan does not prevail over another regulation is if a regulation specifically expresses that it is to have effect despite a management plan. An example of when this may occur is where a short-term closure may be introduced in response to an emergency.

2. Vision and Goals for the Fishery

a) Fishery vision

The long term vision for the Estuary General Fishery is:

To have a more profitable Estuary General Fishery with a smaller number of operators which provides the community with fresh local seafood and bait, and uses fishing gear in an ecologically sustainable manner.

b) Fishery goals

The goals that are proposed for the fishery to assist in achieving this vision are:

1. To manage the Estuary General Fishery in a manner that promotes the conservation of biological diversity in the estuarine environment
2. To maintain fish populations harvested by the Estuary General Fishery at biologically sustainable levels
3. To promote the conservation of threatened species, populations and ecological communities associated with the operation of the Estuary General Fishery
4. To appropriately share the resource and carry out fishing in a manner that minimises social impacts
5. To promote a viable commercial fishery (consistent with ecological sustainability)
6. To ensure cost-effective and efficient Estuary General Fishery management and compliance programs
7. To improve knowledge of the Estuary General Fishery and the resources upon which the fishery relies.

3. Fishery Description

a) An overview

The Estuary General Fishery involves the taking of finfish and shellfish for sale from the estuarine waters of NSW using lawful commercial fishing gear, and the taking of selected species by hand from ocean beaches. The fishery does not include the taking of abalone and rock lobster or the Estuary Prawn Trawl method as these are subject to separate management regimes and require separate fishing entitlements. Additionally, the fishery does not operate in estuarine areas where fishing closures apply.

The Estuary General Fishery is the most diverse commercial fishery in NSW. Approximately 99% of the catch by total landed weight is comprised of 45 species (NSW Fisheries catch statistics database 1998/99), and these species are taken from approximately 100 estuaries along the NSW coast using more than 17 types of fishing gear. The gear ranges from large hauling nets to relatively small traps and gathering by hand.

The Estuary General Fishery has a large number of participants, with approximately 722 fishing businesses endorsed to operate in the fishery (in August 2002). There is also large variation in the levels of participation of fishers with some fishers operating on a full time professional basis, while others operate on a part time basis and maintain other non-fishing forms of employment. Of the full time fishers, around half operate solely in the Estuary General Fishery, and the remainder operate in a number of different commercial fisheries in NSW. Table 1 below shows a comparison between the Estuary General Fishery and other commercial fisheries in NSW based on statistics from 1999/2000.

Table 1. Overview of the major marine commercial fisheries in NSW.

(Source: Tanner & Liggins, 2001; Kennelly & McVea, 2001; NSW Fisheries Licensing database – August 2002)

	Estuary general	Ocean trap and line	Ocean prawn trawl	Ocean fish trawl	Ocean hauling	Lobster	Abalone	Estuary prawn trawl
Methods	Handline, Trap, Hauling net, Mesh/gill net, Hand collecting	Demersal trap, Handline, Setline, Dropline	Otter trawl net	Otter trawl net	Beach seine net, Purse seine net	Trap/pot	Diving (hookah)	Otter trawl net
Species	Yellowfin bream, Dusky flathead, Sand whiting, Longfinned eels, Sea mullet, Pipis	Snapper, Kingfish, Morwong, Spanner crabs, Silver trevally	King prawn, School prawn, Royal red prawn, Balmain bugs, Octopus	Silver trevally, Tiger flathead, Redfish	Sea mullet, Sea garfish, Luderick, Yellowtail, Pilchards	Rock lobster (eastern)	Black lip abalone	School prawn, King prawn
Total catch in 1999/00 (t)	5,239	1,931	2,473	470***	2,767	117	325	625
Est. value in 1999/00 (A\$m)	19,5	10.7	23.4	1.3	4.8	4.6	12.7	4.1
No. of authorised fishing businesses in August 2002	722	550	318	99	333	172	44	243
Standard boat length (m)	5	6-8	14	14	4	6-8	6	9
General no. of unlicensed crew	0*	0-1	2	2-3	0**	0-1	1	1

* Unlicensed crew permitted only when undertaking boat based prawn seining

** Unlicensed crew permitted in some forms of boat based hauling

*** Partial catches only, see Kennelly and McVea (2001) for explanation

b) Extent of the Fishery

i) Number of operators

In July 2001, NSW Fisheries licensing database showed that 944 fishing businesses held entitlements to operate in the Estuary General Fishery. During 2002, 30 recreational fishing havens were created in NSW estuaries. A voluntary buyout process associated with the introduction of the havens has reduced the number of businesses authorised to operate in the Estuary General Fishery to 722 (as at August 2002). The number of operators in the fishery, however, constantly varies due to a number of factors including the transfer and amalgamation of fishing businesses and late payments on renewal of fishing licences.

ii) Activities endorsed in the fishery

The Estuary General Fishery is categorised into nine endorsement types that determine the type of fishing that may take place. Table 2 lists the endorsement types available in the fishery and details the activity that is authorised by each endorsement. For example, only fishers with a crab trap endorsement on their fishing licence are permitted to use crab traps, and only fishers with category 1 hauling endorsement on their fishing licence are permitted to use general purpose hauling nets. A more detailed discussion of fishing licences and endorsements for the fishery appears in section 4(b) of this management strategy.

Table 2. Endorsements in the Estuary General Fishery.

Endorsement types	Endorsement description
Meshing	This endorsement authorises the commercial fisher to use a meshing net and a flathead net to take fish for sale from estuary waters
Prawning	This endorsement authorises the commercial fisher to use a prawn hauling net, prawn seine net, prawn set pocket net, prawn running net, hand-hauled prawn net, push or scissors net and a dip or scoop net to take prawns for sale from estuary waters
Category 1 hauling	This endorsement authorises the commercial fisher to take fish for sale from estuary waters using any of the following nets: general purpose hauling net, trumpeter whiting net, pilchard, anchovy and bait net, garfish hauling net, garfish bullringing net, bait net
Category 2 hauling	This endorsement authorises the commercial fisher to take fish for sale from estuary waters using any of the following nets: garfish hauling net, garfish bullringing net, bait net
Trapping	This endorsement authorises the commercial fisher to use a fish trap and a hoop or lift net to take fish (other than eels or mud crabs) for sale from estuary waters
Eel trapping	This endorsement authorises the commercial fisher to use an eel trap to take eels for sale from estuary waters
Mud crab trapping	This endorsement authorises the commercial fisher to use a crab trap to take mud crabs for sale from estuary waters
Hand gathering	This endorsement authorises the commercial fisher to take beachworms, pipis, cockles, yabbies, mussels and nippers for sale from estuaries and ocean beaches by hand picking
Handlining & hauling crew	This endorsement authorises the commercial fisher to take fish for sale from estuaries using a hand line or by assisting another commercial fisher with a category one or a category two hauling endorsement (using hauling methods only)

iii) Overall catch levels and value

The total commercial estuary catch³ has remained relatively stable over the past 50 years except for slightly higher catches during the late 1980s and early 1990s. Total landings have generally been stable between 1993/94 and 1999/00 (see Table 3). The total reported landed catch of 5,043 tonnes for the 2000/01 fiscal year was worth an estimated \$19 million, though the value figures do not take into account export, interstate or local markets, where higher prices may be obtained.

Table 3. Overall catch and value for the Estuary General Fishery.

Period	Catch (t)	Value (\$'000)
1993/94	5,774	21,390
1994/95	5,805	20,044
1995/96	5,664	19,941
1996/97	5,294	19,488
1997/98	5,668	19,366
1998/99	5,426	20,054
1999/00*	5,239	19,528
2000/01**	5,043	19,136

* Information for the 1999/00 period sourced from NSW Fisheries catch statistics database in September 2001.

** Information for the 2000/01 period sourced from NSW Fisheries catch statistics database in August 2002.

iv) Area

Estuarine waters are defined under the FM Act as waters other than ocean waters that are ordinarily subject to tidal influence. Where an estuary meets ocean waters, estuarine waters are those that are west of, or upstream of, a line drawn across the entrance between the eastern most high water mark of the two banks to a line identified as the tidal limit.

There are a number of flowing fresh water streams east of the Great Dividing Range which lead into catchments and rivers that form some of the estuaries along the NSW coast, however, these fresh water tributaries do not form part of the Estuary General Fishery.

The Estuary General Fishery may occur in 102 estuaries along the NSW coast, however parts of these estuaries are often closed to commercial fishing. As of September 2002, the estuaries listed in Table 4 were open to estuary general fishing. Areas available to the Estuary General Fishery are subject to change as areas are designated as recreational fishing havens, or as sanctuary, habitat protection or special purpose zones are established or modified within marine protected areas. Details of commercial fishing closures made under the FM Act can be found on the NSW Fisheries website at www.fisheries.nsw.gov.au or by contacting your local Fisheries Office.

The Estuary General Fishery also includes the gathering by hand of fish such as beachworms and pipis from ocean beaches, except where closures apply.

³ References to commercial catch in this fishery management strategy are references to commercial landings, except where the reference specifically relates to all catch (ie. landings plus bycatch).

Table 4. Estuaries open to the Estuary General Fishery (as at 2002)

Tweed River*	Camden Haven River*	Jervis Bay
Cudgen Lake	Manning River*	Swan Lake
Cudgera Creek	Khappinghat Creek	Berrara Creek
Mooball Creek	Wallis Lake	Nerrindilah Creek
Brunswick River	Smiths Lake	Termeil Lake
Belongil Creek	Myall Lakes	Willinga Lake
Tallow Creek	Myall River	Durras Lake
Broken Head Creek	Lake Booloombayt	Batemans Bay
Richmond River*	Port Stephens	Candlagan Creek
Evans River	Karuah River	Moruya River
Jerusalem Creek	Hunter River	Congo Creek
Clarence River*	Tuggerah Lakes	Meringo River
Sandon River	Wamberal Lagoon	Coila Lake
Wooli Wooli River	Terrigal Lake	Lake Brou
Station Creek	Avoca Lake	Kianga Lake
Corindi River	Cockrone Lake	Wagonga Inlet
Arrawarra Creek	Brisbane Water	Nangudga Lake
Darkum Creek	Hawkesbury River	Corunna Lake
Woolgoolga Lake	Pittwater	Tilba Tilba Lake
Hearns Lake	Narrabeen Lagoon	Wallaga Lake
Moonee Creek	Dee Why Lagoon	Barragoot Lake
Coffs Harbour Creek	Curl Curl (Harbord) Lagoon	Cuttagee Lake
Boambee Creek	Manly Lagoon	Murrah Lake
Bonville Creek	Sydney Harbour	Bunga Lagoon
Dalhousie Creek	Port Hacking	Wapengo Lake
Oyster Creek	Towradgie Creek	Middle Lake (Bega)
Nambucca River	Port Kembla Harbour	Wallagoot Lake
Macleay River	Lake Illawarra	Bournda Lagoon
South West Rocks Creek	Minnamurra River	Merimbula Lake
Saltwater Creek	Spring Creek	Pambula Lake*
Korogoro Creek	Werri Lagoon	Curalo Lake
Killick River	Crooked River	Merrica River
Lake Innes	Shoalhaven River	Nadgee River
Lake Cathie	Lake Wollumboola	Nadgee Lake

Note: Some of the above listed estuaries include tributaries which are also open to the Estuary General Fishery. Parts of these estuaries may be closed to some or all estuary general fishing methods at certain times through fishing closures under the FM Act, or other restrictions that may prevent fishing.

* Parts of these estuaries are recreational fishing havens.

c) Species

i) Species taken in the fishery

The Estuary General Fishery takes a wide and diverse range of species. Table 5 is a list of the species permitted to be taken in the fishery. A summary of the ten most prominent species in the Estuary General Fishery including information on life cycle, habitat, catch trends and average market values is presented in Appendix 1.

Table 5. Species permitted to be taken in the Estuary General Fishery

Common name	Scientific name	Taxonomic Family / Class name
Anchovy	<i>Engraulis australis</i>	ENGRAULIDAE
Arrow squid	<i>Nototodarus gouldi</i>	OMMASTREPHIDAE
Australian salmon	<i>Arripis trutta</i>	ARRIPIDAE
Beachworm spp.	various	Class: POLYCHAETA
Black sole	<i>Synaptura nigra</i>	SOLEIDAE
Blue mackerel	<i>Scomber australasicus</i>	SCOMBRIDAE
Blue mussel	<i>Mytilus edulis</i>	MYTILIDAE
Bonito	<i>Sarda australis</i>	SCOMBRIDAE
Bream		
> Black bream	<i>Acanthopagrus butcheri</i>	SPARIDAE
> Yellowfin bream	<i>Acanthopagrus australis</i>	SPARIDAE
Catfish spp.	various	ARIIDAE/PLOTOSIDAE
Cockle spp.	various	ARCIDAE/VENERIDAE
Crabs		
> Blue swimmer crab	<i>Portunus pelagicus</i>	PORTUNIDAE
> Mud crab	<i>Scylla serrata</i>	PORTUNIDAE
> Sand crab spp.	various	PORTUNIDAE
Cuttlefish spp.	various	SEPIIDAE
Eels		
> Southern conger eel	<i>Conger verreauxi</i>	CONGRIDAE
> Short-finned conger eel	<i>Conger wilsoni</i>	CONGRIDAE
> Longfin river eel	<i>Anguilla reinhardtii</i>	ANGUILLIDAE
> Shortfin river eel	<i>Anguilla australis</i>	ANGUILLIDAE
> Pike eel	<i>Muraenesox bagio</i>	MURAENESOCIDAE
Estuary catfish	<i>Cnidoglanis macrocephalus</i>	PLOTOSIDAE
Flathead		
> Dusky flathead	<i>Platycephalus fuscus</i>	PLATYCEPHALIDAE
> Sand flathead	<i>Platycephalus caeruleopunctatus</i>	PLATYCEPHALIDAE
Flounder spp.	various	PLEURONECTIDAE/BOTHIDAE
Garfish		
> Eastern sea garfish	<i>Hyporhamphus australis</i>	HEMIRAMPHIDAE
> River garfish	<i>Hyporhamphus regularis</i>	HEMIRAMPHIDAE
> Shortbill garfish	<i>Arrhamphus sclerolepis</i>	HEMIRAMPHIDAE
Gurnard spp.	various	TRIGLIDAE
Hairtail	<i>Trichiurus lepturus</i>	TRICHIURIDAE
Hardyhead spp.	various	ATHERINIDAE
John dory	<i>Zeus faber</i>	ZEIDAE
Leatherjacket spp.	various	MONACANTHIDAE
Longtom spp.	various	BELONIDAE
Luderick	<i>Girella tricuspidata</i>	GIRELLIDAE
Mackerel tuna	<i>Euthynnus affinis</i>	SCOMBRIDAE
Mangrove jack	<i>Lutjanus argentimaculatus</i>	LUTJANIDAE
Mantis shrimp	<i>Squilla spp.</i>	STOMATOPODA/SQUILLIDAE
Mullet		
> Flat tail mullet	<i>Liza argentea</i>	MUGILIDAE
> Pink-eye mullet	<i>Myxus petardi</i>	MUGILIDAE
> Red mullet	<i>Upeneichthys lineatus</i>	MULLIDAE
> Sand mullet	<i>Myxus elongatus</i>	MUGILIDAE
> Sea mullet	<i>Mugil cephalus</i>	MUGILIDAE

Table 5. continued

Common name	Scientific name	Taxonomic Family / Class name
Mulloway	<i>Argyrosomus japonicus</i>	SCIAENIDAE
Nipper spp.	<i>Callianassa spp.</i>	CALLIANASSIDAE
Octopus spp.	various	OCTOPODIDAE
Old maid	<i>Scatophagus multifasciatus</i>	SCATOPHAGIDAE
Pike spp.	<i>Sphyraena spp.</i>	SPHYRAENIDAE
Pilchard	<i>Sardinops sagax</i>	CLUPEIDAE
Pipi	<i>Donax deltoides</i>	DONACIDAE
Prawns		
> Eastern king prawn	<i>Penaeus plebejus</i>	PENAEIDAE
> Greasyback prawn	<i>Metapenaeus bennettiae</i>	PENAEIDAE
> School prawn	<i>Metapenaeus macleayi</i>	PENAEIDAE
> Tiger prawn	<i>Penaeus esculentus</i>	PENAEIDAE
Red gurnard	<i>Chelidonichthys kumu</i>	TRIGLIDAE
Red morwong	<i>Cheilodactylus fuscus</i>	CHEILODACTYLIDAE
Saucer scallop	<i>Amusium spp.</i>	PECTINIDAE
Scallop	<i>Pecten fumatus</i>	PECTINIDAE
Shell spp.	various	Class: GASTROPODA/PELECYPODA
Silver biddy	<i>Gerres subfasciatus</i>	GERREIDAE
Snapper	<i>Pagrus auratus</i>	SPARIDAE
Sole spp.	various	SOLEIDAE
Southern calamari	<i>Sepioteuthis australis</i>	LOLIGINIDAE
Squid spp.	various	Class: CEPHALOPODA
Stingray/stingaree spp.	various	DASYATIDAE/UROLOPHIDAE
Striped trumpeter	<i>Pelates sexlineatus</i>	TERAPONIDAE
Sweep	<i>Scorpius lineolatus</i>	SCORPIDIDAE
Sweetlip	<i>Lethrinus sp.</i>	LETHRINIDAE
Tailor	<i>Pomatomus saltatrix</i>	POMATOMIDAE
Tarwhine	<i>Rhabdosargus sarba</i>	SPARIDAE
Trevally		
> Black trevally	<i>Siganus nebulosus</i>	SIGANIDAE
> Golden trevally	<i>Gnathanodon speciosus</i>	CARANGIDAE
> Silver trevally	<i>Pseudocaranx dentex</i>	CARANGIDAE
Trumpeter	<i>Pelates quadrilineatus</i>	TERAPONIDAE
Whaler shark spp.	<i>Carcharhinus spp.</i>	CARCHARHINIDAE
Whitebait spp.	various	CLUPEIDAE/GALAXIIDAE
Whiting		
> Sand whiting	<i>Sillago ciliata</i>	SILLAGINIDAE
> School whiting	<i>Sillago bassensis</i>	SILLAGINIDAE
> Trumpeter whiting	<i>Sillago maculata</i>	SILLAGINIDAE
Yellowtail	<i>Trachurus novaezelandiae</i>	CARANGIDAE
Yellowtail kingfish	<i>Seriola lalandi</i>	CARANGIDAE

Many species taken in the Estuary General Fishery are also taken in other NSW commercial fisheries, by other sector groups and by fisheries managed under the jurisdiction of the Commonwealth or other States. The FM Act establishes a system of advisory councils who provide advice to the Minister for Fisheries on cross-fishery management issues. NSW Fisheries management and research staff will meet biannually with adjacent jurisdictions to consider consistent management regimes for shared species and to discuss initiatives such as stock assessment, complimentary size limits, monitoring programs and recovery programs for overfished species. Cross jurisdictional collaboration has occurred often on an as-needed basis in the past, however, a more formalised approach to joint management will now be undertaken.

This management strategy categorises retained species taken into “primary species”, “key secondary species” and “secondary species”. A description of those categorisations is provided below.

This categorisation differs from the often used “target species versus byproduct species” categorisation because the fishery uses a range of relatively non-selective fishing gear to take many different species that are retained for sale. It follows that all saleable fish that are caught in the fishery would otherwise be considered “target” species. Primary and key secondary species are identified in Table 6. Table 6 also lists other significant fisheries and sectors where the primary and key secondary species are harvested.

Primary species

These are the species of major importance to the fishery, and consequently they receive a higher management and research priority within this management strategy. Primary species are listed in Table 6. Individual trigger points have been determined for these species to provide for a review of the fishery if catch rates fall outside predetermined reference points (see section 9 in this management strategy for further information).

Secondary species

Secondary species are categorised as those that are retained by the fishery but which do not fall under the primary species category described above.

A number of secondary species have been selected as “key secondary species” (see objective 2.1.4 in section 8) because they are subject to more rigorous performance monitoring requirements than the remaining secondary species. Key secondary species are listed in Table 6.

Table 6. Other significant fisheries/sectors where primary and key secondary species are harvested

Species	Primary or key secondary?	Other significant fisheries/sectors where species is harvested
Sea mullet	Primary	NSW (ocean hauling), Queensland, Victoria
Luderick	Primary	NSW (ocean hauling and recreational), Queensland, Victoria
Yellowfin bream	Primary	NSW (ocean hauling, ocean trap and line, fish trawl and recreational), Queensland
School prawns	Primary	NSW (ocean prawn trawl, estuary prawn trawl), Queensland
Dusky flathead	Primary	NSW (recreational), Queensland
Eastern king prawn	Primary	NSW (ocean prawn trawl, estuary prawn trawl), Queensland
Sand whiting	Primary	NSW (recreational, ocean hauling), Queensland
Mud crab	Primary	NSW (recreational), Queensland
River eels	Primary	Victoria
Pipis	Primary & bait	NSW (recreational)
Blue swimmer crab	Key secondary	NSW (recreational, estuary prawn trawl, ocean prawn trawl), Queensland
Greasyback prawns	Key secondary	NSW (estuary prawn trawl)
Mulloway	Key secondary	NSW (recreational, ocean trap and line)
Cockles	Key secondary & bait	NSW (recreational)
Beachworms	Key secondary & bait	NSW (recreational)
River garfish	Key secondary	NSW (recreational), Victoria
Silver biddy	Key secondary	NSW (estuary prawn trawl)
Flat tail mullet	Key secondary	–
Trumpeter whiting	Key secondary	NSW (estuary prawn trawl, ocean fish trawl)

Note: References in this table to ‘recreational’ includes charter boat.

ii) Bycatch species

Bycatch consists of those animals that are discarded from the catch or retained for scientific purposes, and that part of the “catch” that is not landed but is killed as a result of interaction with fishing gear. Fish that are landed are sometimes discarded because there is no market for that type (or size) of fish, or because the regulations prevent the fish from being retained (e.g. if it is smaller than the minimum legal length or is a species protected from commercial fishing).

Bycatch species in the Estuary General Fishery can generally be classified into fish that are juveniles of species that are of commercial or recreational importance, those that are of particular conservation significance and others which are neither a commercial or recreational species nor of specific conservation importance.

Juveniles of species that are considered to be of high commercial and recreational importance which are commonly caught in the estuary fishery include sand whiting, yellowfin bream, dusky flathead, tarwhine, snapper, leatherjackets, tailor and luderick.

iii) Size limits

Size limits apply to a number of species taken in the Estuary General Fishery. Table 7 lists the minimum legal lengths that apply to species permitted to be taken in the fishery.

Table 7. Minimum legal sizes on estuary general species.

SPECIES	SIZE LIMIT
Common name	Total length (cm)
<i>Primary</i>	
Sea mullet	30
Luderick	25
Bream	25
Dusky flathead	36*
Sand whiting	27
Eels	30
Mud crab	8.5 (carapace length)
<i>Key Secondary</i>	
Blue swimmer crab	6 (carapace length)
Mulloway	45
<i>Secondary</i>	
Tailor	30
Tarwhine	20
Snapper	30**
Red morwong	25
Yellowtail kingfish	60

* increased from 33 cm on 1 July 2001

** increased from 28 cm on 1 July 2001

iv) Protected fish

The *Fisheries Management (General) Regulation 1995* identifies a number of species that are protected, either from commercial fishing or fishing by all sectors.

Table 8. Fish species protected from fishing by all sectors

Protected fish include:	
Common name	Scientific name
Ballina angelfish	<i>Chaetodontoplus ballinae</i>
Eastern blue devil fish	<i>Paraplesiops bleekeri</i>
Elegant wrasse	<i>Anampses eleganus</i>
Estuary cod	<i>Epinephelus coioides</i>
Giant Queensland groper	<i>Epinephelus lanceolatus</i>
Grey nurse shark	<i>Carcharius taurus</i>
Great white shark	<i>Carcharodon carcharias</i>
Herbst nurse shark	<i>Odontaspis ferox</i>
Black rock cod	<i>Epinephelus daemeli</i>
Weedy sea dragon	<i>Phyllopteryx taeniolatus</i>
Australian grayling	<i>Prototroctes maraena</i>
Eastern freshwater cod	<i>Maccullochella ikei</i>
Trout cod	<i>Maccullochella macquariensis</i>
Macquarie perch	<i>Macquaria australasica</i>

Table 9. Fish protected from commercial fishing only

Fish protected from commercial fishing include:	
Common name	Scientific name
Black marlin	<i>Makaira indica</i>
Blue marlin	<i>Makaira nigricans</i>
Striped marlin	<i>Tetrapturus audax</i>
Blue groper	<i>Achoerodus viridis</i>
Atlantic salmon	<i>Salmo salar</i>
Australian bass	<i>Macquaria novemaculeata</i>
Eel-tailed catfish	<i>Tandanus tandanus</i>
Estuary perch	<i>Macquaria colonorum</i>
Silver perch	<i>Bidyanus bidyanus</i>
Brook trout	<i>Salvelinus fontinalis</i>
Brown trout	<i>Salmo trutta</i>
Rainbow trout	<i>Oncorhynchus mykiss</i>
Freshwater crayfish	<i>Euastacus</i> spp., <i>Cherax</i> spp. (except <i>Cherax destructor</i>)

Commercial fishers are not permitted to take protected fish or fish protected from commercial fishing. Fishers in the Estuary General Fishery are not likely to have any direct or indirect interaction with the majority of protected species because a large percentage of them are freshwater species. Any interactions between the fishery and protected fish are more likely to involve the incidental capture of Australian bass, estuary perch or estuary cod.

v) Interactions with threatened species and species of public concern

Although interactions with threatened species have not been commonly recorded in this fishery, this management strategy proposes two direct measures to obtain data on any such interactions. The first of these measures is the implementation of an observer-based surveys which will *inter alia* collect data on occurrences of threatened species in catches (see management response 1.1f in section 8 of this management strategy). Secondly, a modification to the monthly catch return forms will incorporate mandatory reporting of fishers' interactions with threatened species during fishing operations (see management response 3.1a).

A number of management responses also appear in section 8 of this management strategy aimed at minimising impacts on threatened species. These measures include using fishing closures (see management response 1.2a), modifying gear use and implementing the provisions of any threatened species recovery plans and threat abatement plans (management response 3.1b).

vi) Status of species within the fishery

NSW Fisheries uses a standardised method of reporting on the exploitation status of fish stocks across all commercial fisheries. This reporting method uses the terms defined in Table 10 to describe the stock status:

Table 10. Definitions of exploitation status of fish stocks.

Exploitation status	Definition
Under fished	The appraisal of a fish stock that suggests that the stock has the potential to sustain catches significantly higher than those currently being taken.
Moderately fished	The stock is assessed to be fished at levels which would probably allow only limited increases in catches.
Fully fished	The appraisal of a stock which suggests that current catches are sustainable and close to optimal levels (the definition of which may vary between fisheries; eg catches are close to maximum sustainable yield, or fishing effort is close to some reference point). In a fully fished fishery, significant increases in fishing effort above current levels may lead to overfishing.
Overfished	The appraisal suggests that current fishing levels may not be sustainable, and / or yields may be higher in the long term if the fishing level is reduced in the short term. This may be due to recruitment overfishing, growth overfishing and/or as a result of habitat degradation.
Uncertain	There is little or no information about the status of this stock (eg. no catch data or only very recent catch data).
Unknown	The only information about the status of the stock is long term fishery dependent catch data.

Where there are data, recreational harvest, including charter boat catch, and catch from other sectors is also taken into consideration when determining exploitation status. This allows a species based management approach where all known impacts on a species are considered

Table 11. Exploitation status of primary and key secondary species

Species	Primary or key secondary	Exploitation status
Sea mullet	Primary	Fully fished
Luderick	Primary	Moderately fished
Yellowfin bream	Primary	Fully fished
School prawns	Primary	Fully fished
Dusky flathead	Primary	Fully fished
Eastern king prawn	Primary	Fully fished
Sand whiting	Primary	Unknown
Mud crab	Primary	Unknown
River eels	Primary	Under fished to fully fished depending on catchment
Pipis	Primary	Unknown
Blue swimmer crab	Key secondary	Unknown
Greasyback prawns	Key secondary	Unknown
Mulloway	Key secondary	Unknown
Cockles	Key secondary	Unknown
Beachworms	Key secondary	Unknown
River garfish	Key secondary	Unknown
Silver biddy	Key secondary	Unknown
Flat tail mullet	Key secondary	Uncertain
Trumpeter whiting	Key secondary	Unknown

vii) Overfished species

If a species taken in this fishery is determined as ‘overfished’, this management strategy requires the implementation of, or assistance in developing, a recovery program for that species (see objective 2.5 and related management responses in section 8 of this management strategy). A recovery program must include a description of the actions proposed to return to acceptable levels those parameter(s) which have led to the determination of the species being overfished. The recovery program will also set out a timeframe for that process and may specify further appropriate action should recovery targets not be met.

Definitions of overfished status

There are two types of overfishing, both of which, when detected, require management action. It is important to note that the two types of overfishing are not mutually exclusive. “Growth overfishing” occurs when individual fish are typically harvested under the size that takes best advantage of the species growth in relation to expected natural mortality. “Recruitment overfishing” can be far more serious and occurs when fishing pressure has reduced the ability of a stock to replenish itself.

Designating a species as overfished

The information needed to clearly determine that a species has been growth overfished is more likely to be available than the information needed to detect recruitment overfishing. Most formal definitions of recruitment overfishing are determined on the basis of an understanding of relative rates of fishing mortality, population growth and population biomass as well as the relationship between spawners and recruitment (e.g. Hilborn and Walters, 1992). Even the most thoroughly studied species in NSW may not have relevant information on all those topics.

NSW Fisheries will consider advice from fisheries scientists as part of the annual assessment of the status of fish stocks in NSW, or as a result of a review arising from a trigger point breach (see section 9 of this management strategy). That advice could come as results of internal research become available, or from other agencies or institutions doing research relevant to the assessment of species harvested in NSW. If a species is the subject of a formal stock assessment process, the indication of overfishing is likely to come from having some performance indicator outside acceptable parameters. Other species’ status will be reviewed on the basis of the best available biological and catch information.

A stock that has had sufficient fishing mortality to cause a reduction in recruitment requires effective remediation. However, information that clearly demonstrates that a species’ recruitment has been impacted by fishing is difficult and expensive to collect, and likely to be rare. Management responses will need to be precautionary and are likely to draw inference from catch and catch composition, rather than from direct measurements of recruitment. For example, rapid declines in catch (especially when the species is targeted in a spawning aggregation), decreases in average size or missing years in age compositions are all indicative of potential problems with recruitment.

When new information that is likely to change the present status of a fish species is received by NSW Fisheries, NSW Fisheries scientists will review the status determination for that species against the criteria specified in Table 10 and report on the updated status in the annual report; “Status of Fisheries Resources”. If a species is designated as overfished, a recovery program involving all harvest sectors will be developed.

Appropriate management responses for different types of overfishing

Growth overfishing generally implies the productivity of a stock is being mismanaged by harvesting animals at too young an age. Fish stocks that are growth overfished are not necessarily in danger of imminent collapse and populations can be growth overfished and still be stable. However, growth overfishing may increase the risk to the population of subsequent recruitment failure arising from increased fishing pressure or external factors. The typical and most appropriate response to growth overfishing is to increase the average size at first harvest. This is commonly done by imposing a minimum size limit or increasing an existing one. The efficacy of such a response depends largely on the methods of capture and whether the selectivity of those methods can be appropriately altered to match the new size limit, otherwise wasteful discarding can occur. Careful thought must be given to changing size limits where there are problems in adjusting the selectivity of the primary fishing methods for that species.

Recovery programs for species suspected of having depressed recruitment due to overfishing must include strong precautionary action. Actions could include (but may not be limited to) temporary fishery closures or caps on either catch or fishing effort. Recovery programs for recruitment overfished species may also include changes to the monitoring program for that species and/or require targeted research to improve the assessment of risk to the species in critical areas.

Species in the Estuary General Fishery determined as being overfished

Silver trevally (*Pseudocaranx dentex*)

Silver trevally was determined as being overfished in the 1999/2000 NSW Fisheries Status of Fisheries Resources report. There has been a significant decline in commercial landings of silver trevally since the mid 1980s, from about 1000 t per annum to around 300 t per annum. The Estuary General Fishery catches approximately 16% of the total NSW commercial catch of silver trevally (based on average landings 1997/98 and 1998/99). Other significant catches of silver trevally are taken in the ocean fish trawl and ocean trap and line fisheries in NSW and the South East Trawl Fishery managed by the Commonwealth. There is also a significant recreational catch of the species.

Whereas the Estuary General Fishery lands approximately 16%, the NSW Ocean Fish Trawl Fishery lands approximately 55% of the landed weight of the NSW commercial catch of silver trevally. As the Ocean Fish Trawl Fishery is the primary fishery in NSW in which silver trevally are taken, a recovery program for the species will be developed under the ocean fish trawl management strategy. The Estuary General Fishery will contribute to the development of the recovery program, and will implement actions as needed under that program.

Sea garfish (*Hyporhamphus australis*)

A dramatic decline in the landings of sea garfish through the 1990's has prompted concern over the status of the stock. The concern is heightened by the lack of knowledge of the biology of the species. Catch levels are as low as 10% of the values from the early 1990's and the high value of the species makes it more likely that the decline in catch reflects a decline in abundance of the species.

Although no formal determination has been made of sea garfish being overfished, NSW Fisheries and the ocean hauling MAC are preparing a recovery program for the species. The preparation of the recovery program is a precautionary action in response to a severe decline in recorded landings of sea garfish in the ocean hauling fishery over recent years.

The Estuary General Fishery is a minor harvester of sea garfish landing approximately 10% of the total commercial catch in NSW during 1997 to 2000. Sea garfish comprises less than 0.1% of the total landings in the Estuary General Fishery (NSW Fisheries catch statistics database). The majority of the catch in the Estuary General Fishery is taken from Port Stephens, with the months March to June producing the highest landings.

School prawns and eastern king prawns

Montgomery (2000) used available information to show that school prawns and eastern king prawns were being captured at sizes smaller than that which optimised biological yield per recruit. The assessment fell short of categorising this as growth overfishing because of the preliminary nature of the analyses, low level of precision about some population parameters and insufficient information about the sizes of prawns caught by all harvesting sectors for prawns. However, the exploitation status of these species may change to growth overfished at the next review of the status of the fisheries resources by NSW Fisheries.

Specific actions in the strategy to address overfishing

Objective 2.5 in section 8 of this management strategy provides a mechanism for the fishery to participate in the recovery of overfished species. The objective has three major management responses as set out below, and the most appropriate management response for the fishery to adopt will be dependent upon the catch levels relative to other fisheries. The three management responses for objective 2.5 are:

- (a) *where the fishery is a major harvester of an overfished species, develop and implement a recovery program for the species within a specified timeframe*
- (b) *where the fishery is a minor harvester of an overfished species, contribute to the development of a recovery program for the species and adopt any measures required by that program*
- (c) *during the period of development of a recovery program for a species that has been determined as being recruitment overfished, implement precautionary actions including, but not limited to, any of the following:*
 - *total harvest controls*
 - *reductions in effort associated with the harvest of the species*
 - *the implementation of fishing closures*
 - *bycatch management provisions*
 - *mandatory gear changes.*

d) Gear used in the fishery

Fishing gear used in the fishery consists mostly of a range of hauling and meshing nets used to target finfish, as well as a number of nets designed to specifically target prawns. Traps are also used in the fishery to target finfish, crabs and eels, and the fishery also includes handgathering and hand lining. In all, there are 14 types of nets and three types of traps permitted in the fishery. Most of these fishing gear types are only able to be used by licensed commercial fishers, although recreational fishers are also able to use a number of the smaller nets including; the hand-hauled prawn net, the push scissor prawn net and the hoop or lift net.

The dimensions that apply to a number of the gear types differ between some of the estuaries. For example, the general purpose hauling nets able to be used in some of the larger coastal lakes have a longer overall length of net and longer hauling lines than the standard dimension hauling nets able to be used in most estuarine rivers and creeks. Appendix 2 provides information about changes to fishing gear and method controls in the *Fisheries Management (General) Regulation 1995* as a result of implementing the fishery management strategy.

The following sections describe the fishing gear able to be used in the Estuary General Fishery and provide details relating to the standard dimensions of that gear. Appendix 3 identifies the fishing gear types that may be used in each of the 102 estuaries in the fishery. The use of these gear types is subject to a range of time and area closures within each estuary. Up to date closure information can be obtained from the NSW Fisheries website: www.fisheries.nsw.gov.au or from the local Fisheries Office.

It is important to note that this fishery does not include the activity of prawn trawling. Prawn trawling currently occurs in four estuaries in NSW (the Clarence River, Hunter River, Hawkesbury River and Port Jackson) and is managed as a separate commercial fishery in accordance with a separate management strategy.

i) Traps

Fish trap

Fish traps are generally made from wire mesh supported by a timber frame. The standard dimensions for a fish trap are a maximum of 2 m in length, 1.5 m in width, 1 m in height and with mesh not less than 50 mm.

Crab trap

Crab traps are generally made from wire mesh supported by a solid frame similar to that used in fish traps. The standard dimensions for a crab trap are a maximum of 1.2 m in length, 1 m in width (or a diameter of no more than 1.6 m if round), 0.5 m in height and with mesh not be less than 50 mm.

Eel trap

The standard dimensions for an eel trap are either a maximum of 2 m in length, 0.5 m in width and 0.5 m in depth, or 1 m in length, 1 m in width and 0.5 m in depth. The mesh in the trap must be between 20 mm and 40 mm and the entrance funnel must not be more than 100 mm in diameter.

ii) Meshing nets

Meshing net

A meshing net consists of a length of mesh secured between a headline (or “cork line”) on the top, and a footline (or “lead line”) on the bottom. A standard length meshing net is a maximum length of 725 m with mesh size of not less than 80 mm.

A meshing net can be used in two ways, either by setting where the net is set in the water for a period (other than between sunrise and sunset), or by splashing where the net is placed in the water and the surrounding water splashed to encourage fish to swim into the net.

Whilst time and area closures generally control the use of meshing nets in particular estuaries, additional controls apply to the setting of mesh nets. Subject to those time and area closures, Table 12 shows when setting of mesh nets is allowed in applicable estuaries.

Table 12. Monthly provisions for the setting of mesh nets in estuaries where the use of a mesh net is permitted

Month	Region 3 and north	Region 4 and south
January	Splashing only	
February	3 hours maximum	3 hours maximum
March	3 hours maximum	3 hours maximum
April	3 hours maximum	3 hours maximum
May	3 hours maximum	Overnight
June	Overnight	Overnight
July	Overnight	Overnight
August	Overnight	Overnight
September	3 hours maximum	3 hours maximum
October	3 hours maximum	3 hours maximum
November	3 hours maximum	3 hours maximum
December	Splashing only	

The minimum mesh size for overnight set nets will increase in 2003 as outlined under Goal 1 in section 8 of this management strategy to decrease the proportion of juvenile fish captured.

Flathead net

The flathead net is a variation on a standard meshing net, and is specifically designed to target dusky flathead. As a result of the increased minimum legal length of dusky flathead from 33 cm to 36 cm in June 2001, the dimensions of flathead nets are being reviewed. Data from a mesh selectivity research program conducted during 2001 will be used to determine the most appropriate dimensions and controls for the re-designed flathead net. The previous mesh size restriction of between 70 and 80 mm will increase to minimise the capture of flathead less than the 36 cm minimum legal length.

Flathead nets may only be used by fishers with a meshing endorsement in Wallis Lake, Smiths Lake, Tuggerah Lakes and Lake Illawarra.

Hoop or lift net

A hoop or lift net, also known as a witches hat, is a relatively small net (less than 13 mm) and can take a number of forms. The net generally consists of one (and no more than two) hoops or rings to which loose netting is attached. The net is sometimes extended from the hoop by the use of a small float, however the net must not extend more than 1 m from the hoop or hoops and the hoop must not exceed 1.25 m in diameter (or at the greatest diagonal).

iii) Fish hauling nets

General purpose hauling net

The general purpose hauling net is the most common type of hauling net used in the Estuary General Fishery, and consists of relatively large mesh to catch a range of finfish. A standard dimension hauling net must not exceed 375 m in headline length. The following dimensions must also be complied with:

Part of net	Length restrictions	Mesh size restrictions
Wings of net	375 m less the length of the bunt	Not less than 80 mm
Bunt: in full	Not more than 90 m or one quarter of the total length of the net (whichever is lesser)	[see below]
Bunt: centre piece	Between 25 and 50 m	Between 30 and 50 mm
Bunt: remainder of	Not more than 50 m	50 mm

* Fishers may increase the mesh in the bunt (centre piece) of a general purpose haul net, by permit, from a maximum of 50 mm to a maximum of 57 mm to reduce the incidence of prohibited size sand whiting being caught in these nets. This is particularly an issue in some north coast rivers, as well as some of the larger coastal lagoons such as Wallis Lake. The effectiveness of the net operated under such a permit will be monitored by NSW Fisheries and consideration given to recommending a change to regulation.

Longer general purpose hauling nets of 1000 m, 750 m and 450 m were previously able to be used in selected estuaries, however, nets over 500 m in length will be prohibited by December 2002 and daily restrictions placed on the number of times the new 500 m net can be employed (see management response 1.1e in section 8 of this management strategy for details).

Pilchard, anchovy and bait net

This net is a type of hauling net designed to target smaller species and is only used in parts of Port Jackson, Pittwater and the Hawkesbury River. When used in estuarine waters this net must not have an overall length exceeding 250 m, and the following dimensions relating to the construction of the net must be complied with:

Part of net	Length restrictions	Mesh size restrictions
Wings of net	Each wing not more than 90 m	Not greater than 80 mm
Bunt	Not more than 60 m	Between 50 and 65 mm
Bag	Not more than 12 m	Not more than 30 mm
Cod-end	Not more than 6 m	Not more than 25 mm
Hauling lines	Each line not more than 125 m	-

Trumpeter whiting net

This net is a type of hauling net used in parts of Port Stephens to catch trumpeter whiting only. The standard dimensions of the net include an overall length of up to 275 m with the following restrictions applying:

Part of net	Length restrictions	Mesh size restrictions
Wings of net	Not more than 50 meshes deep	Between 50 and 65mm
Bunt of net	50 metres	Between 30 and 40mm
Overall length	Up to 275 metres	-
Hauling lines	Between 100 and 225 metres	-

Garfish hauling net

This net may only be used in parts of Port Jackson, Broken Bay, Port Stephens and Jervis Bay. The net has relatively small mesh of between 28 mm and 36 mm, although there is no overall maximum length applicable to this net.

Garfish bullringing net

Standard garfish bullringing nets consist of mesh between 28 mm and 36 mm with a standard maximum length of 275 m, and hauling lines of 25 m.

iv) Prawn nets***Prawn hauling net***

The standard dimensions for a prawn hauling net is a maximum length of 40 m with mesh of between 30 mm and 36 mm and each hauling line must not exceed 130 m in length.

Prawn seine net

The standard dimensions for a prawn seine net is an overall length of 140m with the mesh throughout between 30 mm and 36 mm.

Prawn set pocket net

There is no standard length for this net and the total allowable headline length of the net may vary from 5 m to 63 m throughout different estuaries. The standard mesh restriction throughout is between 30 mm and 36 mm.

Prawn running net

The standard dimensions of a prawn running net include a mesh throughout of between 25 mm and 36 mm. The maximum total length of the net is either 75 m or 140 m, depending on the estuary in which the net is used.

Hand-hauled prawn net

A hand-hauled prawn net is a relatively short net with a maximum overall length of 6 m and mesh size between 30 mm and 36 mm. The net is operated by hand and is only used in relatively shallow water.

Push or scissor prawn net

This is a relatively small hand operated net that is not often used by commercial fishers. The net length of bottom line at the lower ends of the poles must not exceed 2.75 m and the mesh size must be between 30 mm and 36 mm.

v) Other methods***Handgathering***

Handgathering includes the taking of fish by hand, or with the assistance of any of the following implements:

- €# a pump or similar device having a barrel or cylinder with a diameter of not more than 85 mm
- €# a tube or cylinder (whether or not fitted with a cap at one end) with a length of not more than 250 mm and a diameter of not more than 85 mm
- €# a single blade knife with a blade longer than it is wide
- €# a spade or fork (except in a seagrass bed, mangrove or saltmarsh area or for the taking of pipis)
- €# pliers

Hand lining

The term hand lining refers to the use of a spool of fishing line, or a reel of fishing line used in conjunction with a rod. Fishers in the Estuary General Fishery may also use up to ten set lines with a restriction of no more than six hooks on each line.

vi) Boats used in the fishery

The boats used in the fishery are generally small ‘run-about’ or ‘punt’ style vessels known as general purpose vessels. The same boats are often used in the ocean hauling fishery, and sometimes in the ocean trap and line fishery by fishers also authorised to operate in those fisheries.

General purpose vessels are normally between 3 m and 6 m in length. The most common construction material is aluminium. Boats in this fishery are occasionally equipped with two motors, one of which is generally of a small capacity to enable the boat to be navigated easily at low speed to assist in setting and tending fishing gear.

e) Interaction with other designated fishing activities

The fisheries of NSW are intrinsically complex due to the large diversity of species caught, the wide range of areas fished and the gear types used. Many species taken in the Estuary General Fishery are also taken in other NSW commercial fisheries, by other sector groups and by fisheries managed under the jurisdiction of the Commonwealth or other States. Table 6 lists other significant fisheries and sectors where primary and key secondary species are harvested other than the Estuary General Fishery.

Estuaries along the NSW coast also provide a nursery area for a number of species that become important species in other fisheries later in their lifecycle. Snapper is one example of this interaction, with large populations of snapper residing in estuaries as juveniles, being taken as adults in small numbers by estuary general fishers, and forming the basis of a significant commercial and recreational fishery around inshore and offshore rocky reefs in ocean waters.

The FM Act establishes a system of advisory councils who advise the Minister for Fisheries on issues that cross fishery management arrangements in NSW. Regular meetings between NSW Fisheries management and research staff with fisheries agencies from adjacent jurisdictions to consider consistency and innovation in research, management and monitoring programs for species shared with the estuary general fishery will also provide a more coordinated approach to managing these interactions.

i) NSW commercial fisheries

A number of the species taken in the Estuary General Fishery are of significant importance in other commercial fisheries in NSW. Species such as sea mullet and school prawns constitute a large percentage of the catch in other commercial fisheries. The ‘ten most prominent species’ descriptions in Appendix 1 detail the level of catch of these species in other commercial fisheries in NSW.

The Estuary General Fishery targets prawns, specifically school prawns, eastern king prawns and greasyback prawns, that are also targeted by the estuary prawn trawl and ocean prawn trawl fisheries, which operate in the same or adjacent waters. The fishery also harvests a number of ‘bait’ species such as anchovy and pilchard that may form part of the food source of species taken in other commercial fisheries.

There is no overlap of species taken in this fishery with the abalone and lobster share management fisheries. Abalone and lobsters are only permitted to be taken commercially by fishers endorsed in those fisheries. The lobster fishery does however, use a number of fish species as bait in inshore lobster traps. Mullet and luderick are the most commonly used baits in the lobster fishery and it is likely that most of these fish are supplied by the estuary general and ocean haul fisheries, with a small proportion being imported from other states.

Of 638 fishers who actively participated in the Estuary General Fishery during 2000/2001, 46% also participated in other NSW commercial fisheries. When they did so, the other fisheries involved were mainly the ocean hauling, ocean trap and line, and estuary prawn trawl fisheries. The number of estuary general fishers who participated in multiple fisheries is as follows:

€# 54% participated in the Estuary General Fishery only

€# 37% participated in two fisheries

€# 8% participated in three fisheries

€# 1% participated in four fisheries

Although there is some conflict between commercial fishing sectors in NSW, it is likely that the interaction of fishers participating in more than one fishery reduces the level of conflict that may be expected if each fisher participated in one fishery only. The diverse nature of commercial fishers in NSW means that most fishers have an understanding of the issues affecting each other and the industry as a whole.

Ocean Trap and Line Fishery

Approximately 18% of fishers operating in the Estuary General Fishery also fished in the Ocean Trap and Line Fishery during 2000/2001. Estuary general fishers who historically used fish traps in estuary waters often also set some traps in ocean waters around the headlands of estuaries. This resulted in some fishers who traditionally used fish traps being able to qualify for a fish trapping entitlements in both the estuary general and ocean trap and line fisheries when these fisheries were restricted in 1997.

Ocean Hauling Fishery

Approximately 19% of fishers operating in the Estuary General Fishery also fished in the Ocean Hauling Fishery during 2000/2001. This trend relates to the annual migration of species such as sea mullet out of estuarine waters during the autumn and winter period and along the ocean water beaches where the Ocean Hauling Fishery operates. The beach based sector of the Ocean Hauling Fishery uses similar gear and boats to the Estuary General Fishery. Indeed, 78% of fishing businesses with entitlements in the Ocean Hauling Fishery also hold entitlements in the Estuary General Fishery (NSW Fisheries licensing database, 2001).

The Estuary General Fishery also operates on a number of ocean beaches for the purpose of handgathering. As the name suggests, the method of handgathering involves limited hand operated gear to gather relatively small species such as pipis and beachworms. There is very little interaction between ocean hauling fishers and estuary general fishers over use of common beach areas for commercial fishing.

Estuary Prawn Trawl Fishery

The Estuary Prawn Trawl fishery currently operates in four estuaries that are also used in the Estuary General Fishery. These estuaries are the Clarence, Hunter and Hawkesbury Rivers and Port Jackson. The operation of the Estuary Prawn Trawl Fishery in these estuaries is limited through restrictions on areas and times that the boats (trawlers) may operate within.

Prawn trawlers operate in the same areas and often at the same times as the Estuary General Fishery. While there is potential for competition between these methods, estuary general fishers are generally aware of the main trawling grounds and tend not to compete over the areas during these times.

Approximately 14% of fishers operating in the Estuary General Fishery also fished in the Estuary Prawn Trawl Fishery during 2000/2001. Estuary prawn trawl operators who are also appropriately endorsed in the Estuary General Fishery can use estuary general methods, such as handlines and mesh nets from their trawling vessels.

ii) Recreational fishery

To obtain reliable estimates of non-commercial fishing patterns and levels of harvest, a National Recreational and Indigenous Fishing Survey was conducted in 2000 and 2001. Preliminary data provided from the survey shows a strong interaction between recreational fishing and the Estuary General Fishery and indicates that approximately 16% of the NSW population (approximately 1 million people) go recreational fishing at least once a year.

Recreational fishing in estuaries is safe and convenient for a large number of people and as such, the major proportion of recreational fishing effort is exerted in estuaries. Almost 40% of recreational fishing occurs in estuaries as opposed to 30% in ocean waters and 14% in freshwater rivers and streams. These preliminary figures appear to be consistent with the levels of catch (by numbers) with 42% of total recreational catch coming from estuaries, 37% from ocean waters and 8% from freshwater rivers and streams.

The preliminary figures from the survey also indicate that the main species of finfish taken by recreational fishers are bream, flathead, whiting, luderick and tailor. Prawns and blue swimmer crabs are also taken in substantial numbers by recreational fishers. All of these species with the exception of tailor, are listed as either primary or key secondary species in this management strategy.

A high level of competition over the years between the commercial sector and recreational sector has led to long standing discord between these groups. Many of the commercial fishing closures established in estuaries have been introduced to resolve such issues. During 2002, the NSW Government established 30 recreational fishing havens in the State's estuarine waters as a means of reallocating the fisheries resources between user groups.

Other interactions with recreational fishing in estuaries include captures of target recreational species in commercial fishing gear as bycatch. This is a concern especially in the case of Australian bass, a highly regarded recreational fishing species that migrates from freshwater into the upper reaches of estuaries during certain times of the year to spawn. Many fishing closures are in place in the Estuary General Fishery specifically to prevent captures of Australian bass in meshing nets.

iii) Charter boat fishing

The marine and estuarine charter fishing industry was restricted in 2000 when eligible vessels became licensed under the FM Act. Since licensing arrangements commenced, operators have been required to enter logbook returns, detailing the catch taken on board the vessel during charter activities, as part of a compulsory monitoring program. A separate logbook exists for estuarine charter fishing operations so the catch taken in estuarine waters by charter fishing operations can be identified. In August 2002, 195 charter boats were authorised to operate in estuarine waters.

Logbook returns entered to date indicate that one third of the fish taken during estuarine charter fishing activities are returned to the water. The retained catch from estuarine charter operations is dominated by dusky flathead, bream, tailor, sand whiting and luderick (charter boat monitoring program database, 2002). All of these species, except tailor, are primary species in the Estuary General Fishery.

iv) Other designated fishing activities***Beach safety (shark meshing) program***

There is negligible interaction between the Estuary General Fishery and the beach safety program which occurs in ocean waters.

Fish stocking

There is minimal interaction between the Estuary General Fishery and fish stocking as stocking programs predominantly take place in freshwater areas including lakes and impoundments. Australian bass is generally the only stocked species that moves into the upper reaches of estuarine waters at certain times of the year. Australian bass are protected from commercial fishing.

4. Management Controls and Administration

There are two broad types of fishery management controls, known as input controls and output controls. Input controls limit the amount of effort commercial fishers put into their fishing activities, indirectly controlling the amount of fish caught. They need to be continually modified in response to fishing technology. Input controls can include restrictions on the number of licences, the size and engine capacity of boats, the length and mesh size of nets, and the areas and times which can be worked. Output controls, on the other hand, directly limit the amount of fish that can be taken from the water and are well suited for single species, high value fisheries using single gear types (Goulstone, 1996).

The Estuary General Fishery in NSW will be managed predominantly by input controls. The following sections set out in broad terms the controls that apply to activities in the fishery. The specific rules, such as the net length and mesh sizes applying in particular areas are detailed in section 3(d) of this management strategy and in the *Fisheries Management (General) Regulation 1995*.

a) Limited entry

The Estuary General Fishery was recently declared a category 2 share management fishery. Access to the fishery has been limited to eligible fishers since the restricted fishery regime commenced on 1 March 1997. Prior to that date, nearly every NSW fisher with a general commercial fishing licence could operate in the Estuary General Fishery.

Initial entry to the Estuary General Fishery under the restricted fishery regime for most methods was defined by having a minimum level of catch history showing that the methods sought in the application had been actively used over past years. An extensive statutory appeals process followed.

Following changes to the *Fisheries Management Act 1994* in December 2000, the Estuary General Fishery, along with the other major commercial fisheries, was selected to become a category 2 share management fishery. Section 6(a) outlines the process from moving from a restricted fishery regime to a share management regime.

It is possible that, in the future, the fishery may become a category 1 share management fishery. It is intended that this management strategy will apply to the fishery whether it has category 1 or category 2 share management status.

b) Licensing Arrangements

i) Commercial fishing licences

A commercial fishing licence is required by an individual before they can take fish for sale or be in possession of commercial fishing gear in or adjacent to waters. The licence only authorises activities that are covered by endorsements issued in respect of each part of a fishery and specified on the licence.

Commercial fishing licences are currently available to persons who held a licence immediately prior to the commencement of the *FM Act*, owners of a recognised fishing operation (RFO), or individuals who are the holder of shares in a share management fishery. This latter

provision will become the more relevant requirement as the Estuary General Fishery moves toward full implementation of category 2 share management.

This management strategy proposes to retain the RFO concept under share management, and the use of shares to allow for structural adjustment at the fishing business level to improve economic viability of fishers. Variations to the Licensing Policy will be made to allow for these changes as they are developed.

Fishing endorsements

It is important to understand the difference between endorsements and entitlements in the fishery and how they relate to commercial fishing licences.

Entitlements in the fishery are associated with fishing businesses, while endorsements appear on the commercial fishing licences of individuals and authorise the use of the specific gear or taking of specific species. Some fishing businesses can be owned and held in the names of more than one individual (including company or partnership names) and therefore an entitlement associated with a business may entitle more than one person's licence to be endorsed to operate in the fishery.

Nine classes of endorsement will exist in the fishery at the commencement of the management strategy. Table 2 lists the endorsement types and the gear able to be used by virtue of holding each endorsement type.

The eligibility to hold endorsements on a commercial fishing licence in a category 2 share management fishery is based on the shareholder holding the minimum number of shares specified in the share management plan for the fishery. Separate minimum shareholdings may apply to each endorsement or each region in the fishery, or to both.

Section 8 of this management strategy proposes a number of principles that will be adopted with respect to setting minimum shareholdings in the management plan. The principles relate to having a minimum shareholding at the fishing business level (taking into account shares in other fisheries) for new entrants to the fishery, and at the endorsement and regional level to ensure that the number of endorsements available for use at any one time does not exceed the historic and sustainable levels of activity in the fishery.

The introduction of minimum shareholdings will result in trading of shares within the Estuary General Fishery and will eventually result in each shareholder in the fishery falling into one of the following three categories:

- €# shareholders who have acquired shares and continue to fish
- €# shareholders who have chosen to transfer all or some of their shares and leave particular fisheries or endorsement types within fisheries
- €# shareholders who retain their original shareholdings, cannot fish, but can re-enter the fishery later if they acquire sufficient shares.

ii) Fishing boat licensing

In addition to each fisher requiring a commercial fishing licence, every fishing boat used in connection with estuary general fishing must also be licensed. There has been a cap on the total number of boat licences since 1984 (includes boats used in all fisheries) and this restriction will remain for the duration of the management strategy.

To prevent any increase in size and therefore efficiency of vessels in the fishery, a strict boat replacement policy exists and will continue under the management strategy. A previous restriction of 5.8 metres applied to boats used in the Estuary General Fishery. Following a recommendation by the Estuary General Fishery Management Advisory Committee and the Advisory Council on Commercial Fishing, boats 5.8 metres in length or less may be replaced with boats up to 6 metres. Boats that are greater than 6 metres in length may only be replaced with boats that are no more than 10% or 1 metre greater in length, whichever is lesser. The 10% tolerance continues to relate to the original boat length to avoid a progressive increase in boat length over time.

In addition, the Minister for Fisheries has approved a new provision allowing fishers to temporarily replace their fishing boats with smaller boats for up to two years. During this time, a permanent boat replacement must be made with respect to the original boat.

iii) Renewal of licences

Commercial fishing licences and fishing boat licences must currently be renewed annually. Fishers are sent renewal application forms approximately one month before the expiry date on the licence. If a commercial fishing licence is not renewed within 60 days of the expiry date on the licence, the renewal application is taken to be an application for a new licence. Additional fees apply to late renewal applications.

Abeyance period for fishing boat licences

Fishing boat licences can be held in abeyance for a period of up to two years from the date of expiry of the licence or when advised in writing by the owner. Fishing boat licence fees are not payable during the period of abeyance, but the full amount due is payable if the licence is reinstated within the two years specified.

iv) Appeal mechanisms

Fishers may lodge an appeal to the Administrative Decisions Tribunal (ADT) against a decision to refuse to issue or renew, suspend, cancel or place conditions on a commercial fishing licence (or an endorsement on that licence) or a fishing boat licence.

The main role of the ADT is to review administrative decisions of New South Wales government agencies. To lodge an appeal with the ADT, a request must first be made to NSW Fisheries for an internal review of the decision, then a written application should be lodged with the ADT no more than 28 days after the internal review was finalised.

The ADT can make various orders concerning an appeal application including:

- ☞ upholding the original decision
- ☞ reversing the decision completely or in part
- ☞ substituting a new decision for the original decision
- ☞ ordering the agency to reconsider the decision in light of the ruling.

For further information, refer to the *Administrative Decisions Tribunal Act 1997* or the following website: www.lawlink.nsw.gov.au/

v) **Nomination policy**

Owner-operator provisions will be introduced into the Estuary General Fishery (see management response 2.3a in section 8 of this management strategy). Existing nominations will continue until the arrangements between the parties expire, but no new nominations will be approved. These new arrangements will need to be reflected in the arrangements developed for the category 2 share management fishery.

vi) **Training licences**

Licences are available to eligible persons for the purposes of training a new entrant to the commercial fishing industry. There are two types of training licences available.

Trainer's licence: The seller may apply to continue to hold his/her fishing licence for up to one year from the next fishing renewal date, to work with the purchaser of the fishing business for training purposes (but the business must qualify as a RFO), subject to the entitlements of the fishing business, on the understanding that the licence is surrendered at the end of the one year period unless a further RFO is acquired which is not the original business.

Trainee licence: Within six months of acquiring a RFO a new entrant may request that the RFO be placed into abeyance whilst the owner works with an experienced fisher to gain the necessary skills. This arrangement may apply for a period of up to two years. Fishing methods which the new entrant can use are restricted to the entitlements held by his or her fishing business. Areas which can be worked by the new entrant are limited to areas included in the purchased RFO and areas of historic operation of the experienced fisher.

c) **Net registration**

Commercial fishing nets used in the Estuary General Fishery (with the exception of the hoop and lift net) are required to be registered. Net registration certificates are issued for individual nets and are valid for the life of the net. The certificates stipulate the length and mesh sizes of individual nets.

New (ie. additional) commercial fishing net registrations have not been issued since a freeze was placed on the registration of new nets in July 1989 and will not be issued under the management strategy.

Net registrations are not transferable and are only issued for new nets that are replacing existing nets of the same specifications that are no longer serviceable. Where nets are acquired as part of the transfer of a fishing business (or share transfers), only the nets authorised for use by the new owner's entitlements will be registered.

d) **Controls on fishing gear and boats**

Detailed restrictions relating to the dimensions and type of fishing gear are set out in the *Fisheries Management (General) Regulation 1995*. The Regulation provides for the use of 'standard' gear in most estuaries, but variations to the standard gear are often applicable to particular estuaries or parts of estuaries. Appendix 3 outlines the gear permitted to be used in each NSW estuary in the fishery. The Regulation also stipulates in many cases how the gear must be operated. The current regulations relevant to the Estuary General Fishery will continue, subject to any changes necessary to implement the management strategy.

e) Transfer policies

i) Transfer of licensed fishing boats

The majority of licensed fishing boats used in the Estuary General Fishery are small vessels that have been classified as “general purpose” boats. Boats in this category do not carry validated catch history and can be transferred separate to the other entitlements of the fishing business. In general, boats have been categorised as general purpose vessels where the fisher, rather than the boat, was considered to be the predominant unit of fishing effort.

On the other hand, boats that are categorised as “boat history” vessels cannot be transferred separate to the fishing business. The Licensing Branch can advise a fishing boat owner whether a boat has been classed as a boat history or general purpose vessel. Any transfer of a fishing boat licence must first be approved by the Director, NSW Fisheries.

ii) Transfer of fishing business entitlements

Commercial fishing licences and endorsements to participate in a fishery are not freely transferable. Currently, commercial fishing licences and endorsements only become available to a new entrant if a fishing business with the required level of validated catch history is acquired. This may change as share management is introduced and shareholdings become important for access arrangements (see management responses 2.2b and 2.3b in section 8).

Prior to final shares being issued, fishing businesses must be sold as an entire package (ie. the catch history, endorsements or shares cannot be split). During this period, proposals regarded as licence splitting will not be approved.

Prior to the commencement of the share management plan for the fishery, the estuary general endorsements of a fishing business will only become available to the first new owner of the business. If the business is transferred for a second time, the offer to retain the endorsements lapses. This is known as the “interim transfer policy”.

The interim transfer policy will be superseded with the implementation of share management provisions and minimum shareholdings for the fishery upon the commencement of the share management plan.

iii) National licence splitting policy

The Commonwealth and the State governments have a long standing nationally agreed policy in place on licence splitting. The policy prevents entitlements held by one person or entity and issued by more than one jurisdiction, from being split and transferred separately. The transfer of a fishing business will not be approved unless all entitlements issued to the business by other jurisdictions are also transferred to the same buyer, or surrendered, or the approval of all agencies involved has been obtained.

Where fishing effort has been historically ‘shared’ across a number of entitlements held by a person, the policy prevents the increase in effort that would occur by creating two separate entitlements that could operate at full capacity.

This fundamental component of the Licensing Policy will be retained under the management strategy.

f) Time and area closures

The FM Act provides for the use of fishing closures in the Estuary General Fishery to, among other things:

- €# protect and conserve areas of key habitat
- €# manage the amount of fishing effort in an estuary
- €# to manage conflicts between stakeholders over the use of the resource and to ensure it is equitably shared
- €# minimise bycatch and the impacts of the fishery on threatened and protected species.

Fishing closures can be established on a seasonal, time, area, operator or gear specific basis. The existing fishing closures will remain until reviewed and new closures will be developed in accordance with the provisions in section 4.

Fishing closures will normally be published in the NSW Government Gazette, however, if the Minister for Fisheries considers that a fishing closure is required urgently, the Minister may introduce the closure and advise the public through media outlets and by displaying prominent signs in areas adjacent to the waters affected. In the case of an urgent closure, the Minister is to publish the closure in the Government Gazette as soon as practicable.

The *Fisheries Management Amendment Bill 2001* also proposed to allow closures to be made by regulation. References to closures in this management strategy include references to any such restrictions included in regulation.

Appendix 3 outlines the estuaries and gear types to which closures will apply at the beginning of the management strategy. Details on fishing closures that affect the Estuary General Fishery can be found on the NSW Fisheries website at: www.fisheries.nsw.gov.au.

g) Zoning

Estuary general fishers have historically had access to all estuaries not closed to commercial fishing. Although this arrangement has allowed commercial fishers greater flexibility, it has also had difficulties. The major problem caused by this arrangement was conflict resulting from fishers travelling out of their local estuaries to fish in other regions and disregarding local conduct rules. This problem was the major reason for zoning the Ocean Hauling Fishery in 1995.

In addition to promoting harmony within the fishery, zoning of the Estuary General Fishery focuses management and research on regional aspects of the biological, social and economic aspects of the fishery. Local management and research issues can then be addressed in a way that meets the requirements of local communities, within a statewide framework.

A zoning scheme for the fishery is being implemented in two stages. Stage one commenced in June 2001 and involves allocating each fisher to one of seven primary regions (see Figure 1) and, in some cases, issuing a permit to operate in individual estuaries or ocean zones that are beyond the fisher's primary region. Allocation of estuaries outside primary regions is based on fishers being able to demonstrate historical fishing participation in those estuaries. Stage two of the zoning process involves finalising and implementing the final zoning rules.

The zoning scheme introduces substantial changes to the way the fishery operates and will influence the way that the management strategy is implemented. Because the number of operators in each region is capped, programs for effort control will be developed regionally.

Based on the outcomes of stage one of the zoning scheme, Table 13 provides information on the number of endorsements in each endorsement class on a regional basis.

Figure 1. Map of the NSW coast showing the seven regions being used for zoning (which are also the MAC electoral regions) and the three larger estuarine biological regions as defined by Pease (1999).

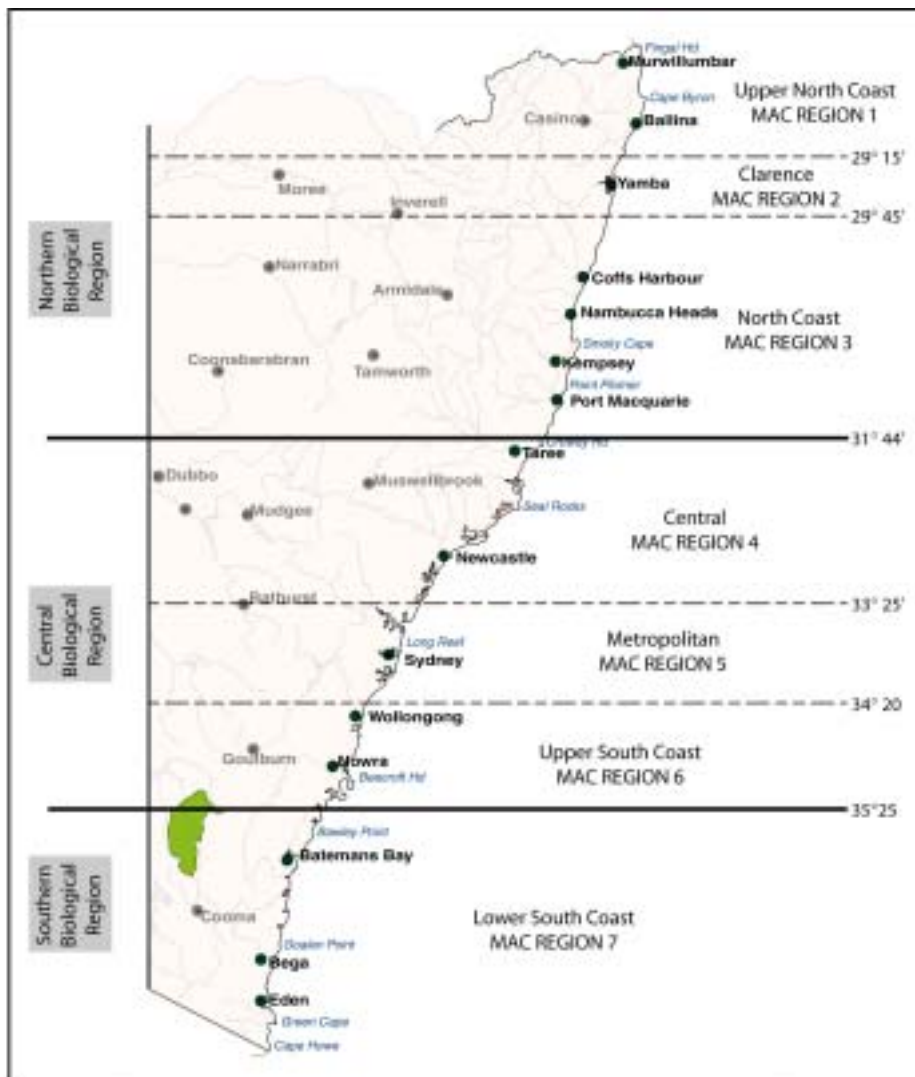


Table 13. Endorsement numbers by region in the Estuary General Fishery (at June 2002).

Class of endorsement	Regions							NSW Total
	1	2	3	4	5	6	7	
Crab Trap	21	56	45	95	15	3	3	238
Eel Trap	7	43	31	56	15	18	15	185
Fish Trap	5	23	29	102	33	7	7	206
Hand gathering	20	4	28	40	3	14	4	113
Handlining & hauling crew	53	138	74	226	81	68	44	684
Hauling Cat 1	10	26	9	63	23	17	9	157
Hauling Cat 2	9	29	21	53	13	21	12	158
Meshing	48	112	58	193	67	57	38	573
Prawning	29	102	39	178	15	50	37	450

Note: Fishers may hold more than one endorsement.

h) Recognised fishing grounds

Section 39 of the *Fisheries Management Act 1994* and clause 105 of the *Fisheries Management (General) Regulation 1995* provide for the declaration of waters used for net fishing by commercial fishers as recognised fishing grounds (RFGs). These areas may include areas of sea or estuaries that have been used historically for net fishing or are used regularly or intermittently for net fishing by commercial fishers.

Recognised fishing grounds aim to reduce conflict between user groups by clearly defining the specific areas that have traditionally been used by commercial fishers who take fish and prawns by specific methods, and giving priority to commercial fishers in those areas. Priority in areas that have not been declared an RFG will be based on whoever is present at the site first.

Recognised fishing grounds have two purposes:

1. Commercial fishers may request a person to remove anything that has been placed or left by the person, without lawful excuse, and which is obstructing the lawful use of the net fishing activities of the commercial fisher
2. Commercial fishers using nets have priority over recreational fishers in the waters defined as RFGs. Boats, surfcraft or similar equipment are not allowed to cause the dispersal of schooling fish or fish travelling in a school.

The implementation of RFGs does not mean commercial fishers will be excluded from areas that have not been declared an RFG nor does it provide an additional property right in the fishery. RFGs merely provide priority for access to particular areas. Additionally, just because an area has been declared an RFG, it does not prevent a lawful obstruction, such as a jetty or mooring being constructed. The declaration of an RFG however, will provide useful information for local Councils, and other State agencies when considering an application for construction and the impact of the obstruction on other user groups.

The process of declaring RFGs will involve broad stakeholder input. The initial step will be identification of possible sites by the Estuary General MAC, having regard to guidelines approved by the Minister for Fisheries. Once these sites have been identified, they will be presented to the other relevant advisory councils such as the Advisory Council on Recreational Fishing for consideration, prior to a period of public comment. The Estuary General MAC, prior to final recommendations being submitted to the Minister, will consider any comments made by the community.

There is currently only one declared recognised fishing ground in NSW, at Iluka in the Clarence River. However, the Estuary General MAC has already been consulted on the development of guidelines for the declaration of recognised fishing grounds for specific gear types in other areas. The draft guidelines are included below. This management strategy proposes that consultation take place with local stakeholder groups and the community in accordance with the draft guidelines.

Once the management strategy is finalised, it will up to the Estuary General MAC to decide on the extent and scope of any implementation program for RFGs in their fishery. The implementation program will need to be financed by an industry contribution determined on advice from the MAC.

Draft guidelines for defining RFGs in the estuary general fishery

1. As they are quite specific and defined areas, RFGs will be identified in waters used for fish and prawn hauling, prawn running and set pocket netting methods only
2. The area proposed for a RFG must be an area where there is historical evidence that the site has been fished using the relevant method at least 3 times a year and that there is a valid reason for its implementation (ie. there is a high level of ongoing user conflict)
3. The area proposed for a RFG must relate to areas that are not currently closed to commercial fishing
4. The grounds should be proposed initially by agreement between NSW Fisheries officers and local commercial fishers, considered by the Estuary General MAC and referred to the Advisory Council on Recreational Fishing and (when relevant) the Advisory Council on Aquaculture for consideration prior to the public consultation specified in guideline (6)
5. In the light of comments made by the advisory councils, the Minister for Fisheries or NSW Fisheries may either: proceed to release the proposals for public consultation with or without modifications; ask the Estuary General MAC to further consider the proposals prior to any public consultation; or decline to release the proposals for public consultation
6. Proposed RFGs must be displayed in the local NSW Fisheries office and NSW Fisheries Head Office for public comment for a period of at least 30 days, and an advertisement notifying of the exhibition placed in a newspaper circulating throughout the region
7. Any objections to the proposed RFGs will be considered by the Minister prior to the grounds being declared as an RFG
8. Following the Minister's approval of an RFG, copies of maps with the approved RFG will be deposited at the Head Office of NSW Fisheries and at the relevant district office of NSW Fisheries located in the region of the RFG.

i) Permits

Section 37 of the *Fisheries Management Act 1994* allows for permits to be issued for research and other authorised purposes. These permits provide a legal framework for activities that fall outside normal operating rules set out in the FM Act or its Regulation. Each permit sets out a number of conditions, which vary depending on the purpose of the permit. These conditions ensure that permits

are used only for the purpose intended by their issuing and are often used to limit the extent of the permitted activity.

Permits will be issued to authorise modified fishing practices to assist approved research programs or for purposes consistent with the vision and goals of the management strategy (see management response 6.4b in section 8).

Permits are valid for the period specified in the permit, and may be suspended or cancelled at any time by the Minister. Permits are not transferable and are valid only insofar as they do not conflict with approved determinations of native title made under the Commonwealth *Native Title Act 1993*.

j) Catch limits or quotas

Section 9 in this management strategy lists the trigger points and allowable commercial catch levels for primary and key secondary species in this fishery. The upper catch trigger level for the commercial catch of each of these species has been determined using the upper trigger point range and recorded annual landings.

A daily bycatch limit applies to Australian salmon north of Barrenjoey Headland and tailor in all NSW waters taken by commercial fishing nets as outlined in Table 14.

Table 14. Daily commercial fishing possession limits for tailor and Australian salmon

Commercial fishing activity	Daily possession limit per species
Hauling crew	100
Meshing crew (or individual)	50
Any other licensed commercial fishing vessel containing a commercial fishing net	50

This daily trip limit will continue to apply under the management strategy (see management response 4.1b in section 8 of this management strategy). Other species based catch controls, such as size limits and protected fish, are discussed in section 3(c) of this management strategy. .

k) Seafood safety programs

Food safety programs relating to the Estuary General Fishery are administered by SafeFood Production NSW under the *Food Act 1989*. Food safety programs for all commercial fisheries are currently being prepared by SafeFood Production NSW and will continue under the management strategy (see management response 5.4a).

For the Estuary General Fishery the food safety program will encompass the already established biotoxin monitoring program for pipis. This program was established in 1998 in response to several food poisoning events traced to the consumption of pipis harvested from Ballina and Stockton beaches. Fishers operating under the biotoxin management plans are limited to operating on beaches that are regularly monitored for environmental conditions, algal concentrations and, when necessary, shellfish toxicity testing.

l) Cost recovery policy

NSW Fisheries recoups costs that are attributable to industry through a cost recovery policy. Cost recovery is a common principle among Australian commercial fisheries and an important component of ecologically sustainable development.

NSW Fisheries is in the process of implementing cost recovery in a progressive manner, so that all charges are not passed to industry immediately. The FM Act requires that in a share management fishery, the fees payable must be paid in proportion to the shareholdings in the fishery.

In November 2000, the Government announced a new cost recovery policy. As part of the second reading speech for the *Fisheries Management and Environmental Assessment Legislation Amendment Act 2000*, the Minister for Fisheries, the Hon. Eddie Obeid, gave the following commitment for the fisheries that were moving to category 2 share management fisheries:

“Over the next five years the Government will develop and implement a cost recovery framework for category 2 share management fisheries. This framework will be subject to extensive industry consultation.”

“During this period, the total amount of money collected for NSW Fisheries, for its existing management services, will not increase without the support of the relevant management advisory committee.”

“After five years, the costs that have been identified as attributable to the industry will be progressively introduced over a further three-year period.”

It is important to note that the new services required to be implemented under the management strategy or as a result of the environmental assessment process will need to be fully funded by the fishery participants.

A number of fees are payable in the Estuary General Fishery. The management strategy does not, in itself, set the charges, or limit or otherwise govern the way fees are changed.

5. Compliance

NSW Fisheries has approximately 90 fisheries officers responsible for coordinating and implementing compliance strategies in NSW. These strategies include:

- €# maximising voluntary compliance
- €# providing effective deterrence for offences
- €# providing effective support services.

Approximately 65 of these fisheries officers are located in areas along the NSW coast where the Estuary General Fishery occurs. Their general duties include conducting patrols, inspecting commercial fishers and fishing gear, and recording rates of compliance.

A compliance strategic plan is to be developed that will provide the direction for education, advisory and enforcement services provided by NSW Fisheries for the Estuary General Fishery (see management response 6.1a in section 8 of this management strategy).

To ensure that compliance service is delivered in a consistent manner, quality inspection guidelines will be developed as part of the operational plan for inspections within the Estuary General Fishery. These guidelines will set out a procedural approach to be adopted when undertaking inspections of fishers and fishing gear. The quality inspection guidelines will ensure that all issues requiring compliance by commercial fishers under this management strategy are subject to a compliance program.

a) A penalty points system

A penalty points scheme linked to endorsement suspension and share forfeiture provisions will be introduced under this management strategy and developed as part of a share management plan for the Estuary General Fishery (see management response 6.1b in section 8 of this management strategy).

The Estuary General Fishery generally has a high compliance rate, however, despite the relatively large number of potential offences and the maximum penalties specified in the FM Act and Regulation, there are still a small number of estuary general fishers who operate beyond the rules. This minority continue to breach the rules applying to the fishery and the courts sometimes appear unwilling to impose significant fines (which may be viewed as minor when compared to other criminal offences). The penalty points system is a way of providing a clear deterrent to fishers who are considering breaching the provisions of the strategy or associated rules, as well as providing the courts with a regulated management plan that reflects the serious nature of some fisheries offences.

Similar to the motor vehicle licence demerits points scheme (administered by the Roads and Traffic Authority), the proposed system would provide for a list of penalty points assigned to serious or repeated offences. If a fisher accrued a certain level of penalty points by breaching the rules applying to the fishery, the endorsement or fishing right would be subject to predetermined periods of suspension or cancellation through provisions in the share management plan for the fishery.

The offences deemed as “serious” and the definition of a “repeated offence” would need to be included in the share management plan, as would the points attributable to each offence.

It should be noted that the Estuary General MAC does not support the introduction of a share forfeiture scheme in the fishery. The MAC supports an endorsement or licence suspension scheme based on penalty points, but not the forfeiture of shares.

6. Research

a) Proposed research areas

The basic areas of research needed for the Estuary General Fishery can be categorised into seven broad areas: (i) stock assessments of primary species; (ii) quantification and reduction of the bycatch and discarding of untargeted species; (iii) effects of fishing methods on habitats; (iv) importance of habitats to fish populations; (v) importance of ecological processes to fish populations, (vi) impacts of fishing on trophic interactions and ecosystems; and (vii) impacts of fishing on threatened species.

Outlined below are those strategies by which research into these areas is proposed to proceed.

i) Stock assessments of key species

Fishery-dependent information

Previous assessments of fish stocks in estuaries have generally been inadequate and mostly reliant on fishery-dependent information. These assessments have made extensive use of reported catch and effort data supplied by commercial fishers and have included age-based assessments of commercial landings of key species (including sea mullet and bream since 1995 - Virgona *et al.*, 1998, Gray *et al.*, 2000, sand whiting and luderick between 1995-97 - Gray *et al.*, 2000 and dusky flathead between 1995-97 and 2000 - Gray *et al.*, submitted). Stocks of eels are also currently being assessed in a targeted Fisheries Research and Development Corporation (FRDC) funded project.

Fishery-dependent catch and effort information has been used in the past because: (i) it is easy to obtain; (ii) a large and long term data series exists; and (iii) it has been the best information available. These reasons do not, however, make up for the unreliable nature of such information – in terms of its accuracy, precision and consistency. Further, such information only concerns species (and sizes/ages of species) that are actually landed and therefore virtually no information is obtained on small, undersized individuals, bycatch species or other organisms involved in the affected ecosystems. Age-based sampling of commercial landings represents a significant advancement in stock assessments over that solely relying on catch and effort data, but its utility in assessing stocks, bycatch and ecosystem interactions remains minimal.

Nevertheless, because of the reasons listed above (fishery-dependent information is relatively easy to obtain, large, long-term and the best available), it is proposed to continue fishery-dependent age-based assessments of three key fish species in the Estuary General Fishery (sea mullet, bream and dusky flathead) until more robust methods for assessing stocks are developed and implemented (see below).

With the exception of some work on king prawns, few stock assessments of other invertebrates (like school prawns, blue swimmer crabs, mud crabs, pipis, beachworms, etc.) have been done (although a new four year project to assess school prawn stocks commences in 2002). Reported catch and effort data on such species have been (and will continue to be) monitored to assess any changes in relative abundance inferred by the data until better methods for stock assessments are established. Where known, other sources of mortality will be considered in the stock assessment process.

Fishery-independent information

Because of the problems inherent with fishery-dependent information, it is intended that future stock assessments of estuarine species will involve fishery-independent methods based on stratified randomised surveys of relative abundances and size and age structures of wild populations. Such data will provide more robust and rigorous assessments of natural populations than those based on fishery-dependent data.

The first step in implementing such a major change in focus is to do the necessary pilot studies that will develop appropriate fishing gears for the surveys, and to do cost-benefit analyses of pilot surveys to determine the most appropriate sampling regimes. This pilot work will then be followed by sampling to test the developed survey design and allow the preparation of a final design for subsequent surveys that will continue into the future. A program funded by the FRDC will cover the first three years of this work which includes all of the pilot and design work. It is intended that the pilot studies on alternative sampling tools and cost-benefit analyses will be done during 2002-2003 and a pilot sampling strategy will be implemented during 2003-2004. The proposed sampling regime will be implemented in the third year (2004/2005). After this period, it is intended that the program will be continued using funds provided by all users that benefit from these resources.

Such a fishery-independent survey will also have other benefits including the provision of fish samples for age determination, information on reproductive biology (which will allow some review of appropriate size limits), recruitment indices and some preliminary examinations of trophic interactions. Information from the fishery-independent surveys will therefore contribute to several other priority areas of research and management whilst allowing quite robust modelling of populations for stock assessment purposes.

ii) Quantification and reduction of the bycatch and discarding of untargeted species

It is widely accepted that the most reliable and accurate way one can assess bycatch and discarding is to use observer-based surveys. Observer surveys of bycatch and discarding have been carried out for most methods used in the Estuary General Fishery. Such studies examined by-catches from the prawning methods of set pocket netting (Andrew *et al.*, 1995), snigging (Gray, in press and unpublished), hauling (Gray *et al.*, in preparation) and running nets (Gray *et al.*, in preparation), general-purpose fish hauls (Gray *et al.*, 2001, in preparation) and mesh nets set overnight (Gray, in press). Discarding from all types of mesh nets is currently being assessed and is due to be complete in 2002. Bycatch from fish traps has also been examined in Botany Bay only (Stewart and Ferrell, in press).

Research into the development of discard-reducing gears has also been undertaken for some methods used in the Estuary General Fishery, including fish haul nets (Gray *et al.*, 2000; Kennelly and Gray, 2000), fish traps (Stewart and Ferrell, in press) and eel traps (Pease *et al.*, unpublished data). Further research is currently being done to reduce the capture of small prawns in estuarine prawning gears and to investigate the survival rates of discarded prawns. The survival rates of discards from general purpose haul nets have also been estimated (Kennelly and Gray, 2000; Gray *et al.*, in preparation).

Major gaps in our knowledge about bycatch and discarding in the Estuary General Fishery mainly exist for a few relatively minor fishing methods including crab and eel traps and specific

hauling gears like garfish haul and bullringing nets, trumpeter whiting haul nets and bait haul (e.g. lampara) nets.

It is proposed that future research concerning bycatch and discarding for the Estuary General Fishery will involve starting observer-based surveys on crab and eel trapping and specific haul nets in 2002/2003. It is then proposed to repeat observer surveys of all methods used in the fishery periodically in order to maintain a "watching brief" on bycatch levels in the fishery. Of course, if specific changes to operations occur, this ideally would be followed by directed observer surveys to assess effects of such changes on catches and bycatch. For example, the introduction of a new flathead net to the fishery in 2003 should be accompanied by an observer survey during the ensuing fishing season.

The scientific observer program will be important for:

- ☞ monitoring the impacts of the fishery on bycatch species
- ☞ providing data on relative selectivity among the fishing gears being observed
- ☞ broad level validation of catch returns
- ☞ recording any interactions with threatened species and occurrences of lost fishing gear.

Whilst the scope of the scientific observer program may not be sufficient to report on the level of impact of the fishery on threatened species, the program will provide information that could be used in the consideration of spatial overlaps of the fishery and threatened species.

The field component of the program will include observations of gear types used in a sample set of estuaries across the regions used in the fishery. Although the exact number of observer days is yet to be determined, the observer program will be stratified across factors of importance, for example regions or particular estuary types. The level of observer coverage will be sufficient within strata to detect differences among them. This will require pilot estimates of variation to be made early in the observer program.

Although the program will be conducted under the supervision of NSW Fisheries, the field observing component will be offered as a contract under a competitive tender process. This could result in a research institution (other than NSW Fisheries) undertaking the field observations and as such, it is not possible at this stage to estimate the number of observers that will be used to meet the requirements of the program.

It is proposed that when specific bycatch and discarding problems are identified, targeted research will be directed at ameliorating the identified problems. This could include the development and testing of alternative gears and fishing practices in addition to assessments of the utility of spatial and temporal fishing closures to reduce any identified problems.

iii) Effects of fishing methods on habitats

Whilst a study of the impacts of hauling over *Zostera* seagrass has been completed (Otway and Macbeth, 1999), the impacts on other habitats of other fishing gears have not been investigated and potential impacts have generally been inferred from studies undertaken elsewhere.

It is proposed to address the significant gaps in our knowledge about the physical impacts of various fishing methods on habitats via targeted projects involving manipulative field experiments on specific problems. Examples may include the effects of various mobile fishing methods like hauling on seagrass beds and sand flats. Specific issues will be prioritised and funding sought. As was the

case above for identified bycatch problems, if problems of physical damage on habitats are identified, it is proposed to undertake targeted projects on ways to reduce such effects through gear and/or operational modifications and/or spatial and temporal closures in sensitive areas.

There is a need for tools to monitor biodiversity in the ecosystem in which the fishery operates. The research needed to provide such tools is likely to be long-term and drawing on a variety of expertise and knowledge. This management strategy is proposing, however, reforms in research and monitoring that will significantly improve the working knowledge of the fishery in its environment. These reforms, such as improvements in the accuracy of catch returns and the knowledge of discards from the observer study, will form the basis for future studies to assist biodiversity monitoring.

iv) Importance of habitats to fish populations

Some research has been done on the associations between estuarine fish and the habitats on which they depend (e.g. Young, 1981; Middleton *et al.*, 1984; Bell and Pollard, 1989; Ferrell and Bell, 1991; Gray *et al.*, 1996). It is important that the role of different habitats in supporting fisheries resources continue to be studied and that the effects of the degradation of such habitats be fully understood. Current research includes a project investigating the impacts of acid sulphate soils on fisheries resources.

The extent and distribution of key estuarine habitats (e.g. seagrasses, mangroves, saltmarsh, etc.) have been recorded previously (West *et al.*, 1985) and this work is currently being repeated. It is planned to continue and, in fact expand, the monitoring and assessment of changes in the state's estuarine habitats.

Research on specific interactions between particular populations and certain habitats would involve targeted research projects directed at specific problems, which would include field-based manipulative experiments and mensurative studies. Specific issues will be prioritised and funding sought.

v) Importance of ecological processes to fish populations

The structure and functioning of ecosystems and the myriad of ecological processes that occur in them underpin the sustainability of most of those fish and crustaceans that are exploited from estuarine systems. It is therefore important for the fisheries that target species in these systems to understand the complex ecological processes in those systems, whether these processes directly involve target species or not.

The techniques and methodologies for examining such interactions involve quite complex field experimentation and there exists a substantial body of literature on the subject, though not often involving the estuaries of NSW that are exploited by the Estuary General Fishery.

Directed, detailed experimental and mensurative programs need to be undertaken so that management decisions about exploited fish and crustaceans can be made in the light of entire ecosystem processes. Such information will, of course, also provide vital information to other non-fisheries agencies that manage other aspects of such systems under the principles of ecological sustainable development.

vi) Impacts of fishing on trophic interactions and ecosystems

Little research has been done anywhere to assess the impacts that fishing has on the structure of estuarine ecosystems and none has been undertaken in relation to the Estuary General Fishery. In general, such work is very much in its infancy throughout the world and, where such work has been done, it is invariably characterised by being complex, expensive, of a long duration. However, such work has shown that fishing can significantly affect the structure and function of ecosystems (Hall, 1999; Kaiser and de Groot, 2000).

As with the proposals to study the effects of different fishing methods on habitats, it is proposed to examine the issue of impacts of fishing on trophic interactions and ecosystems through targeted projects on specific impacts using quite elaborate manipulative and mensurative experiments. An example of such work is currently being undertaken in the Clarence River where the impacts of trawling on benthic systems are being examined.

Before this ecosystem research commences however, it is proposed to undertake a risk assessment as proposed by the Sustainability Indicators Working Group of the Standing Committee on Fisheries and Aquaculture (see management response 1.3c in section 8). The Working Group is in the process of developing a national reporting framework for ESD for Australian fisheries and has completed some work on identifying the main ecosystem components that may be subject to impacts from fishing. Acknowledging that research resources are limited, the working group is recommending that Australian fisheries management agencies undertake a risk assessment for each fishery to determine the level of management (including research) necessary for each component of the ecosystem. The working group recommends that this be done through a workshop so that the outcome is a combined judgement of a group of people who have considerable expertise in the areas being examined.

vii) Impacts of fishing on threatened species

Little is known about the biology and ecology of many of those species listed as endangered or threatened, and the potential impacts of commercial fishing on these species are even less understood. It is proposed that research on such issues should involve specific projects targeted at particular species and the many factors that influence them, rather than studying particular fisheries for their impacts on certain species.

Such studies would involve examining the biology and ecology of certain species to assess potential impacts of a variety of "threats" (only one of which would be the Estuary General Fishery). Specific issues and species will be prioritised and funding sought.

b) The Conservation Technology Unit

In March 2001 NSW Fisheries established a Conservation Technology Unit to examine conservation-based gear technology in commercial and recreational fisheries. This focussed research initiative will help address gaps in knowledge including the selectivity of fishing gear used in the Estuary General Fishery. The research will also assist in identifying the most appropriate gear to be used in the fishery and ensure that future changes to gear regulations can be based on accurate scientific information. The development of new and innovative fishing techniques will help minimise unwanted catches, discarding and environmental change.

c) Catch monitoring

Fishers in the Estuary General Fishery required to submit records on a monthly basis detailing their catch and fishing effort. The information includes catch for each species, the effort expended (for each method) to take the catch, and the area/s fished. This information will be entered onto a database by NSW Fisheries will allow for analysis of fishing activity, catch levels and effort levels. The entry of catch return information onto the database is subject stringent quality control procedures including a three month timeframe for data entry following the receipt of a catch return by NSW Fisheries. A policy is being developed to manage the timely receipt and entry of commercial catch return data into the commercial catch records database.

The accuracy of the data provided on catch returns, particularly with respect to fishing effort data, is variable. There are a number of management responses proposed in this management strategy to improve the quality and reliability of the information provided on catch returns, including a review of the current monthly catch return and validation of catch and effort data under the proposed scientific monitoring program.

To maximise the accuracy of the data collected on monthly catch returns a range of quality-control procedures are currently in place or scheduled for implementation in the near future. A brief synopsis of these quality control procedures is provided here:

- ☞ Every return is scanned for errors when received by the “Commercial Catch Records” section in NSW Fisheries, and suspected omissions or errors are queried with fishers (by phone and/or written correspondence) and corrected if necessary
- ☞ Logical checks of data accuracy (range, consistency and validity checks) are performed automatically by computer during data-entry. Likely errors are queried with fishers (by phone and/or written correspondence) and corrected if necessary
- ☞ Following a review in May 2001, fishers who have not submitted catch returns during the period July 1997 to December 2000 are being notified and asked to submit omitted returns. Following completion of this process and update of the database, a regular process whereby omitted returns are identified and rectified will be implemented
- ☞ Data from the commercial catch statistics database “FINS” is regularly downloaded to a database “COMCATCH”, which can be accessed or queried by biologists and managers responsible for individual fisheries. Subsequently, any problems with data identified by the relevant biologists or managers are queried and may be corrected by the commercial catch records section after consulting fishers where necessary
- ☞ A recent pilot survey was undertaken to assess the accuracy of data entry with respect to the catch records. The results showed that data-entry errors by staff were of minimal significance. Errors were rare and generally concerned minor species. It is planned to repeat this survey annually to provide ongoing monitoring of the quality and accuracy of data entry
- ☞ Following implementation of routine reporting of the quantities of fish handled by registered fish receivers in NSW, it will be possible to compare the quantity of catch (by species) reported by fishers on catch returns with the quantity handled by fish receivers in NSW. This will provide a cross-validation of weights of individual species caught and handled in NSW

€# The information collected on catch returns and options for improving the catch return forms (and increasing the reliability of data) is reviewed periodically by the management advisory councils and annually by the “Catch and Effort Working Group” which comprises industry representatives from each fishery. This working group was convened for the first time in April 2001.

All existing and proposed procedures attempt to maximise data quality. It is, however, inevitable that the accuracy of data supplied by fishers cannot be directly assessed and can sometimes be variable, particularly with respect to fishing effort data. Consequently, the commercial catch statistics supplied by fishers and maintained in the commercial catch records database is most accurately described as representing “reported landed catch”.

7. Consultation

There are a range of consultative bodies established in NSW to assist and advise the Minister and NSW Fisheries on fisheries issues. There are committees that are established to provide advice on specific issues as well as bodies to advise on matters which cut across different fisheries or sectors.

a) The Management Advisory Committee

Share management and major restricted fisheries in NSW each have a Management Advisory Committee (MAC) that provides advice to the Minister for Fisheries on:

- €# the preparation of any management plan, strategy or regulations for the fishery
- €# monitoring whether the objectives of the management plan, strategy or those regulations are being attained
- €# reviews in connection with any new management plan, strategy or regulation
- €# any other matter relating to the fishery.

Table 15 details the current membership on the Estuary General MAC. The industry members of the MAC comprise representatives that are elected by endorsement holders in the fishery (or shareholders in the share management fishery). There is an industry representative from each of the seven coastal regions in the fishery, although there are two representatives from region 4, to assist in addressing the diversity of issues that occur in that region. The members hold office for a term of three years, however the terms of office are staggered and the terms of half of the industry members expire every 18 months.

The non-industry members on the MAC are appointed by the Minister for Fisheries and also hold terms of office of up to three years. To ensure that all issues discussed by the committee are fairly represented the MAC is chaired by a person who is not engaged in the administration of the FM Act and is not engaged in commercial fishing.

Although the MAC receives advice from NSW Fisheries observers on research, compliance and administrative issues relating to the fishery, only members of the MAC have voting rights on the decisions of the MAC.

The actual composition and role of the MAC is set by the FM Act and its regulations and may be altered from time to time.

There are many references in this management strategy to consultation with the Estuary General MAC. Consultation involves seeking the advice of the MAC on its views. The MAC generally meets at least twice a year - but many issues may require resolution urgently, and it may not be practicable to defer consultation to a face-to-face meeting. For this reason, references to consultation with the Estuary General MAC in this management strategy may include the distribution of documents to MAC members with a request for comment from the individual members by a specific date. NSW Fisheries may then compile the comments received into a single document recording the views of MAC members. This document may then be used as a basis for further decision making by NSW Fisheries and/or the Minister for Fisheries.

Table 15. Current membership on the Estuary General MAC.

Position	boundary	Southern boundary
Independent chairperson	–	–
Region 1 (Upper north coast)	NSW-Queensland border	29°15'S Jerusalem Creek – south of Evans Head in the Bundjalung National Park
Region 2 (Clarence)	29°15'S	29°45'S Sandon River – south of Yamba in the Yuragir National Park
Region 3 (North coast)	29°45'S	31°44'S Diamond Head – south of Camden Haven in Crowdy Bay National Park
Region 4 (Central north)	31°44'S	32°30'S South of Big Gibber Headland in the Myall Lakes National Park
Region 4 (Central south)	32°30'S	33°25'S Wamberal Point – the entrance to Wamberal Lagoon north of Terrigal
Region 5 (Metropolitan)	33°25'S	34°20'S Bulli Point at Bulli
Region 6 (Upper south coast)	34°20'S	35°25'S Lagoon Head – Burrill Lake south of Ulladulla
Region 7 (Lower south coast)	35°25'S	NSW-Victorian border
Recreational fishing	All areas	–
Indigenous fishing	All areas	–
Conservation	All areas	–
NSW Fisheries	All areas	–
Others determined by the Minister from time to time	–	–

b) Ministerial Advisory Councils

Four Ministerial advisory councils are currently established under the *Fisheries Management Act 1994*. The Councils provide advice on matters referred to them by the Minister for Fisheries, or on any other matters the Councils consider relevant. They report directly to the Minister.

The Ministerial advisory councils currently established are

- ≠ Advisory Council on Commercial Fishing (ACCF)
- ≠ Advisory Council on Recreational Fishing (ACoRF)
- ≠ Advisory Council on Fisheries Conservation (ACFC)
- ≠ Advisory Council on Aquaculture (ACoA).

The Estuary General Fishery and each of the other share management and restricted fisheries have representatives on the ACCF. These representatives are nominated by each of the respective MACs and appointed by the Minister.

Representatives from the commercial fishing industry in NSW, or people who in the opinion of the Minister have expertise in commercial fishing are also represented on the ACFC.

The name and composition of Ministerial advisory councils is determined by regulations under the FM Act, and may be altered from time to time.

c) Fisheries Resources Conservation and Assessment Council

The Fisheries Resource Conservation and Assessment Council (FRCAC) has been established to play a key role in advising the Government on fisheries conservation and assessment throughout the State. The members on the council represent a wide range of interests and includes representatives from commercial fishing, recreational fishing, fish marketing, the fishing tackle industry, charter boat fishing, regional tourism, academic expertise, conservation, aquaculture and Indigenous peoples.

FRCAC advises the Minister for Fisheries on the preparation and revision of fishery management strategies for fishing activities, including the management strategy for the Estuary General Fishery.

The legislated role of the FRCAC includes providing advice on:

- ☞ the preparation or revision of a fishery management strategy, (and for that purpose to review the Environmental Impact Statement prepared in connection with a draft strategy)
- ☞ other matters as may be referred to it by the Minister.

In summary, the FRCAC's duties involve:

- ☞ fostering relationships between community groups, recreational fishing interests, commercial fishing interests and government agencies
- ☞ advising on the preparation and revision of fishery management strategies
- ☞ reviewing environmental impact statements prepared in connection with draft strategies
- ☞ providing an opportunity for key stakeholder groups to have input into issues papers prepared for recreational fishing areas selection processes
- ☞ reviewing community consultation reports that arise from the recreational fishing areas selection process.

Both the FRCAC and the ACCF are consultative bodies that facilitate cross-sectoral and cross-fishery consultation, respectively.

The composition and role of the FRCAC is set out by the FM Act and its regulations and decisions by the Minister for Fisheries. These arrangements may change from time to time.

d) Total Allowable Catch Setting and Review Committee

The final decision on total allowable pressure on prawn stocks would ultimately rest with the Total Allowable Catch Setting and Review Committee (TAC Committee). This committee would, as provided for in the share management plan, make determinations about the total level of fishing effort to apply in the capture of prawns. The TAC Committee consists of at least four members, including:

- ☞ a person appointed by the Minister as the Chairperson of the TAC Committee, being a person who is neither engaged in the administration of the FM Act nor engaged in commercial fishing

- €# a person appointed by the Minister who is a natural resource economist not employed by the Government
- €# a person appointed by the Minister who is a fisheries scientist not employed by the Government
- €# persons appointed by the Minister who have appropriate fisheries management qualifications.

The composition and role of the TAC committee is set by the FM Act and its regulations and decisions by the Minister. These arrangements may change from time to time.

This management strategy proposes a process for assessing the amount of fishing effort that can be exerted upon prawns and for allocating fishing effort across all fisheries. The proposal relies upon NSW Fisheries calling a meeting each year of a group of stakeholder representatives. The composition of the group would include: representatives of ocean and estuarine commercial prawn fishers, the Advisory Council on Recreational Fishing, Nature Conservation Council of NSW, the Advisory Council on Commercial Fishing and Government. Recommendations would be made to the Minister on the allocation of fishing effort on prawn stocks and other cross-fishery management measures. Stock assessments of the resources would be considered as part of a process.

The Minister may then require the TAC Committee to determine the total allowable fishing effort on prawn stocks in each of the relevant share management fisheries. The independent TAC Committee would consider all available information (including the stock assessments and submissions from the community and industry) about the allocation of fishing effort across the various fishing sectors and about the management measures being used to manage the resource.

The steps in the annual consultation process to determine and allocate fishing effort are:

- Step 1. The status of the stocks of target prawn species are assessed annually and presented as a stock assessment
- Step 2. The stock assessment will be reviewed by the relevant MACs and any stakeholder meeting convened by NSW Fisheries for that purpose and then recommendations on total prawn fishing effort, the allocation of prawn fishing effort between fisheries, and other cross-fishery issues (as required) will be made to the TAC Committee
- Step 3. The TAC Committee will review the stock assessment together with the advice arising from any stakeholder meeting convened by NSW Fisheries in step 2, other interested parties, and the community to determine the level of total fishing effort on prawn stocks to apply to each fishery.
- Step 4. Once the TAC Committee has made its determination, the Minister for Fisheries either may require the TAC Committee to reconsider the determination or publish the determination in the Government Gazette.

8. Goals, Objectives and Management Responses

This section sets out the goals, objectives and management responses for the Estuary General Fishery.

a) A model framework

Figure 2. A model of the framework for a fishery management strategy.

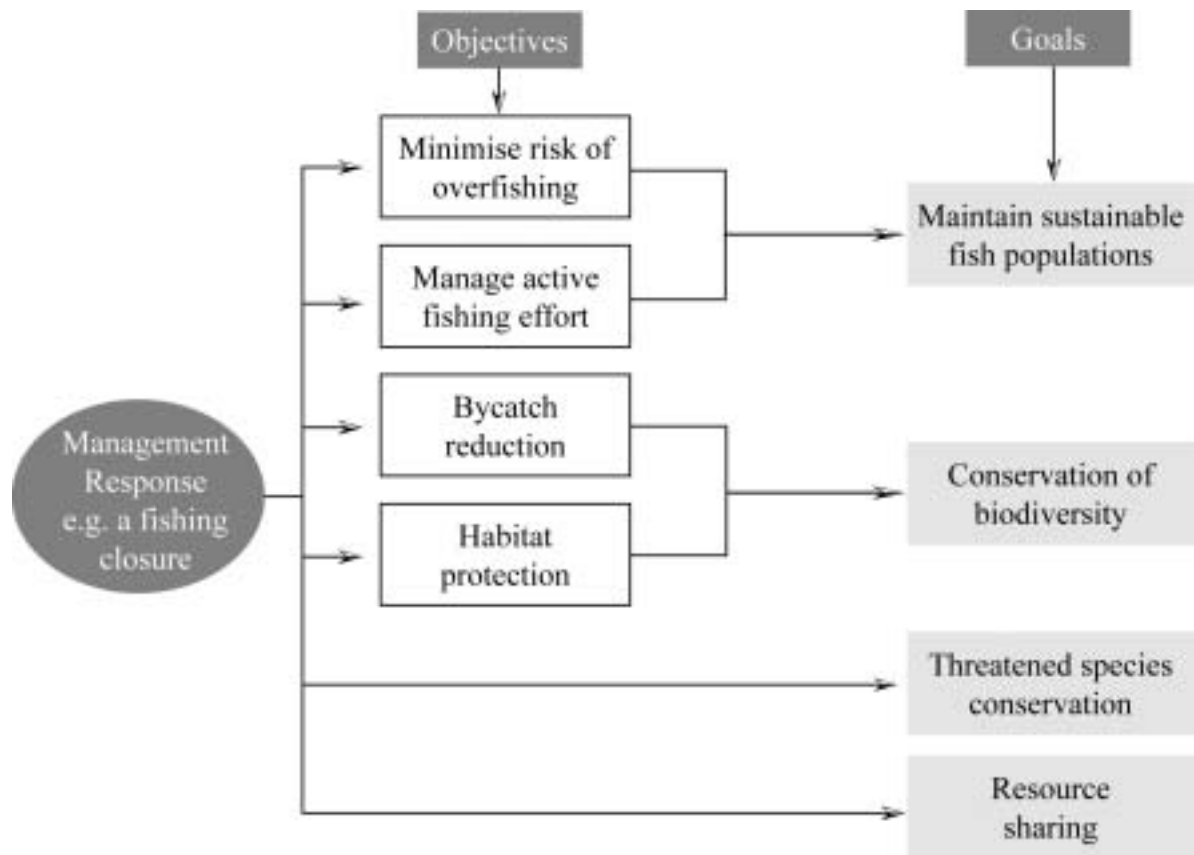


The link between the goals, objectives and management responses is not as simple as that portrayed in Figure 2. The reality is that most management responses assist in achieving more than one goal.

An estuarine fishing closure is one example of the complex relationships that exist in a multi-method multi-species fishery. Some closures were originally put in place to more fairly share access between recreational and commercial fishers. A closure to reduce conflict appears to fit into the “resource sharing” goal, however, it can have other benefits, and assist the fishery to meet other objectives.

For example, a closure can also reduce the level of fishing pressure in that area and provide greater protection to habitat and biodiversity. This outcome provides a range of benefits for the fishery over and above reducing conflict (see Figure 3).

Figure 3. Example of how a single management response affects multiple goals and objectives.



This complex structure has been dealt with in the following section by listing each of the management responses once only, under the objective that the response contributes most towards achieving. There are cross references between each response and the other goals and objectives that the response may also assist in achieving. When identifying the responses that are in place to achieve a particular objective, it is important to look at the cross referenced responses as well as any listed individually under the objective (ie. the “Other important responses” must be taken into account).

Information under each response is also provided detailing the timeframes in which the action will be undertaken, the agency or group responsible for implementation and the authority under which the action will be implemented.

b) Goals, objectives and management responses

GOAL 1. To manage the Estuary General Fishery in a manner that promotes the conservation of biological diversity in the estuarine environment

Healthy fish habitats are essential for the ongoing sustainability of fish populations and the conservation of biological diversity in the estuarine environment. There is a range of activities that take place in coastal catchments that have the ability to damage fish habitat and need to be appropriately managed, with estuary general fishing being only one. Many areas within estuaries act as nursery areas for juvenile fish. Mangrove, seagrass and saltmarsh areas are believed to provide very important habitats for fish and crustaceans.

Estuaries are extremely dynamic environments with a high diversity of species, and bycatch occurs as other species become inadvertently caught in the gear while it is being used to catch marketable fish. With the diverse nature of the Estuary General Fishery, there are still levels of uncertainty about bycatch associated with some of the fishing methods used, and about the impacts of bycatch on the broader ecosystem. To properly address the issue, fishing must be undertaken in a way to reduce bycatch as far as possible and further data are required to quantify the level of bycatch from fishing methods and its overall impact on the ecosystem.

Objective 1.1 To minimise the impact of fishing activities on bycatch: non-retained species (including prohibited size fish, unwanted fish and fish protected from commercial fishing)

Other important responses: 1.1f,g,h; 1.2a,b; 1.3c; 2.1g,h; 2.1.2c; 2.1.3b; 2.2b,c; 2.3a,b,c; 6.2a; 6.3c

- (a) Increase the minimum mesh size (and other dimensions if needed) of flathead nets from 70 mm following the 2001 research program into mesh net selectivity

Background: Following an increase in the minimum legal length of dusky flathead from 33 to 36 cm, NSW Fisheries and the Estuary General MAC agreed to phase out the use of 70mm mesh size flathead nets after the 2001 season. Recommendations on a replacement for the 70mm net in terms of mesh size, dimensions and other controls will be made with the benefit of data from the 2001 mesh selectivity research program.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,5	By November 2003	NSW Fisheries	Regulatory

- (b) Using the best available knowledge and appropriate technology, modify fishing practices (such as by adopting bycatch reduction devices) to reduce the impacts of the fishery on non-retained fish, invertebrates, reptiles, mammals and birds; and in particular implement the use of discard chutes by July 2003 to facilitate the return of fish removed from mesh nets

Background: The National Policy on Fisheries Bycatch provides a national framework for coordinating efforts to reduce bycatch. It provides options by which each jurisdiction can manage bycatch according to its situation in a nationally coherent and consistent manner. Any changes to fishing practice that transpire under this management response could be implemented through conditions on the relevant fishing endorsement, through a code of conduct or other regulatory control, depending on the nature of the change.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4	Ongoing	NSW Fisheries EG fishers	Various

- (c) Use best-practice handling techniques, including the prohibition by December 2002 on the use of fish spikes, clubs or any other such implement that could unduly harm incidentally captured organisms

Background: Some techniques used to return unwanted animals to the water unduly injure animals. Such techniques are used to hasten the sorting process or to avoid handling dangerous animals. Fishers should adopt alternative techniques for returning animals to the water which avoid injuring those animals. In 1999, Oceanwatch (a non-profit company sponsored by the NSW seafood industry) produced a publication outlining bycatch solutions for non-trawl fisheries proposing better handling techniques. The prohibition of spikes and clubs by June 2002 is a specific action, however, the use of best handling techniques is an ongoing aim for the fishery.

Contributing to Goals	Timeframe	Responsibility	Authority
1,4	Ongoing	NSW Fisheries EG fishers	Regulatory

- (d) Phase out the setting of mesh nets with a mesh size less than 95 mm between sunset and sunrise over winter

Background: A research program conducted in 1999 found that overnight set mesh nets with a mesh size of 89 mm (3.5 inches) often catch a high proportion of juvenile fish. The survival rate was high for some species such as bream, but was low for some other species. NSW Fisheries and the Estuary General MAC support an increase in the minimum mesh size to 95 mm (3.75 inches) for which bycatch was significantly less.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2	By November 2003	NSW Fisheries	Regulatory

- (e) Reduce the maximum allowable length of general purpose 'fish' hauling nets to 500 metres in estuaries where 725 metre and 1,000 metre nets are currently permitted, and restrict the number of times each day a fisher or crew may shoot a 500 metre net in those estuaries to one completed shot thereby ensuring an overall reduction in area swept by the net

Note: This response has been proposed by NSW Fisheries, and its implementation without a period of evaluation is not supported by the Estuary General MAC or the NSW Advisory Council on Commercial Fishing. The MAC does not consider the reduction in net length and

restriction on the number of shots per day as effective means of effort reduction and believes that there will be no environmental benefits.

Background: There are a number of the larger coastal rivers and lagoons in NSW where larger than standard length hauling nets (1,000 m, 725 m & 450 m) have historically been authorised. These nets are usually operated with hauling lines, each of which may be as long as the net itself. The area swept during the hauling of this type of net is significant.

This management response will act to reduce the swept area hauled to assist in reducing the impacts of fish hauling on bycatch, and any effects on habitat. It is not proposed to reduce the length of the hauling lines associated with these nets because fishers still need to be able to work the gear in the deeper water. This response may also assist in promoting harmony between commercial estuary fishers and other resource users. Due to its size, the current 1,000 metre hauling net requires a lengthy time to lay out and haul the net, which normally limits its use to one shot per day. Limiting the use of the 500 metre replacement net to one completed shot per hauling crew day prevents the hauling of the net multiple times per day and thereby negating the intention of this action.

The following estuaries are affected by the reduction in haul net length:

1000 m haul net previously permitted: - Wallis Lake and Tuggerah Lakes

725 m haul net previously permitted: - Clarence River, Lake Innes, Smiths Lake, Myall Lakes, Lake Booloombay, Lake Illawarra and Wallaga Lake

Although it was previously allowed, fishers in the Clarence River have not used 725 m haul nets as they are less practical as the shorter hauling nets in that estuary. Several other estuaries previously open to 1000 m and 725 m nets are now closed to hauling following the implementation of recreational fishing havens.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4	By December 2002	NSW Fisheries	Regulatory

- (f) Introduce an industry-funded scientific observer program to collect information on the quantity and composition of bycatch (non-retained species) for methods where little or no information is known, and periodically repeat that program for all methods used in the fishery

Note: Bycatch monitoring is an important requirement under the Commonwealth environmental assessment guidelines. The observer program will be designed and costed in full consultation with the Estuary General MAC. The MAC may present alternative schemes and investigate competitive service delivery. The program will commence by collecting information on bycatch from gear types where little is currently known (e.g. trapping), and it would be periodically repeated for all methods. Further information on the scientific observer program is presented in section 6(a) of this management strategy.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,3,7	December 2003	NSW Fisheries EG fishers	-

- (g) Continue the restrictions on the use of fishing gear contained within the *Fisheries Management (General) Regulation 1995* including controls on the dimensions, construction materials and modes of operation unless otherwise described by this management strategy

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,3,4,5	Current and ongoing	NSW Fisheries	Regulatory

- (h) Continue the prohibition on using firearms, explosives or electrical devices to take fish in the fishery

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4	Current and ongoing	NSW Fisheries	Regulatory

- (i) Ban the discarding of cooked prawns and investigate the sustainability of grading uncooked prawns

Background: Prawn fishers in some estuaries use a device known as a 'riddler' to grade the sizes of prawns in their catch and to sometimes separate debris and bycatch from the prawn catch. A riddler is a screen of wire or net mesh stretched over a frame. The mesh size of this screen varies but is usually between 35 mm and 50 mm. This grading device is used like a chute as it is positioned at an angle of about 60 degrees and the prawn catch is passed over the top of the screen. Smaller prawns pass through the screen and are collected in a container underneath, while larger prawns pass over the top and are collected in a container at the lower end of the riddler. Depending upon the level of grading necessary, the prawns from both containers may be passed over the screen a number of times. In the case of green prawns, the unwanted portion of the prawn catch is returned to the water after grading, whilst unwanted cooked prawns are disposed of. There is little information about the survival of 'riddled' green prawns once they are returned to the water.

A NSW Fisheries research program funded by the Fisheries Research and Development Corporation is investigating changes to fishing gears and practices that minimise the capture and mortality of small unwanted prawns. The research will be complete by April 2005.

Contributing to Goals	Timeframe	Responsibility	Authority
1,4,7	Ban for cooked prawns by December 2002; investigations complete by April 2005	NSW Fisheries, Estuary general fishers	Regulatory

Objective 1.2 To minimise the impact of activities in the fishery on marine and terrestrial habitat

Other important responses: 1.1e,g,h; 1.3c,d; 1.5a-f; 2.1a,g,h; 2.2b,c; 2.3b,c; 2.4c; 6.2a

(a) [Continue to] use fishing closures to control the area and time fished to:

- (i) protect key fish habitat, specifically prohibit the use of all hauling nets used in the Estuary General Fishery over beds of strapweed seagrass (*Posidonia australis*)
- (ii) protect key fish habitat and reduce bycatch by defining, in consultation with the Estuary General MAC and other key stakeholders identified by NSW Fisheries, designated landing sites for fish hauling nets in estuaries where seagrass (of any species) exists around shoreline areas
- (iii) reduce bycatch by identifying areas of seagrass (of any species) which should be closed to prawn hauling and prawn seining methods

Note: As an outcome of the Juvenile Prawn Summit held in June 2000, commercial fishers agreed to prohibit prawn hauling and prawn seining over areas of seagrass, and this concept has been generally supported by fishers. District Fisheries Officers and local fishers will identify these seagrass areas and the relevant closures will be declared as part of this management strategy.

- (iv) reduce bycatch in areas and at times of high abundances of jellyfish or juvenile fish

Note: Numerous fishing closures already exist in the Estuary General Fishery for a range of reasons. Each closure generally has benefits to numerous aspects of the resource and the fishery. Recommendations for short term area restrictions to protect fish could be made by informal local joint industry/NSW Fisheries working groups.

- (v) harvest fish at a size that maximises the economic return
- (vi) avoid direct interactions with marine and terrestrial threatened species, populations or ecological communities
- (vii) equitably share the resource between estuary general fishers and other stakeholders
- (viii) minimise impact on nesting and/or feeding areas of migratory shorebirds
- (ix) minimise impact on sensitive shoreline habitat.

Background: Fishing closures prohibit fishing over an area either absolutely or conditionally. In this management strategy all uses of the term "fishing closure" has a broad meaning encompassing any legally enforceable prohibition or restriction on fishing activity. This includes: fishing closures made under Division 1, Part 2 of the FM Act; aquatic reserve notifications made under Subdivision 3, Division 2, Part 7 of the FM Act; regulations under section 20 of the FM Act (as amended by the Fisheries Management Amendment Act 2001); regulations under section 220ZE of the FM Act; and regulations under section 205B of the FM Act.

Fishing closures can be gear specific, so that only the relevant gear type/s are affected by such a closure. Closures are periodically reviewed and modified to take account of changing fishing patterns and/or environmental conditions. Any intermittent closures should be implemented in accordance with appropriate guidelines developed by NSW Fisheries in consultation with the Estuary General MAC.

As a component of this management response, maps will be prepared in consultation with relevant stakeholders for each region to identify areas where commercial fishing can take place and areas totally closed to commercial fishing (e.g. recreational fishing havens and aquatic reserves) in accordance with a timeframe agreed between the Director-General of Planning NSW and the Minister for Fisheries.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,3,4,5,7	(i): Regulation under section 205B by December 2002 and section 8 fishing closures by July 2003, (ii)&(iv): By July 2003 and ongoing (iii): By December 2003 (v),(vi),(vii): Current and ongoing (viii)& (ix): By July 2003 and ongoing	NSW Fisheries EG MAC	Regulatory

- (b) Modify the use of fishing methods that have a detrimental impact on fish habitat, or threatened species, populations or ecological communities

Background: Where fishing methods are known or believed to be having detrimental impacts on fish habitat or threatened species, their use should be modified so as to avoid or minimise those impacts. These impacts may be identified through research programs proposed in this management strategy or through consultation with the Estuary General MAC or Ministerial advisory councils. This response allows the modification of gear use where new information about fishing methods, habitats, threatened species, populations or ecological communities has been obtained, for example through the outcomes of a research program. Other than the specific changes to fishing gear as set out in this management strategy, this management response does not propose any immediate actions.

Contributing to Goals	Timeframe	Responsibility	Authority
1,3,4	Ongoing	NSW Fisheries	Various

- (c) Develop a code of conduct for the fishery (with performance measures) with respect to:

- (i) guidelines for operating on or near river banks, seagrass, saltmarsh or mangrove habitat and in any other area of environmental sensitivity in a manner that minimises environmental impacts in those areas
- (ii) operating in the vicinity of listed Ramsar⁴ wetlands or known JAMBA & CAMBA migratory bird habitat in a manner that minimises disturbance
- (iii) operating in the vicinity of threatened species, populations and ecological communities
- (iv) the use of gear and behaviour of fishers, enforceable by conditions on licences and endorsements or by use of other regulatory controls
- (v) encouraging the use of effective icing and value-adding techniques to maximise the market price of product taken

⁴ Ramsar wetlands are wetlands of international importance identified through a treaty first signed by 18 countries in the small Iranian town of Ramsar in 1971.

Background: A code of conduct which has the support of surrounding communities can go a long way to improving the relations between the commercial fishing industry and other stakeholders. A code of conduct will be developed for the Estuary General Fishery similar to that used in the Ocean Hauling Fishery which sets standards for the manner in which fishers operate. The code of conduct for the Estuary General Fishery will be developed and periodically reviewed (and amended where necessary) by NSW Fisheries in consultation with the Estuary General MAC. Input from other natural resource agencies (e.g. National Parks and Wildlife Service) will be sought when developing relevant parts of the code. The code of conduct should provide for regional codes and will be enforceable through the share management plan for the Estuary General Fishery.

Contributing to Goals	Timeframe	Responsibility	Authority
1,3,4,5,6,7	By December 2003	NSW Fisheries EG MAC	Voluntary & Regulatory

(d) Continue the prohibition on wilfully damaging marine vegetation

Contributing to Goals	Timeframe	Responsibility	Authority
1,4	Current and ongoing	NSW Fisheries	FM Act

(e) Continue to prohibit the removal (by commercial fishers in this fishery) of large woody debris from estuaries

Background: The removal of large woody debris (snags) from rivers and streams in NSW was declared a key threatening process in November 2001 under the threatened species provisions of the FM Act. NSW Fisheries' policy on woody debris provides for removing snags from commercial fishing grounds. The 'Policy & Guidelines For Aquatic Habitat Management And Fish Conservation' provides for re-aligning snags and if this is not possible then relocating the snag 'out of the way' within close proximity to where the snag was taken.

Contributing to Goals	Timeframe	Responsibility	Authority
1,6	Current and ongoing	NSW Fisheries	Regulatory

Objective 1.3 To reduce the likelihood of this fishery changing species, populations and ecological communities in a manner which threatens ecosystem integrity (ie. composition and function)

Other important responses: 1.1a-h; 1.2a-d; 1.4b; 1.5a-f; 2.1a,c,e-g; 2.1.1b-d; 2.1.2b,c; 2.1.4a-c; 2.2a-c; 2.3a-c; 2.4c; 2.5a-c; 2.5.2a; 4.2b; 6.2a; 6.4a; 7.4a,b

(a) Collaborate with other institutions (such as universities and other research facilities) to improve our understanding of ecosystem functioning and how it is affected by fishing practices

Background: There is a general lack of knowledge about the way in which biodiversity in marine ecosystems is affected by fish harvesting or how to meaningfully measure these effects. This is especially true for diverse and complex systems like the environment in which the Estuary General Fishery operates. NSW Fisheries collaborates with universities and other

institutions in a range of ways such as; offering scholarships and in-kind contributions, collecting specimens and providing fish samples.

Contributing to Goals	Timeframe	Responsibility	Authority
1,6,7	Ongoing	NSW Fisheries	-

- (b) Contribute to relevant biodiversity monitoring programs to develop a performance measure of biodiversity impacts at the species, community and ecosystem levels

Background: There is no simple performance measure currently available to give an accurate representation of the impacts of the Estuary General Fishery on biodiversity. Careful thought must be given to deciding the most appropriate performance measure (and trigger points), so as to avoid expending resources unnecessarily on monitoring unrepresentative or inappropriate indicators. This may require some preliminary research to determine the best approach.

Research that contributes to our understanding of biodiversity is carried out by a number of institutions and a coordinated program is likely to be a key strategy within the aquatic biodiversity strategy currently being developed for NSW.

Contributing to Goals	Timeframe	Responsibility	Authority
1,3,6,7	Current and ongoing	NSW Fisheries	-

- (c) Through a workshop involving key stakeholders and experts, conduct a risk assessment of the impacts of the fishery on the ecosystem, and initiate appropriate management programs (e.g. monitoring) based on the outcomes of that process

Background: The Estuary General Fishery is a large and diverse fishery which is likely to have some level of impact on different components of the ecosystem. The Sustainability Indicators Working Group of the Standing Committee on Fisheries and Aquaculture is in the process of developing a national reporting framework for ESD in fisheries and has completed some work on identifying the main ecosystem components that may be subject to impacts from fishing. Acknowledging that resources are limited, the working group is recommending that Australian fisheries management agencies undertake a risk assessment for each fishery to determine the level of management or reporting necessary for each component of the ecosystem. The working group recommends that this be undertaken through a workshop in order that the outcome is a combined judgement of a group of people who have considerable expertise in the areas being examined.

Should the risk assessment determine that a particular species (other than primary or key secondary species) taken in the Estuary General Fishery requires more rigorous monitoring it will be subject to annual performance monitoring (see management response 2.1.4b).

Contributing to Goals	Timeframe	Responsibility	Authority
1,3,6,7	By December 2004	NSW Fisheries EG MAC	-

- (d) The Estuary General MAC will have the opportunity to comment on the selection and ongoing management of marine protected areas in estuarine waters

Background: A comprehensive system of representative marine protected areas (ie. marine parks and aquatic reserves) is being declared in NSW to protect and enhance marine and estuarine biodiversity. Large marine bioregions have been identified by the Interim Marine and Coastal Regionalisation for Australia (IMCRA) report.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,3,4,6,7	Current and Ongoing	EG MAC	-

- (e) Promote research on the impacts of estuary general fishing on the general environment, in particular, pursue the research priorities identified in section 6(a) of this management strategy.

Background: Like most fisheries around the world, direct effects of the Estuary General Fishery on the general environment are poorly understood and indirect effects are unknown. The direct impacts of the Estuary General Fishery on habitats and species of importance are not known. The Estuary General Fishery needs to promote and support long-term research that aids understanding of the impact of the fishery in an ecological setting.

Contributing to Goals	Timeframe	Responsibility	Authority
1	Ongoing	NSW Fisheries EG MAC	-

Objective 1.4 To prevent the introduction and translocation of marine pests and diseases

Other important responses: 2.2a; 2.4a,b; 6.4a

- (a) Implement, in consultation with the Estuary General MAC, measures required in accordance with any marine pest or disease management plans

*Background: The Minister for Fisheries or other authorities may alter management arrangements from time to time to minimise or mitigate the impact of marine pests and diseases. A recent example of an outbreak of disease was the mass mortality of pilchards across southern Australia, during which a system of closures and monitoring was implemented in NSW. Fishing closures were also introduced in 2000/2001 to prevent hauling in estuaries infested by the pest seaweed *Caulerpa taxifolia*.*

NSW Fisheries has a pest program team which has three key responsibilities:

- ## identifying pest species at high risk of establishment in NSW and developing pest incursion plans for those species*
- ## conducting biodiversity surveys and assessing the potential impact of any identified alien species. Potentially high risk species would be recommended for listing as noxious under the FM Act*
- ## developing appropriate control measures for noxious species and other established pests.*

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,6	Current and ongoing	NSW Fisheries EG MAC	To be determined

- (b) Continue the prohibition on taking or selling declared 'noxious fish'

Contributing to Goals	Timeframe	Responsibility	Authority
1	Current and ongoing	NSW Fisheries	FM Act

Objective 1.5 To facilitate the rehabilitation of priority areas of estuarine fish habitat to assist in the long term sustainable management of the fishery

Other important responses: 1.2a-d; 2.1h; 2.4a-c; 6.3c

- (a) The Estuary General MAC will provide advice to NSW Fisheries to assist in the mapping of key habitat areas for the fishery that require rehabilitation and will provide information concerning the historical significance of these habitats and the species which once used them

Background: Commercial fishers often know where the key habitat areas for fishery production occurred within an estuary prior to changes to land and water uses (e.g. wetlands, backswamps, creek systems). This knowledge can assist NSW Fisheries Office of Conservation to identify and prioritise sites that may benefit from rehabilitation and potentially contribute to increased fishery production. This knowledge may include identifying the location and original extent of the habitat area, the types of sizes of fish that occupied the area, and the vegetation/habitat values that attracted the fish to these areas. This information may be updated in consultation with the Office of Conservation on a five yearly basis.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,5,6,7	2002 and reviewed every 5 years	EG MAC	-

- (b) The Estuary General MAC will review NSW Fisheries' habitat rehabilitation and conservation research programs to provide advice on priority issues and habitat areas for the fishery

Background: The NSW Fisheries Office of Conservation has program plans which outline its priorities for habitat rehabilitation and conservation research in NSW. The plans aim to target funding bids and staff activities towards achieving the defined priorities. These plans should be reviewed annually by the Estuary General MAC to provide advice and input on the priority issues and habitat areas which should be addressed to benefit the fishery and associated fish habitat.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,5,6,7	Annually	EG MAC	-

- (c) The Estuary General MAC will review and provide advice on the development of estuarine habitat management and rehabilitation strategies developed by NSW Fisheries and other agencies; in particular through reviewing estuary management plans, floodplain management plans, floodgate management plans, wetland management plans, habitat protection plans, water and catchment management plans, aquatic reserve and marine protected area strategies

Background: The NSW Government has a range of natural resource management planning processes underway which affect the management of estuaries within NSW. While several of these forums have commercial fishery representation, there is limited direct consultation and input from the Estuary General Fishery on their development and implementation. A process will be developed in consultation with NSW Fisheries Office of Conservation and the Estuary General MAC to allow for input into these processes. This process can also be used to allow fishers to provide advice to NSW Fisheries Office of Conservation staff on development applications which may potentially impact on estuarine fish habitat or fishing activities.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,5,6,7	Ongoing	EG MAC	-

- (d) The Estuary General MAC will review habitat rehabilitation and research applications developed by NSW Fisheries to provide advice as to whether they provide benefit for the fishery and focus on priority issues and key habitat areas

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,5,6	Annually	EG MAC	-

- (e) The Estuary General MAC will advise NSW Fisheries to assist in nominating priority habitat areas for the fishery for protection and management, including fishing closures, aquatic reserves and marine protected areas

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,5,6	Ongoing	EG MAC	-

- (f) The Estuary General MAC will provide advice to NSW Fisheries to assist in reviewing the role, responsibilities and membership of the habitat monitor program to ensure the program includes a focus on habitat issues of importance to the fishery

Background: The habitat monitors program was established to provide an important communication link between NSW Fisheries and commercial fishers on habitat management issues. The program requires review to ensure that the role, responsibilities and membership reflect the current requirements of the fishery and NSW Fisheries in ensuring that habitat management issues are being communicated and addressed.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,5,6,7	Ongoing	EG MAC	-

GOAL 2. To maintain fish populations harvested by the Estuary General Fishery at biologically sustainable levels

It is important that the fishery operates at a level where the harvesting of fish is conducted in a manner that minimises the risk of overfishing the stocks. The Estuary General Fishery as a whole has maintained very stable catch rates over a long period. The biology of most of the principal species captured reflects a fishery based on fish that are generally fast growing, highly fecund and with variable growth rates. The stocks of the main species are therefore less vulnerable to recruitment overfishing than the target species in many other fisheries.

Because the fishery is managed by input controls, the key issue with respect to controlling the level of harvest is controlling the amount of fishing effort that is applied to the stock. Controlling fishing effort can include very specific measures such as regulating the size and dimensions of the fishing gear used, but at a broader level involves measures such as controls on the number of fishers who have access to (or are 'endorsed' to operate in) each part of the fishery.

Objective 2.1 To ensure that the quantity and composition (e.g. size, age, sex) of harvested fish of each species does not result in overfishing

Other important responses: 1.1a,b,d-h; 1.2a; 1.3d; 2.1a; 2.2a-c; 2.3a-c; 2.5a-c; 2.5.2a; 4.1a,b; 4.2a-c; 5.2a; 5.4b; 6.1a,b,e; 6.2a,b; 6.3c; 7.3c, 7.4a,b

- (a) Limit the estuaries and the gear types permitted to be used in each estuary to those listed in Appendix 3 (subject to other applicable controls)

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,3,4,5	By December 2002	NSW Fisheries	Regulatory

- (b) Monitor total commercial landings in each estuary (by species) and evaluate, where available, landings by other sectors and in adjacent State or Commonwealth fisheries

Note: Where practical, monitoring should include verification against information sources that are independent of landings records originating from the fishery.

Contributing to Goals	Timeframe	Responsibility	Authority
2,4,7	Annually	NSW Fisheries	-

- (c) Promote research that contributes to more robust and reliable fish stock assessments and continue to involve the Estuary General MAC in prioritising research programs

Background: A clear expression of the relative priorities for stock assessment work is essential to ensure the most effective use of resources used for stock assessment. Making priorities for stock assessment and other research publicly available helps other institutions (e.g. universities) in determining directions for future research that may benefit the fishery.

Contributing to Goals	Timeframe	Responsibility	Authority
2,7	Current and ongoing	NSW Fisheries	-

- (d) Continue to use size limits on selected species to prevent the exploitation of juvenile, sub-adult and, where appropriate, mature fish

Background: Minimum legal lengths apply to many of the species in the Estuary General Fishery including all primary finfish species (see Table 7). To address a growth overfishing problem with respect to snapper, the minimum legal length for that species increased on 1 July 2001 from 28 cm to 30 cm.

Contributing to Goals	Timeframe	Responsibility	Authority
2,4,5	Current and ongoing	NSW Fisheries	Regulatory

- (e) Consider the need for minimum legal lengths for key secondary and secondary species

Background: Blue swimmer crab and mulloway are key secondary species already subject to legal length restrictions. A further five secondary species also have a minimum legal length in place (see Table 7). Several programs may result in minimum legal size limits being applied to secondary species that do not already have size limits. These include, but are not limited to, research, the development of management strategies for other NSW designated fishing activities and any recovery programs developed for overfished species.

Contributing to Goals	Timeframe	Responsibility	Authority
2,4	To be agreed by the Director-General of Planning NSW and the Minister for Fisheries	NSW Fisheries	Regulatory

- (f) Continue the prohibition on the taking of all female crabs carrying ova

Contributing to Goals	Timeframe	Responsibility	Authority
1,2	Current and ongoing	NSW Fisheries	Regulatory

- (g) Continue the prohibition on the use of unregistered fishing nets in the fishery (with the exception of hoop or lift nets and dip or scoop nets)

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,6	Current and ongoing	NSW Fisheries	Regulatory

- (h) Subject to approval by the Minister for Fisheries, provide for the development of species based resource plans and/or area based resource plans in consultation with the Estuary General MAC, relevant stakeholders and the public as appropriate

Background: The NSW Government has established an Estuary Management program for many of the State's estuary systems. Estuary Management Committees are formed and funded

by Department of Land and Water Conservation and local council(s) with representation from State Government agencies (NSW Fisheries, National Parks and Wildlife Service, NSW Waterways, etc.) and local community interest groups. These committees operate within the provisions of the Estuary Management Policy and meetings take place approximately every three months.

Estuary Management Committees oversee the development and implementation of Estuary Management Plans. NSW Fisheries is normally represented by a local Fisheries Officer or a Conservation Manager. NSW Fisheries representatives are required to provide data, information and advice relating to commercial and recreational fishing, aquaculture and aquatic habitat protection. The committees can be a useful forum for initiating improved management practices in estuaries and rehabilitating fish habitats. It should also be noted that management response 6.3c provides for local joint industry/NSW Fisheries working groups to advise on local fishery management needs and arrangements.

If there are found to be benefits in producing plans of management for particular species or areas relevant to the Estuary General Fishery over and above the existing programs, the management strategy provides for their development subject to approval by the Minister for Fisheries.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4	As required	NSW Fisheries	-

Objective 2.1.1 To maintain the stock of the primary species (yellowfin bream, sand whiting, dusky flathead, sea (bully) mullet, luderick, eels, mud crabs, school prawns, king prawns and pipis) at or above a level that minimises the risk of overfishing

- (a) Review and where appropriate implement minimum legal lengths for the primary finfish species to give a high probability that at least 50% of the fish of each particular species landed have reached reproductive maturity (unless alternative strategies apply to individual species)

Background: It is a generally accepted principle that the minimum legal length for finfish should be set such that at least 50% of the individuals of the species have spawned prior to capture. It is important however, to maintain the natural sex ratio in the population. As noted in the proposed response, there may be exceptions for some species.

Size limits are already in place for all primary finfish species. A periodic review of all size limits, involving community consultation, is conducted. If in the interim, additional information becomes available indicating that a size limit needs to be introduced or changed prior to the periodic review, the appropriate action is taken.

Contributing to Goals	Timeframe	Responsibility	Authority
2,4	In accordance with a timeframe agreed between the Director General of Planning NSW and the Minister for Fisheries	NSW Fisheries	Regulatory

- (b) Monitor the total commercial landings of each primary species annually for comparison against reference levels (see Table 17)

Background: Until biologically based performance indicators are implemented for primary species, the most recent year's available landings data will be used as the reference level around which to calculate single year trigger levels.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,7	Annually	NSW Fisheries	-

- (c) Develop a system for and conduct a formal stock assessment of the primary species within five years and review the assessment at least every three years thereafter

Background: The quantity of information available to assess fish stocks varies for each primary species, ranging from having completed major projects to having little information to include in an assessment beyond catch and effort information. Stock assessments for primary species will allow a change from landings-based monitoring to the use of biological reference points for monitoring stock status and fishery performance, and will provide for more accurate determination of sustainable levels of harvest for those species.

It is important to note that stock assessments are done on a species basis and are therefore reliant on harvest estimates from all sectors and adjacent jurisdictions. Future fishery-independent survey work will contribute more robust data towards stock assessments. See section 6(a) for a description of the fishery independent sampling program.

A stock assessment process will be proposed within 12 months of the management strategy commencing. An ongoing three year review of stock assessments is important for ensuring ongoing improvement of the assessments and the research programs providing information for them. An important part of the review of stock assessments will include reviewing the trigger points (biological reference points) for each species (see section 9(g)).

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,5,7	From 2003	NSW Fisheries	-

- (d) The Minister for Fisheries will require the Total Allowable Catch Setting and Review Committee to make determinations relating to the maximum level of effort that may be applied to prawn stocks, after receiving advice from the Estuary General MAC and other stakeholders

Note: Under the Fisheries Management Act 1994, the TAC Committee can recommend total catch levels and/or total effort levels. Section 7(d) of this management strategy outlines the process by which the total allowable effort would be determined and allocated between fishing sectors.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4	From 2003	NSW Fisheries EG MAC	Section 28(4) of the FM Act

Objective 2.1.2 To maintain local (catchment based) populations of glass eels and adult eels

(a) Monitor commercial landings of adult longfin and shortfin eels in each catchment

Contributing to Goals	Timeframe	Responsibility	Authority
2,7	Annually	NSW Fisheries	-

(b) Evaluate the quantity of eels taken for aquaculture purposes within stock assessment and monitoring processes

Background: Each year a limited quantity of eels are allocated to aquaculture permit holders and there are restrictions on the quantity that can be taken from each catchment area. It is important to take this harvest into account during the monitoring and assessment of eel stocks.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4	Annually	NSW Fisheries	-

(c) Finalise the current review of eel harvesting and implement the outcomes

Background: A review is underway examining issues of trap design, bycatch reduction (specifically to exclude mammals and freshwater turtles), appropriateness of the current minimum legal size, eel fishing in farm dams, impoundments and aquaculture facilities, and glass eel harvesting.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,3,4	By December 2002	NSW Fisheries	To be determined

Objective 2.1.3 To contribute to the sustainability of the mud crab stock and to prevent localised depletion of mud crab populations in NSW waters

(a) Monitor commercial landings of mud crabs in each estuary

Background: Juvenile mud crabs recruit to particular estuaries and, other than migration to ocean waters for spawning, it is thought that they remain in that particular estuary for their entire life. For this reason, it is prudent to place increased emphasis on monitoring mud crab harvest on an estuary specific basis.

Contributing to Goals	Timeframe	Responsibility	Authority
2,4,7	Annually	NSW Fisheries	-

(b) Implement the approved recommendations of the review by NSW Fisheries and the Estuary General MAC in relation to fish and crab trapping

Background: A review was conducted in 1999/2000 relating to the use of excessive numbers of crab traps in estuaries and the appropriateness of the endorsement structure in the fishery. The review considered changes to the size and marking requirements of traps to improve compliance capabilities, and that a general 'trapping endorsement' allowing the use of both crab traps and fish traps would be a better alternative to the current separate 'fish trap' and

'mud crab trap' endorsement structure. The review recommended that fishers who hold either endorsement would be permitted to use ten traps, while fishers who hold both endorsements would be permitted to use 20 traps.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,6	By July 2003	NSW Fisheries EG MAC	Regulatory

(c) Consider the feasibility of implementing a tradeable crab trap regime based on shareholdings

Background: The Estuary General MAC has previously discussed the development of a tradeable trap management regime for the crab fishery (including mud crabs and blue swimmer crabs), and the share management fishery regime may provide an efficient way of administering such a scheme. The implementation of a tradeable trap regime would need to take into consideration any implications from the review of fish and crab trapping outlined in response 2.1.3(b).

Contributing to Goals	Timeframe	Responsibility	Authority
2,5,6	By December 2003	NSW Fisheries EG MAC	-

Objective 2.1.4 To detect fluctuations in commercial landings of the following key secondary species, and other secondary species, beyond reference points: mulloway, silver biddy, flat tail mullet, river garfish, trumpeter whiting, blue swimmer crabs, greasyback prawn, cockles and beachworms

(a) Monitor the total commercial landings of each key secondary species and species subsequently identified as requiring additional monitoring as a result of implementing management response 1.3c annually for comparison against reference levels

Background: A number of secondary species have been selected as 'key secondary species' because they are subject to more rigorous performance monitoring requirements than other secondary species. The reference levels to apply to the key secondary species are discussed in section 9 and specified in Table 17).

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,7	Annually	NSW Fisheries	-

(b) Monitor the commercial landings of all other secondary species taken in the fishery annually for comparison against an historical range for each of those species

Background: The catch of each other secondary species will be monitored to determine if it is outside the range of catches (ie. lowest and highest annual catches) within the period 1984/85 to 2000/01 (except those identified as requiring more rigorous performance monitoring under management response 1.3c).

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,7	Annually	NSW Fisheries	-

- (c) Develop an objective system for defining and setting trigger points to detect concerning trends in landings of all species permitted to be taken in the Estuary General Fishery

Background: Unlike annual trigger points which are designed to detect dramatic changes over short periods, these trigger points are designed to detect patterns in landings that are of sufficient concern to require a review (e.g. a downward or upward trend over several years). The assistance of a statistical expert will be sought to develop the system for setting this type of trigger point. The system will be tested during the first nine months following the commencement of the management strategy and applied to all species taken in the fishery at the first annual review. (See section 9f for a more detailed discussion on setting trigger points for monitoring changes in commercial landings).

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,7	Annually from 2003	NSW Fisheries	-

Objective 2.2 To conserve fish stocks by managing levels of active effort in the fishery

Other important responses: 1.1e,g,h; 1.2a; 1.3d; 2.1a,g; 2.1.1d; 2.1.2b; 2.1.3b; 2.5a-c; 2.5.2a; 4.1b; 5.2a; 6.1a,b,e; 6.2a,b

- (a) Implement a zoning scheme in the Estuary General Fishery

Background: A zoning scheme has been approved by the Minister for Fisheries and is currently being implemented (see section 4(g)).

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,	By December 2002	NSW Fisheries	Various

- (b) Identify the level of active effort (as opposed to latent effort) in each endorsement type and region, and implement minimum shareholdings over set time periods to ensure that the level of active effort does not exceed historical levels (provided that those levels are biologically sustainable)

Background: Minimum shareholdings can be used to control the overall number of fishers in a fishery, or the number of fishers able to access particular components (e.g. methods) within a fishery. The use of minimum shareholdings provides a dynamic framework to allow for the ongoing adjustment of share packages within the fishery. This adjustment is funded by industry through the selling and buying of shares.

The fishery management strategy addresses the potential for existing operators to increase their activity in endorsement types they have had little involvement in. 'Active effort' and 'historical levels' will be determined using data on historic participation levels and current endorsement numbers. NSW Fisheries' status reports and stock assessments (when available) will be used to determine biologically sustainable effort levels.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,5	By December 2003 and ongoing	NSW Fisheries	Regulatory

- (c) Continue the licensing arrangements described in the proposed harvesting strategy (see section 4(b) of this management strategy)

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,5,6,7	Current and ongoing	NSW Fisheries	Various

Objective 2.3 To prevent the activation of latent (unused) fishing effort by new entrants

Other important responses: 2.1.1d; 2.2b,c

- (a) Implement an owner-operator rule for estuary general fishing businesses (ie. no new nominations and sunset existing nominations), except in cases of short term illness

Background: There have been notable instances where fishers who have worked their entitlements very little in recent years have used the existing nomination provisions to 'pass' their entitlements to new entrants who work at significantly greater levels than the owner had been, thus substantially increasing the level of effort in the fishery.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,5,6	By December 2003	NSW Fisheries	Regulatory

- (b) Establish minimum entry requirements for new entrants at the fishing business level (ie. taking into account entitlements held in other fisheries) to prevent increases in effort by small businesses

Background: Similar to how the current Recognised Fishing Operation policy works, safeguards are needed to ensure that new entrants to the fishery replace active fishing businesses before they can operate. This response also provides a mechanism for structural adjustment in the fishery to improve the economic viability of fishing.

The best available information suggests that about 50% of the endorsement holders take only 10% of the fishery revenue. Operators need to be in a position, by 2008, to afford to pay for the attributable costs of management from their fishing revenue. Viable fishing businesses also have a greater incentive to support long term management decisions that are needed now and into the future.

The Estuary General Fishery has for many years involved some component of lifestyle. A number of fishing businesses operate on a 'part time' basis, with fishers only working during times of peak catches or often when commitments in other fields of employment allow. NSW has a large residential coastal population and a significant recreational fishery. The community has made it clear in the past that commercial style netting in estuaries, particularly for reasons of lifestyle or recreation, is not favoured. It is the Government's intention to encourage a full time professional fishing industry, and this response will assist in achieving that.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,5	By December 2003	NSW Fisheries	Regulatory

- (c) Continue the prohibition on unlicensed crew from operating in the fishery (with the current exception that applies to prawn seining to a boat)

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,5	Current and ongoing	NSW Fisheries	FM Act

Objective 2.4 To minimise the impact of activities external to the Estuary General Fishery on the resources harvested by the fishery and on fishery related habitats

Other important responses: 1.3d 1.4a; 1.5a-f; 2.1.1a,d; 2.5a,b; 4.2c; 6.3c

- (a) NSW Fisheries will continue to review, provide relevant advice and where appropriate under the *Fisheries Management Act 1994*, impose conditions in order to avoid or minimise impacts on fishery resources from coastal developments

Background: Development applications submitted under the Environmental Planning and Assessment Act 1979 that have the potential to adversely impact on fish or fish habitat are often referred to NSW Fisheries for review and comment. Using legislative powers under the FM Act, NSW Fisheries has the ability to recommend the refusal of a development (if inconsistent with the Act or Policy and Guidelines for Aquatic Habitat Management and Fish Conservation 1999), recommend the approval of a development without changes, or in some circumstances, recommend the approval of a development with conditions to be attached which limit the potential impacts of the activity. Where issues do not fall within the legislative jurisdiction of NSW Fisheries, the Department may still provide advice to the relevant determining authority to ensure that these issues are considered and appropriately addressed.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,7	Current and ongoing	NSW Fisheries	EP&A Act FM Act

- (b) The Estuary General MAC will consider the impacts on the resource of activities external to the fishery and bring any detrimental impacts to the attention of NSW Fisheries and/or the relevant managing agency

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,5,6,7	Current and ongoing	EG MAC	-

- (c) NSW Fisheries and commercial fishers will contribute to the development of policies or legislation established by the NSW Government to ensure that fish stock and habitat issues (including beach habitat) are properly considered in other environmental planning regimes

Background: NSW Fisheries and fisheries stakeholders are already represented on many natural resource management committees that operate across the State (e.g. Catchment Management Boards, Healthy Rivers Commission, Coastal Council of NSW, etc.)

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,6,7	Current and ongoing	NSW Fisheries EG fishers	-

Objective 2.5 To promote the recovery of overfished species

Other important responses: 1.1g; 1.5a-f; 2.1a,c,d; 2.1.1a; 2.1.4b; 2.2a-c; 2.3a-c; 4.2c

- (a) Where the fishery is a major harvester of an overfished species, develop and implement a recovery program for the species within a specified timeframe

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,5,6	Recovery program drafted for consultation within 6 months	NSW Fisheries EG MAC	To be determined

- (b) Where the fishery is a minor harvester of an overfished species, contribute to the development of a recovery program for the species and adopt any measures required by that program

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,5,6	As required	NSW Fisheries EG MAC	To be determined

- (c) During the period of development of a recovery program for a species that has been determined as being recruitment overfished, implement precautionary actions including, but not limited to, any of the following:

- total harvest controls
- reductions in effort associated with the harvest of the species
- the implementation of fishing closures
- bycatch management provisions
- mandatory gear changes.

Background: In the event that a species is determined to be recruitment overfished urgent action is needed to prevent the risk of a stock collapse. Growth overfishing on the other hand relates to maximising the yield from the stock and does not necessarily require immediate measures prior to the introduction of a recovery program.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,6	As required	NSW Fisheries	Various

Objective 2.5.1 To assist in the development of a recovery program for silver trevally

- (a) Participate in any consultation with other harvest sectors of silver trevally over the development of a recovery program for that species, in particular consider the introduction of an appropriate size limit to address the growth overfishing problem

Background: Data available for both commercial and recreational catches since the late 1980s strongly suggest a significant reduction in the mean size of silver trevally. Yield modelling indicates silver trevally are being caught well below the optimum size, and the analyses suggest that the silver trevally stock is growth overfished. Significant increases in yield (per recruit) would be expected to result from increasing the size at first capture, at current exploitation rates.

Contributing to Goals	Timeframe	Responsibility	Authority
2,6	Current and ongoing	NSW Fisheries EG MAC	-

Objective 2.5.2 To assist in the development of a recovery program for sea garfish

- (a) Prevent the taking of sea garfish in the fishery whilst a recovery program for the species is being developed through the ocean hauling fishery

Background: Sea garfish are found in ocean waters throughout NSW and are also found in the lower reaches of estuaries. The life history is poorly understood. Juveniles are known to occur in estuaries and spawning most likely occurs in coastal waters. Sea garfish are predominantly taken in the Ocean Hauling Fishery, and comprise less than 0.1% of the estuary general commercial catch. The draft fishery management strategy for the Ocean Hauling Fishery has identified sea garfish as most likely to have been recruitment overfished and that the species is being caught at levels generally lowest on record. There is an urgent need to improve biological knowledge of and the assessment for this species to ensure appropriate management settings. The development of a recovery program for sea garfish commenced with the preparation of a draft FMS for the Ocean Hauling Fishery. Note that river garfish, which are taken in much greater quantities in estuaries, should not be confused with sea garfish.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,6	By December 2002	NSW Fisheries	Regulatory

GOAL 3. To promote the conservation of threatened species, populations and ecological communities associated with the operation of the Estuary General Fishery

Activities that impact on species, populations or ecological communities that are listed as being threatened must, under several pieces of state and federal legislation, be modified or phased out so as to mitigate those impacts. Protected animals must also receive a higher conservation status. This includes threatened mammals, birds, and reptiles, as well as fish species and could include habitats that are critical to the survival of such animals.

While there are no firm data, it is thought that the impact of the Estuary General Fishery on threatened species, populations and ecological communities is small. Nevertheless, it is important to quantify and monitor any threatened species interactions, and have a management framework that is adaptive to change in the event that impacts are identified and found to be unacceptable.

Objective 3.1 To identify, eliminate and/or minimise any impact of fishing activities in the fishery on threatened species, populations and ecological communities (including mammals, birds, reptiles, amphibians, fish, invertebrates and vegetation), and where possible promote their recovery

Other important responses: 1.1f,g; 1.2a-c; 1.3b-d; 2.1a; 2.1.2c; 6.4a

- (a) Modify the reporting system, in consultation with the Estuary General MAC, so as to collect information on sightings and captures of threatened or protected species using catch returns

Background: The guidelines for a "ecologically sustainable" fishery approved by the Commonwealth under the Environment Protection and Biodiversity Conservation Act 1999 include a requirement to collect information on interactions with endangered, threatened or protected species and threatened ecological communities. These species, populations and communities are listed in the FM Act, Threatened Species Conservation Act 1995 and the EPBC Act.

Contributing to Goals	Timeframe	Responsibility	Authority
3,6,7	By December 2002	NSW Fisheries EG fishers	-

- (b) Implement, in consultation with the Estuary General MAC, the provisions of any relevant threatened species recovery plans or threat abatement plans

Note: The recovery plans referred to in this response could include those being developed under the Fisheries Management Act 1994, the Threatened Species Conservation Act 1995 or other State or Commonwealth legislation. This response recognises that the statutory provisions of a threatened species recovery plan must be implemented and given precedence over the provisions of this management strategy.

Contributing to Goals	Timeframe	Responsibility	Authority
3,6,7	As required	NSW Fisheries EG MAC	Various

- (c) Continue the prohibition on taking protected fish and on fish protected from commercial fishing as set out in the *Fisheries Management (General) Regulation 1995*

Background: 'Protected fish' refers to species of fish that are protected from all forms of fishing. 'Fish protected from commercial fishing' as the name suggests, refers to species of fish that are protected from commercial fishing only. Protected fish includes species identified as threatened, endangered or vulnerable under the Fisheries Management Act 1994.

At the time of drafting this management strategy, the marine and estuarine species of protected fish included Ballina angelfish, black rock cod, eastern blue devil fish, elegant wrasse, estuary cod, giant Queensland groper, grey nurse shark, Herbsts nurse shark, great white shark, and weedy sea dragon. Fish protected from commercial fishing included marlin (black, blue and striped), groper (blue, brown and red), Australian bass and estuary perch.

Contributing to Goals	Timeframe	Responsibility	Authority
3,4	Current and ongoing	NSW Fisheries	FM Act

- (d) Continue the prohibition of taking any species in commercial fishing operations protected under other jurisdictions' arrangements (this may include invertebrates, fish, reptiles, birds, mammals, plants etc.)

Background: Protected species are identified under the NSW Threatened Species Conservation Act 1995, the NSW National Parks and Wildlife Act 1974, and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

Contributing to Goals	Timeframe	Responsibility	Authority
3,4,6	As required	NSW Fisheries	Various

GOAL 4. To appropriately share the resource and carry out fishing in a manner that minimises social impacts

The Estuary General Fishery operates in close proximity to many residential areas, popular tourism destinations and other general users of the State's waterways. It also harvests species of fish that are actively targeted in other commercial fisheries, the charter boat fishery and the recreational fishery, or that may have significant conservation value. The interaction among commercial fishers and between estuary general fishers and other stakeholders is a significant issue in this fishery that requires careful management.

Objective 4.1 To monitor and provide an appropriate allocation of the fisheries resource between fishing sector groups, acknowledging the need of seafood consumers to access fresh quality fish

Other important responses: 1.1e,g; 1.2a; 2.1a,b,d,e,g,h; 2.1.1a-d; 2.1.2b; 2.1.4a,b,c; 2.2a-c; 2.3a-c; 2.5a,b; 4.2a; 4.5a; 6.2a,b; 6.3c; 7.4b

- (a) Estimate, as far as practicable, the size of the non-commercial catch for use in stock assessment models, and the relative impact of such harvesting on the resource, taking into account the results of the National Recreational and Indigenous Fishing Survey and information obtained from charter fishing boat logbooks

Note: The Recreational and Indigenous Fishing Survey research report was not published at the time of writing the management strategy.

In November 2000, a licensing scheme was introduced for all marine and estuarine charter boat operators. These operators are required to record catches taken on board licensed charter vessels as part of a mandatory logbook program. Estimates of harvest rates from all sectors will be used in stock assessments.

The non-commercial catch includes any 'black market' catch sold by both licensed and unlicensed fishers.

Contributing to Goals	Timeframe	Responsibility	Authority
2,4,7	By June 2003	NSW Fisheries	-

- (b) Continue the requirement that species landed in this fishery are not landed in contravention of any maximum daily catch or 'trip' limit that may apply to particular species

Background: At the time of drafting this management strategy, a daily catch limit applied to two species taken in the Estuary General Fishery. A limit of 100 kg per hauling crew, 50 kg per meshing crew (or individual) and 50 kg for any other licensed commercial fishing vessel containing a commercial fishing net applies for Australian salmon north of Barrenjoey Headland and tailor taken in all NSW waters.

Contributing to Goals	Timeframe	Responsibility	Authority
2,4	Current and ongoing	NSW Fisheries	Various

Objective 4.2 To monitor and manage a fair and equitable sharing of the fisheries resource among commercial fisheries

Other important responses: 1.1e,g; 1.2a; 2.1a,b,d,e,g,h; 2.1.1a-d; 2.1.4b,c; 2.2b,c; 2.3a,c; 2.5a,b; 4.1b; 4.2a; 6.2a,b; 6.3c; 7.4b

- (a) Monitor the catch of the primary estuary general species that are also taken in other commercial fisheries (ie. ocean trap and line, estuary prawn trawl, etc)

Contributing to Goals	Timeframe	Responsibility	Authority
2,4,7	Annually	NSW Fisheries	-

- (b) Through cross fishery stakeholder consultation, determine an appropriate size at first capture for king prawn and school prawn species.

Background: Cross fishery consultation will allow issues relating to commonly shared prawn stocks to be addressed. Other fisheries proposed to be represented include the Estuary Prawn Trawl Fishery, the Ocean Prawn Trawl Fishery and the Recreational Fishery.

Controlling the size at first capture is similar to a legal length restriction. As well as sharing the resource, it can assist in conserving stocks and promote recruitment to the spawning population. In the case of prawns it is difficult to administer a minimum legal length because of the quantities of individuals landed. Therefore a maximum count of prawns (ie. number to the half kilogram) can be used instead. Trial shots can be used to determine when an area should be open and closed to prawning and counts can be periodically reviewed as more precise information becomes available on the growth and mortality of prawns.

Information on the growth and mortality of eastern king prawns will be reviewed by July 2004 and a research project investigating the growth and mortality of school prawns is due to be completed by 2006. These studies will assist future decisions made about maximum prawn counts. Once an appropriate size has been determined, the use of prawn gear in the Estuary General Fishery (such as times of operation) should be modified appropriately.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,5	As required from 2003	NSW Fisheries	Various

- (c) Review, in consultation with the Estuary General MAC and Ocean Hauling MAC, the use of the garfish hauling and garfish bullringing nets in the Estuary General Fishery and the Ocean Hauling Fishery with the aim of:

- removing the garfish hauling method from the Estuary General Fishery, and
- removing the garfish bullringing method from the Ocean Hauling Fishery.

Background: The Ocean Hauling MAC has made clear it's view that the garfish bullringing net operates as a meshing net and should not be used in the Ocean Hauling Fishery. Similarly the Estuary General MAC has expressed concern about the garfish hauling net, traditionally an ocean based method, being used in the Estuary General Fishery.

This management response may assist the sea garfish recovery program proposed in the draft Ocean Hauling Fishery Management Strategy.

Contributing to Goals	Timeframe	Responsibility	Authority
2,4,6	By July 2003	NSW Fisheries EG MAC	-

Objective 4.3 To monitor and manage a fair and equitable sharing of the fisheries resource within the Estuary General Fishery

Other important responses: 1.1e,g; 1.2a; 2.1a,d,e,g,h; 2.1.1a,c,d; 2.1.2c; 2.1.3a,c; 2.1.4c; 2.2a-c; 2.3a,c; 2.5a,b; 5.2a; 6.1d; 6.2a,b; 6.3c; 7.4b; 7.5a,b

- (a) Monitor the relative catch of the primary and key secondary species taken by meshing, hauling, trapping, and hand lining methods

Contributing to Goals	Timeframe	Responsibility	Authority
4,7	Annually	NSW Fisheries	-

- (b) Prohibit shareholders in the fishery from owning more than 5% of the total number of each class of share issued in the fishery

Contributing to Goals	Timeframe	Responsibility	Authority
4,5	By December 2003	NSW Fisheries	Regulatory

Objective 4.4 To minimise any negative impacts of the Estuary General Fishery on Aboriginal or other cultural heritage

Other important response: 4.1a; 6.4a

- (a) Participate in the development of and subsequent reviews of any Indigenous fisheries strategies

Contributing to Goals	Timeframe	Responsibility	Authority
4,6	As required	NSW Fisheries	-

- (b) Consult the Aboriginal Sites Register administered by the National Parks and Wildlife Service and coastal Aboriginal Land Councils when identifying designated landing sites (see management response 1.2a(ii)), and wherever practicable avoid hauling over known Aboriginal sites

Contributing to Goals	Timeframe	Responsibility	Authority
4,6	Current and ongoing	EG MAC	To be determined

Objective 4.5 To promote harmony between the commercial fishery and other resource users, including recreational fishers, Indigenous fishers and local communities, through fair and equitable sharing of the fisheries resource

Other important responses: 1.1b,c,e,g,h; 1.2a-d; 1.3d; 2.1a,d,e,h; 2.1.1a,d; 2.1.2c; 2.2a-d; 2.3a-c; 3.1c; 4.1a,b; 4.2b; 4.3b; 4.4a,b; 6.1b; 6.3b,c; 6.4a; 7.1a-c; 7.2a; 7.4a

- (a) Consult with the community on proposals for recognised fishing grounds made, subject to and in accordance with the guidelines approved by the Minister, over historical fish hauling, prawn hauling, prawn running and prawn set pocket net sites.

Background: Recognised fishing grounds determine the rights of priority for certain methods between commercial fishers and other waterway users in specified areas. They do not prevent local Councils from approving applications for development in or over those areas, but they can be useful in highlighting areas of importance for commercial fishing. Draft guidelines for declaring recognised fishing grounds in the Estuary General Fishery are provided in section 4(h) of this management strategy.

Contributing to Goals	Timeframe	Responsibility	Authority
4,5,6	Ongoing	NSW Fisheries EG MAC	FM Act & Regulatory

- (b) Continue to administer the code of conduct in the Clarence River relating to the modification of prawn set pocket net operations to reduce the impact of noise on the surrounding community

Background: Fishers from the Clarence River operate under a local code of conduct which limits the level of noise made by prawn set pocket net boats during their operation, specifically noise emanating from boats using their engines and propellers to stimulate water flow through the nets, from marine radios and from gas fired prawn cookers.

Contributing to Goals	Timeframe	Responsibility	Authority
4,6,7	Current and ongoing	EG fishers	Voluntary

GOAL 5. To promote a viable commercial fishery (consistent with ecological sustainability)

In terms of gross value of production, the Estuary General Fishery is worth approximately \$20 million annually (not including revenue received from the export market which generally yields higher prices). An economic survey of the Estuary General Fishery carried out in 2001 showed that only a small proportion of the respondents (20%) are making an economic surplus. With the progressive phase in of full cost recovery of attributable costs between year 2005 and 2008, estuary general fishers need to be in a position to fund a greater proportion of the management costs. Viable fishing businesses have a greater incentive to support long term management decisions that are needed for sustainability now and into the future.

Objective 5.1 To optimise the biological yield of fish taken within the fishery where appropriate to maximise economic return

Other important responses: 1.1a,g; 1.2a; 2.1a,d,e; 2.1.1a-c; 2.5a,b,c; 4.1a; 4.2b; 6.3c; 7.5a

Objective 5.2 To promote the long term economic viability of estuary general fishing

Other important responses: 1.1a; 1.2a,c; 1.5a-f; 2.1.3c; 2.2b,c,d; 2.3a-c; 2.5a,b; 4.1a; 4.2b; 4.3b; 5.3a; 6.1d; 7.5a,b

- (a) Use minimum shareholding provisions, either as a trigger point response or in accordance with the share management plan, to adjust the number of estuary general fishing businesses to a level which improves the economic viability of the fishery and its participants (within the limits of ecological sustainability)

Background: As stated earlier in this section, it is the Government's intention to create a full time professional fishing industry.

Operators need to be in a position after a five year period to afford to pay for the attributable costs of management from their fishing revenue. Viable fishing businesses also have a greater incentive to support long term management decisions that are needed for ecological sustainability now and into the future.

This management response provides a mechanism within the management strategy to reduce the number of estuary general fishing businesses in order to improve the fishery-wide average economic return expand the potential for greater individual profitability.

Contributing to Goals	Timeframe	Responsibility	Authority
2,4,5	By December 2003	NSW Fisheries	Regulatory

- (b) NSW Fisheries will develop, in consultation with the Estuary General MAC, a performance measure for economic viability at the individual fishing business level

Background: A performance indicator is already proposed under goal 5 in section 9 of this management strategy to measure economic viability on a fishery-wide basis. This management

response would provide a measure of the economic viability of individual fishers to monitor the relationship with the overall economic viability of the fishery.

Contributing to Goals	Timeframe	Responsibility	Authority
4,5,7	By December 2005	NSW Fisheries EG MAC	-

- (c) NSW Fisheries will develop, in consultation with the Advisory Council on Commercial Fishing, a cost recovery framework

Background: On 2 November 2000, the Government announced that over the succeeding five years NSW Fisheries would develop and implement a fair and transparent cost recovery framework for category 2 share management fisheries. During this period, the total amount of money collected for NSW Fisheries for its existing management services, will not increase without the support of the relevant MAC. Each estuary general fisher currently pays the same commercial fishing licence fees for the Estuary General Fishery, irrespective of their level of access. From 2005, recovery of the costs that have been identified as attributable to industry will be progressively introduced over a further three year period.

Contributing to Goals	Timeframe	Responsibility	Authority
5,6	By November 2005	NSW Fisheries ACCF	Ministerial determination

Objective 5.3 To provide secure fishing entitlements for estuary general fishers

Other important responses: 2.1.1c; 2.2c; 2.3b,c; 4.5a; 6.1d, 7.5a,b

- (a) Implement the share management provisions of the *Fisheries Management Act 1994*

Background: The category 2 share management provisions allow for the allocation of shares with a 15 year term to eligible persons, and with a statutory right to compensation if the Government cancels the shares during their term. A share management plan must be prepared and that plan must be reviewed within 10 years after commencement. A category 2 share management fishery may be converted to a category 1 share management fishery in accordance with the FM Act.

Contributing to Goals	Timeframe	Responsibility	Authority
5,6	Commence the share management plan by December 2003	NSW Fisheries	FM Act

Objective 5.4 To appropriately manage food safety risks in the harvesting of fish in the fishery

Other important responses: 1.2c; 2.2c; 2.4b; 6.1f; 6.4a

- (a) Co-operate with SafeFood Production NSW in the development and implementation of food safety programs relevant to the fishery, including the pipi biotoxin management scheme

Background: SafeFood Production NSW is currently in the process of developing food safety plans for harvest and post-harvest seafood industry, and the plans may impose statutory requirements on fishers to comply with the approved standards. Supporting food safety programs is a responsible way of promoting consumer confidence in fish product harvested by the fishery and protecting viability of the industry.

Contributing to Goals	Timeframe	Responsibility	Authority
5,6	Current and ongoing	EG fishers	FP Act

- (b) Continue the prohibition on the processing or mutilation of fish taken in this fishery on or adjacent to water

Contributing to Goals	Timeframe	Responsibility	Authority
2,5,6	Current and ongoing	NSW Fisheries	Regulatory

GOAL 6. To ensure cost-effective and efficient estuary general management and compliance programs

Effective management and compliance programs are important to the successful implementation of the fishery management strategy. As full cost recovery is phased in to the Estuary General Fishery in the coming years, it is important that programs are conducted in an efficient and cost-effective manner. This goal can be achieved through the cooperation of estuary general fishers, ongoing communication and consultation between NSW Fisheries and industry through the Estuary General MAC, and promoting complementary management programs in other States and the Commonwealth.

Objective 6.1 To maximise compliance with the Estuary General Fishery Management Strategy

Other important responses: 1.2c; 2.1g; 2.1.3b; 2.2c; 2.3a; 4.5a; 5.3a; 6.2a-c; 6.3a,c; 7.1a-c; 7.4a,b

- (a) Develop, in consultation with the Estuary General MAC, a compliance strategic plan to provide the direction for education, advisory and enforcement services provided by NSW Fisheries for the Estuary General Fishery

Background: To assist in delivering regionally focussed compliance and advisory services, there are currently 19 Fisheries Offices along the NSW coast. Each of these offices provides services for a range of programs, one of which is the Estuary General Fishery. The level and focus of services targeted towards the Estuary General Fishery varies in each district, and is determined by the nature of the activities in that area. Fisheries officers in each office operate under a district compliance plan to ensure appropriate compliance coverage across all programs. District compliance plans are subject to fortnightly review to consider any changed circumstances and are also subject to an annual review.

Each district compliance plan is developed to be consistent with the compliance strategic plan for NSW Fisheries. This plan is an overarching framework that identifies priorities and objectives for compliance throughout the State. The Estuary General MAC will be consulted over priorities relevant to the fishery prior to each review of the compliance strategic plan. The compliance strategic plan is subject to a review every three years.

Contributing to Goals	Timeframe	Responsibility	Authority
2,6	By December 2002	NSW Fisheries EG MAC	Policy

- (b) Implement an endorsement suspension scheme and share forfeiture scheme based on a demerit point scale for serious offences and habitual offenders

Note: "Serious offences" will be defined in the share management plan and could include offences such as interfering with fishing gear, offences carrying serious consequences, etc. It should be noted that the Estuary General MAC supports a penalty points scheme with suspension or cancellation provisions for endorsements, but does not support a forfeiture scheme for shares issued in the fishery.

Contributing to Goals	Timeframe	Responsibility	Authority
2,4,6	By December 2003	NSW Fisheries	Regulatory and Policy

- (c) Publish, where appropriate, successful prosecution results for nominated offences in relevant publications and media to discourage illegal activity

Contributing to Goals	Timeframe	Responsibility	Authority
6,7	Ongoing from 2003	NSW Fisheries	-

- (d) Continue the prohibition on fishers using or interfering with fishing gear set by other fishers

Contributing to Goals	Timeframe	Responsibility	Authority
4,5,6	Current and ongoing	NSW Fisheries	Regulatory

- (e) Continue the requirement that all fishing gear in the fishery be marked in accordance with the requirements set out in the Regulation

Contributing to Goals	Timeframe	Responsibility	Authority
2,6	Current and ongoing	NSW Fisheries	FM Act

- (f) Continue the requirement that fish taken in this fishery are marketed through a registered fish receiver (RFR) or a restricted registered fish receiver (RRFR)

Contributing to Goals	Timeframe	Responsibility	Authority
5,6,7	Current and ongoing	NSW Fisheries	Regulatory

Objective 6.2 To encourage cooperation between fishers and compliance officers in detecting offences and to promote stewardship of the resource

Other important responses: 1.2c; 2.1.3c; 2.2c; 2.3a; 4.5b; 5.3a; 6.1a,d; 6.3a,c; 7.1a-c

- (a) Continue the use of regulatory controls, including conditions on fishing licences, endorsements and permits to ensure that the authority conferred by the authorisation is consistent with the goals and objectives of this management strategy

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,6	Current and ongoing	NSW Fisheries	Various

- (b) Continue the requirement for fishers to adhere to determinations made by local fisheries officers with respect to the use of prawn nets

Contributing to Goals	Timeframe	Responsibility	Authority
2,4,6	Current and ongoing	NSW Fisheries	Regulatory

- (c) Continue the requirement that fishers comply with directives given by Fisheries Officers, including to allow officers to board fishing boats to inspect catch, and to produce “authorities to fish” when requested

Contributing to Goals	Timeframe	Responsibility	Authority
6	Current and ongoing	NSW Fisheries	FM Act

Objective 6.3 To provide effective and efficient communication and consultation mechanisms in relation to the Estuary General Fishery

Other important responses: 1.3a,c,d; 1.5a-f; 2.2c; 2.4b,c; 2.5.1a; 4.2b,c; 4.4a,b; 5.2c; 5.4a; 2.5a,b; 6.1a,c; 6.3c; 7.1a-c; 7.2a; 7.3a; 7.4a,b

- (a) Continue to recognise the Estuary General MAC as the primary consultative body for issues affecting the fishery.

Contributing to Goals	Timeframe	Responsibility	Authority
6	Current and ongoing	NSW Fisheries	Policy

- (b) Continue to utilise the services of a chairperson in the Estuary General MAC who is not engaged in the administration of the *Fisheries Management Act 1994* nor engaged in commercial fishing

Contributing to Goals	Timeframe	Responsibility	Authority
4,6	Current and ongoing	NSW Fisheries	FM Act

- (c) Establish informal local joint industry/NSW Fisheries working groups as needed to provide advice to NSW Fisheries on local management needs and arrangements

Background: Local joint industry/NSW Fisheries working groups will be able to provide direct feedback to NSW Fisheries on local fishery management needs and arrangements. The working groups may also provide a framework for more focussed input into the Estuary Management Committee process already in place for many of the State’s estuary systems. See the background to management response 2.1h for more information on the representation and role of Estuary Management Committees.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,5,6	From September 2002 as required	NSW Fisheries EG fishers	-

Objective 6.4 To implement the Fisheries Management Strategy in a manner consistent with related Commonwealth and State endorsed programs aimed at protecting aquatic environments, and achieving the objects of the Act and the principles of ecologically sustainable development

Other important responses: 1.3b-d; 1.4a; 2.2c; 2.5c; 2.5.2a; 3.1a,b; 4.4a,b

- (a) Manage the Estuary General Fishery consistently with other jurisdictional or natural resource management requirements, such as the marine parks program, aquatic biodiversity strategy, threatened species program and others

Background: The management strategy will be operating alongside other programs relating to the management of marine resources, and must be consistent with those programs. The management strategy must be adaptive if inconsistencies between the programs become apparent. This response enables a whole-of-government approach to management of the estuarine ecosystem.

Contributing to Goals	Timeframe	Responsibility	Authority
1,3,4,5,6	Current and ongoing	NSW Fisheries	Policy

- (b) Provide for the issue of permits under section 37 of the *Fisheries Management Act 1994* authorising modified fishing practices to assist research programs or for purposes consistent with the vision and goals of this management strategy

Background: Permits are required to use gear in a manner that varies to that specified in the Regulations. Approval to trial new approaches to fishing gear design is commonly given to industry members participating in research. This provides a formal mechanism to operate gear in a manner other than as set out in the FM Act or Regulation.

Contributing to Goals	Timeframe	Responsibility	Authority
6,7	Current and ongoing	NSW Fisheries	FM Act

GOAL 7. To improve knowledge of the Estuary General Fishery and the resources upon which the fishery relies

By their very nature, fish stocks and marine ecosystems are very complex and costly to study. There is a general lack of information and knowledge about many of the species taken in the Estuary General Fishery and about the impacts of fishing on the general environment. This situation is not unique to NSW. Management decisions need to be made using the best available information at the time and need to be precautionary where there are uncertainties in the information and threats of serious or irreversible environmental damage from the activity.

Objective 7.1 To improve the community's understanding and public perception of commercial estuary general fishing

Other important responses: 1.1f; 1.2a,c; 1.3d; 1.4a; 2.1.1b,c; 2.1.2a; 2.1.3a; 2.1.4a-c; 2.4a-c; 4.5b; 5.2b; 6.1c; 7.2a; 7.3a; 7.4b; 7.5a

- (a) Develop a strategic approach for disseminating information on the Estuary General Fishery, including making the Fishery Management Strategy, Environmental Impact Statement and other relevant documentation widely available to the public by:

- placing them on the NSW Fisheries website
- providing copies at Fisheries Offices throughout the State
- targeted mail outs to key stakeholders

Background: The Estuary General MAC believes that these actions are the most appropriate and cost effective means for communicating with and educating the public about the fishery at this stage. The MAC will, however, develop a strategic approach for disseminating information on the Estuary General Fishery to the general public, which will incorporate identifying the most appropriate and cost effective communication and education methods.

Contributing to Goals	Timeframe	Responsibility	Authority
4,6,7	Ongoing	NSW Fisheries	-

- (b) Produce or contribute to the production of brochures, newsletters, and signs and undertake targeted advisory and educational programs as considered appropriate by NSW Fisheries

Contributing to Goals	Timeframe	Responsibility	Authority
4,6,7	Current and ongoing	NSW Fisheries	-

- (c) Respond to inquiries by industry or the public with respect to this management strategy or the fishery generally

Contributing to Goals	Timeframe	Responsibility	Authority
4,6,7	Current and ongoing	NSW Fisheries	-

Objective 7.2 To promote community awareness as to the importance of fish habitat to fish stocks

Other important responses: 1.5f; 2.1.1b; 2.4a-c

- (a) Publish educational information concerning the protection of fish habitat (including the benefits of aquatic reserves) on the NSW Fisheries website and in other publications and media that NSW Fisheries consider relevant

Contributing to Goals	Timeframe	Responsibility	Authority
4,6,7	Current and ongoing	NSW Fisheries	-

Objective 7.3 To promote appropriate scientific research and monitoring to gain knowledge of target species, bycatch species and the impacts of fishing on the general environment

Other important responses: 1.1f; 1.3a-c; 1.5b; 2.1b,c; 2.1.1b,c; 2.1.4a-c; 3.1a; 4.1a; 4.2a; 4.3a; 6.4b; 7.4a,b

- (a) Determine, in consultation with stakeholder groups identified by NSW Fisheries, the priorities for research for the fishery, taking into account the research needs identified in the management strategy, or arising from new research results

Background: NSW Fisheries has commenced consultation with a broad range of stakeholder groups over the development of research priorities relating to the State's fisheries resources, including those harvested in the Estuary General Fishery.

Contributing to Goals	Timeframe	Responsibility	Authority
4,6,7	Current and ongoing	NSW Fisheries	-

- (b) Allocate research resources and where appropriate make grant applications to support research relevant to the fishery in accordance with the priorities identified from the process described in management response 7.3a

Background: Research into the Estuary General Fishery is currently funded through a combination of NSW Fisheries core expenditure and external grants from State and Commonwealth research and development programs. Shareholders will contribute to the costs of research programs in accordance with the cost recovery policy outlined in management response 5.2c.

Contributing to Goals	Timeframe	Responsibility	Authority
7	Ongoing from June 2002	NSW Fisheries	-

- (c) Develop and implement fishery-independent surveys for use in future stock assessments of species that inhabit estuarine waters

Background: Future stock assessments for estuarine species will consider information collected during fishery-independent surveys. These surveys will use stratified randomised

surveys to provide information that can be used to estimate relative abundances and size and age structures of wild populations. The FRDC is funding a project which will include all of the pilot and design work for this program over a three year period. Pilot studies on alternative sampling tools and cost-benefit analyses will be done during 2002-2003 and a pilot sampling strategy will be implemented during 2003-2004. The proposed sampling regime will be implemented in the third year (2004/2005). See section 6(a) for further discussion on the development of fishery independent sampling.

Contributing to Goals	Timeframe	Responsibility	Authority
7	By July 2005	NSW Fisheries	-

Objective 7.4 To improve the quality of the catch and effort information collected from endorsement holders

Other important responses: 1.1f; 1.3b; 2.1.1c; 2.2c; 3.1a; 6.1f

- (a) Periodically review, in consultation with the Estuary General MAC, the mandatory catch and effort return forms submitted by estuary general fishers and implement changes if:
- the data collected is perceived to be of poor quality or insufficient for monitoring and assessment purposes
 - the forms are found to be exceedingly complex for fishers to complete, ensuring an emphasis on the quality rather than quantity of information collected.

Background: A working group of commercial fishers and NSW Fisheries staff is reviewing catch and effort returns used by fishers. The working group will help to change the current returns to improve the quality of data collected. One initiative will be to allow catches of each individual species to be recorded on catch returns and move away from grouping similar species to ensure that all species permitted to be taken in the fishery can be monitored appropriately. Any proposed changes to catch return forms would be discussed with the Estuary General MAC.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,6,7	Current and ongoing	NSW Fisheries EG MAC	-

- (b) Determine accuracy of current recording of species identification in catch records and provide advice to industry to make needed changes (may need to wait for results from observer study)

Background: Correct species identification is critical to many areas of performance of the management strategy. Most species in the fishery are clearly and easily identified and accurately reported, however, there are some species for which correct identification or reporting can be difficult (e.g. the different species of leatherjackets and bream). The proposed observer study will be of significant value in implementing this management response. Observers will provide first-hand information on alternate names used to identify species, and any patterns in the use of those names. This information will be used to ensure that industry advice and education is appropriately targeted.

Contributing to Goals	Timeframe	Responsibility	Authority
1,2,4,6,7	By December 2004 and ongoing	NSW Fisheries EG MAC	-

Objective 7.5 To improve knowledge of social and economic aspects of the fishery

Other important responses: 5.2a-c; 5.3a; 7.1a

- (a) Consult with the Estuary General MAC on a strategy for improving the understanding of economic and social information relating to the Estuary General Fishery, taking into account the information gaps outlined in the economic and social assessment in the Environmental Impact Statement for the fishery

Background: An economic and social survey conducted as part of the environmental assessment process has provided some limited information on economic and social issues in the Estuary General Fishery. The Environmental Impact Statement identified a number of information gaps and provided recommendations for further investigation of economic and social issues.

Contributing to Goals	Timeframe	Responsibility	Authority
4,5,7	By July 2005	NSW Fisheries	-

- (b) Assess, in consultation with the Estuary General MAC, the feasibility of gathering additional information on social and/or economic aspects of the Estuary General Fishery including:

- modifying the existing catch returns or fishing licence renewal application forms
- undertaking targeted social and economic surveys
- any other methods of gathering the desired information

Background: The gathering of social and economic information will aid in understanding the implications of changes to fishing rules over time. Some information gathering methods may be relatively simple and inexpensive to implement whilst others, like targeted surveys, are likely to be more resource intensive. Consideration will need to be given to the quality of information likely to be received through different information gathering techniques.

Contributing to Goals	Timeframe	Responsibility	Authority
4,5,7	By July 2005	NSW Fisheries EG MAC	-

9. Performance Monitoring and Review

a) Performance monitoring

The complex nature of the Estuary General Fishery means that many of the management responses assist in achieving multiple goals. Therefore, rather than examining the performance of each individual response or objective, it is more efficient and appropriate to measure the performance of the management strategy against the seven goals (ie. the major objectives). An annual performance report for the fishery will, however, be prepared (as outlined later in this section) detailing the progress made in implementing management responses.

In addition to the performance monitoring process outlined below, a share management plan will be prepared for the fishery and include goals and performance indicators consistent with those specified in this management strategy. The *Fisheries Management Act 1994* provides that the share management plan must specify at what point a review of the management plan is required when a performance indicator is not being satisfied. Accordingly, when the share management plan for the fishery is prepared the plan will need to provide for a review process that is complementary to the review process described in this management strategy. Additional information on share management plans can be found in section 1(e) of this fishery management strategy.

i) Performance indicators

The performance indicators provide the most appropriate indication of whether the management goals are being attained. With the implementation of the new research proposals for the fishery outlined in section 6(a) of this management strategy, a broader information base relating to the fishery and its impacts may allow for more precise performance indicators to be developed.

ii) Monitoring programs

Monitoring programs collect the information used to measure the performance indicators. Monitoring programs may be specific to the fishery, or encompass cross fishery interactions such as the catch of a species by several commercial fisheries or harvest sectors. Table 16 identifies the information sources and monitoring programs used as part of the performance monitoring and review process for the Estuary General Fishery.

iii) Trigger points

Trigger points have been set for most performance indicators to specify when a performance indicator has reached a level that suggests there may be a problem with the fishery and a review is required.

Some performance indicators vary naturally from time to time. Trigger point levels have been selected to be well within the expected natural range of variation. This means that triggers will be exceeded more frequently because of natural variation in the performance indicator than because of a problem in the fishery. If the natural variation of a performance indicator is known, the trigger point for that indicator will be set so that it is outside the range where 80% of the most common observations fall.

Table 16 includes the performance indicators, monitoring programs and trigger points that will be used to measure whether each of the management goals described in section 8 of this management strategy are being attained.

b) Predetermined review of performance indicators and trigger points

It is likely that changes to the activities authorised under the management strategy will evolve over time. It is also likely that better performance indicators will become apparent and it would then be an inefficient use of resources to continue monitoring the performance indicators that appear in this management strategy. If new information becomes available as a result of research programs, more appropriate performance indicators and trigger points can be developed and the management strategy may be amended by the Minister for Fisheries accordingly.

A comprehensive review of the appropriateness of all performance indicators and trigger points will be carried out not more than two and a half years from the commencement of the management strategy, in consultation with the Estuary General MAC. This will occur in addition to the preparation of the annual performance report that reports on whether performance indicators have breached corresponding trigger points. If the performance report identifies an inappropriate performance indicator prior to the two and half year review it can be addressed accordingly at this stage.

As new or improved guidelines for fishery reporting become available, such as those being considered in the *'National ESD Reporting Framework for Australian Fisheries – the how to guide for wild capture fisheries report'*, they will be taken into account to promote continuous improvement in the management of the fishery.

Table 16. Performance monitoring provisions

GOAL 1. To manage the Estuary General Fishery in a manner that promotes the conservation of biological diversity in the estuarine environment					
No.	Performance indicator	Monitoring program	Time frame	Trigger point	Comments
1	[A performance indicator will be developed to monitor biodiversity impacts at the species, community and ecosystem levels — see management response 1.3b]	A monitoring program for this indicator cannot be identified until an indicator has been developed	-	[No trigger point set at this stage]	There are no available performance indicators to measure the impact of this fishery on biodiversity. As such, surrogate indicators will be used (below) until a suitable indicator is developed. This is likely to include the monitoring of species composition and abundance
2	Number of estuaries totally closed to estuary general fishing (through regulatory controls, marine parks and/or aquatic reserves)	Review number of estuaries totally closed to estuary general fishing every two years	Commence in 2003 and ongoing subject to review every two years	The number of estuaries open to estuary general fishing increases after the commencement of the management strategy or any estuary that was previously closed to commercial fishing is opened	Significant closed areas prevent any impacts of the fishery on biodiversity in those areas, thus minimising the total impact on biodiversity at the regional or state-wide scale
3	Estimate of total quantity of bycatch by method	Observer-based program that provides a predetermined cover of all fishing methods in a predetermined number of key estuaries stratified throughout the regions	Begin 2003 and ongoing subject to annual review	Total bycatch increases by a percentage to be determined by NSW Fisheries for each method in consultation with the Estuary General MAC between repeated observer surveys	This has been estimated for some methods through previous research programs, but will not be possible for all methods until the observer program commences. Baseline information relating to seasonal changes will be obtained through the observer program. The frequency of observer surveys will vary for each method and will take into account the priorities for the scientific observer program as determined by NSW Fisheries in consultation with the Estuary General MAC

Table 16. Performance monitoring provisions (continued)

GOAL 1. (Continued) To manage the Estuary General Fishery in a manner that promotes the conservation of biological diversity in the estuarine environment					
No.	Performance indicator	Monitoring program	Time frame	Trigger point	Comments
4	Ratio of bycatch compared with total landings by method	Observer-based program that provides a predetermined cover of all fishing methods in a predetermined number of key estuaries stratified throughout the regions	Begin 2003 and ongoing subject to annual review	No trigger point set at this stage. To be set for each method progressively after the commencement of the scientific observer program, unless suitable information is available from another source	The scientific observer program will provide benchmarks for the ongoing monitoring of bycatch. Data for each method will become available in line with the priorities established during the design phase for the observer program. Information obtained through monitoring bycatch ratios may assist in detecting broad changes in ecological relationships
5	Response of the fishery to marine pest and disease incursions	Reports on the monitoring of marine pests and diseases will be provided to the Estuary General MAC through the marine pest management program	Ongoing	The Director, NSW Fisheries, determines that the fishery has not responded appropriately to marine pest and disease management programs that recommend that estuary general fishing be modified	The marine pest and disease management program is responsible for monitoring marine pests and diseases (e.g. noxious fish), and developing contingency plans in the event of new incursions. Section 210 of the FM Act provides an offence for selling fish that are or have been declared noxious. This performance measure ensures that the fishery is responsive to existing or threatening marine pest or disease incursions

Table 16. Performance monitoring provisions (continued)

GOAL 2. To maintain fish populations harvested by the Estuary General Fishery at biologically sustainable levels					
No.	Performance indicator	Monitoring program	Time frame	Trigger point	Comments
1	Total annual commercial landings or other available indications of stock size of each primary species	NSW commercial catch return data and other relevant data from adjacent jurisdictions where available to be obtained in March/April of each year. Annual analysis by NSW Fisheries, in consultation with the Estuary General MAC in May each year	Begin 2003 and ongoing subject to annual review	See table 17*	This includes commercial landings of those species from adjacent jurisdictions where that data is available. The selection of species trigger points is discussed later in this section
2	Total annual commercial landings or other available estimates of stock size of each key secondary species	NSW commercial catch return data and other relevant data from adjacent jurisdictions where available to be obtained in March/April of each year. Annual analysis by NSW Fisheries, in consultation with the Estuary General MAC in May each year	Begin 2003 and ongoing subject to annual review	See table 17*	This includes commercial landings of those species from adjacent jurisdictions where that data is available. The selection of species trigger points is discussed later in this section
3	Commercial landings of each eel species in each catchment contributing greater than 10% of total eel landings	Commercial catch return data obtained in March/April of each year. Annual analysis by NSW Fisheries, in consultation with the Estuary General MAC in May each year	Begin 2003 and ongoing subject to annual review	Landings in any one of these catchments change by at least 45% from the reference year 1998/99*	
4	Commercial landings of sea mullet in estuary and ocean waters	Commercial catch return data obtained in March/April of each year. Annual analysis by NSW Fisheries, in consultation with the Estuary General MAC in May each year	Begin 2003 and ongoing subject to annual review	Landings in estuary or ocean waters change in the same direction by at least 10% per year in each of two consecutive years*	

Table 16. Performance monitoring provisions (continued)

GOAL 2. (Continued) To maintain fish populations harvested by the Estuary General Fishery at biologically sustainable levels					
No.	Performance indicator	Monitoring program	Time frame	Trigger point	Comments
5	Total commercial landings from each estuary fished	Commercial catch return data obtained in March/April of each year. Annual analysis by NSW Fisheries, in consultation with the Estuary General MAC in May each year	Begin 2003 and ongoing subject to annual review	Total landings in any one estuary changes by at least 50% between any two consecutive years*	There is a broad range in the trigger point because there is normally significant variation in commercial landings between consecutive years in estuaries
6	Total days fished by estuary general method in each estuary fished	Commercial catch return data obtained in March/April of each year. Annual analysis by NSW Fisheries, in consultation with the Estuary General MAC in May each year	Begin 2003 and ongoing subject to annual review	Total days fished for any estuary general method in any estuary increases by 20% or more between any two consecutive years	This indicator monitors spatial changes in fishing effort between estuaries, which can occur if fishers adjust their fishing activities. Programs which may influence estuary general fishing activities include the implementation of zoning, share management and recreational fishing havens
7	Ratio of prohibited size fish of primary and key secondary species	Observer-based program that provides a predetermined cover of all fishing methods in a predetermined number of key estuaries stratified throughout the regions	Begin 2003 and ongoing subject to annual review	Ratio of prohibited size fish of primary and key secondary species increases between consecutive observer surveys	This information will come from the scientific observer program
8	Total Estuary General Fishery annual landings of each secondary species (other than key secondary species)	Commercial catch return data obtained in March/April of each year. Annual analysis by NSW Fisheries, in consultation with the Estuary General MAC in May each year	Begin 2003 and ongoing subject to annual review	Landings are outside the range of catch for two consecutive years, with the range calculated from the period 1984/85 to 2000/01 (see comments)*	Catches for some secondary species have been reported as zero in previous years. Despite this, a zero catch recorded in any future year will be considered as outside the acceptable range specified in this strategy
9	Number of each endorsement type in each region	Annual review by NSW Fisheries, in consultation with the Estuary General MAC of relevant data from NSW Fisheries licensing database	Begin 2003 and ongoing subject to annual review	Number of available endorsements exceed historically active levels after four years	This indicator measures potential fishing effort at the broad scale. If the target number of endorsements is not achieved by the timeframe stipulated, the minimum shareholding must immediately increase to ensure that historical levels are maintained

* Benchmarks should not include catches taken in estuaries or by gear types that are not available to commercial fishers as a result of other programs that impact on the operation of the fishery (e.g. the declaration of recreational fishing havens or aquatic reserves).

Table 16. Performance monitoring provisions (continued)

GOAL 3. To promote the conservation of threatened species, populations and ecological communities associated with the operation of the Estuary General Fishery					
No.	Performance indicator	Monitoring program	Time frame	Trigger point	Comments
1	Number of incidental captures relating to threatened species, populations or ecological communities	Commercial catch return data obtained in March/April of each year. Annual analysis by NSW Fisheries, in consultation with the Estuary General MAC in May each year. Analysis of the results of any targeted research on threatened species, populations or ecological communities	Begin 2003 and ongoing subject to annual review	[No trigger point set at this stage]	Data will be gathered through catch returns and any information resulting from targeted research on threatened species.
2	Response of the fishery to threatened species declarations	Reports will be provided to the Estuary General MAC containing recommendations from the Director, NSW Fisheries and/or the Director-General of the National Parks and Wildlife Service where appropriate actions may be needed to conserve threatened species, populations and ecological communities	Ongoing	Threatened species recovery plan or threat abatement plan requires a modification to estuary general fishing which the Director, NSW Fisheries considers is not adequately provided for in this management strategy	The NSW Fisheries Office of Conservation and the NSW National Parks and Wildlife Service monitor sightings of threatened species and develop threatened species recovery plans as required

Table 16. Performance monitoring provisions (continued)

GOAL 4. To appropriately share the resource and carry out fishing in a manner that minimises social impacts					
No.	Performance indicator	Monitoring program	Time frame	Trigger point	Comments
1	Estimates by NSW Fisheries of the catch of primary and key secondary species for all non-commercial sectors (including recreational, charter boat, aquaculture and Indigenous)	Stratified recreational creel surveys, analysis of charter boat logbooks, aquaculture records, discussions with Indigenous stakeholders and compliance reports	Begin 2005 and ongoing subject to annual review	Estimates not available within three years from the commencement of the fishery management strategy	This information is also needed for stock assessments for primary species as outlined in Goal 2
2	Percentage of total catch from the commercial, recreational (including charter boat) and Indigenous sectors (including estimates if data is not available)	Annual analysis by NSW Fisheries of commercial catch returns and available data on catches by other sectors. Data obtained in March/April of each year. Annual analysis by NSW Fisheries, in consultation with the Estuary General MAC in May each year	Begin 2005 and ongoing subject to review every five years	After estimates become available, relative catch between sectors shifts by 25% or more over each five year period	This relates primarily to the objective of monitoring and managing equitable allocations between fishing sector groups, and will exclude catches attributable to recreational fishing havens
3	Landings of species taken in the Estuary General Fishery relative to other commercial fisheries	Commercial catch return data obtained in March/April of each year. Annual analysis by NSW Fisheries, in consultation with the Estuary General MAC in May each year	Begin 2003 and ongoing subject to annual review	Relative landings between commercial fisheries shifts by 25% or more within any five year period	This relates primarily to the objective of monitoring and managing equitable allocations between commercial fisheries
4	Catch of primary and key secondary species by Estuary General Fishery endorsement type	Commercial catch return data obtained in March/April of each year. Annual analysis by NSW Fisheries, in consultation with the Estuary General MAC in May each year	Begin 2003 and ongoing subject to annual review	Relative landings between commercial fisheries shifts by 25% or more within any five year period	This relates primarily to the objective of monitoring and managing equitable allocations within the fishery
5	Total annual commercial landings taken in each region	Commercial catch return data obtained in March/April of each year. Annual analysis by NSW Fisheries, in consultation with the Estuary General MAC in May each year	Begin 2003 and ongoing subject to annual review	Landings between any two regions shifts by 25% or more within any five year period	This relates primarily to the objective of monitoring and managing equitable allocations within the fishery

Table 16. Performance monitoring provisions (continued)

GOAL 5. To promote a viable commercial fishery (consistent with ecological sustainability)					
No.	Performance indicator	Monitoring program	Time frame	Trigger point	Comments
1	Median fishery-wide gross return of estuary general fishers derived from commercial fishing in NSW	Part of the annual review will involve calculating the median gross return of fishers endorsed in the Estuary General Fishery, by multiplying their monthly catches with the respective average Sydney Fish Market price	Ongoing	Median fishery-wide gross return has not increased by at least 20% four years after the commencement of the share management plan	This relates to the fishery-wide median and will indicate if there is a greater number of economically viable fishing businesses involved in the Estuary General Fishery over time. This should not be interpreted as the gross return of individuals increasing by that amount
2	Average market value of estuary general shares	The market value of shares will be collected and recorded by the Share Registrar upon each share transfer. The average market value will be calculated each year as part of the annual review	Ongoing	No trigger point set at this stage	It is not possible to predict how the value of shares will change during the first few years of share trading. However, once the trading period with increased minimum shareholdings has stabilised, average share value may be a good indicator of economic health of the fishery

Table 16. Performance monitoring provisions (continued)

GOAL 6. To ensure cost-effective estuary general management and compliance programs					
No.	Performance indicator	Monitoring program	Time frame	Trigger point	Comments
1	Rate of compliance relating to the Estuary General Fishery as indicated by quality inspections conducted by NSW Fisheries	The compliance rate will be calculated as part of the annual review using information from the quality inspections reflected on the program activity reports (PARs) that are completed by NSW fisheries officers	Begin 2003 and ongoing subject to annual review	Overall annual rate of compliance with quality inspections is less than 80% or compliance rate with respect to any offences that may be defined as 'share forfeiture offences' by the share management plan is less than 90%	"Quality inspections" will be used as a compliance tool to provide a more comprehensive evaluation of compliance levels in the fishery. It is likely that previously reported levels of compliance will decrease as a result of introducing quality inspections.
2	Number of Estuary General MAC meetings held each year	The number of Estuary General MAC meetings held will be determined as part of the annual review based on the records held by NSW Fisheries	Ongoing	Less than two meetings held in a calendar year, unless otherwise agreed by the MAC	Holding two Estuary General MAC meetings per year is currently a requirement of the Regulation
3	Occasions when the Director, NSW Fisheries, determines that this management strategy is in direct conflict with other approved Commonwealth or State programs	Any major concurrent Government programs will be considered during the annual review, however other programs considered by the Director, NSW Fisheries to be in conflict with this management strategy will be reported to the Estuary General MAC on a case by case basis	Ongoing	Any occasion when the Director, NSW Fisheries determines that this management strategy is inconsistent with other approved Commonwealth and State programs	This includes programs such as the aquatic biodiversity strategy, marine parks and aquatic reserves program

Table 16. Performance monitoring provisions (continued)

GOAL 7. To improve knowledge of the Estuary General Fishery and the resources upon which the fishery relies					
No.	Performance indicator	Monitoring program	Time frame	Trigger point	Comments
1	Scientific observer program is established and providing quality data	Implement a sampling strategy to adequately cover, via an observer survey, all estuarine commercial fishing methods across all regions (though the different methods may be staggered between years)	Begin 2003 and ongoing subject to review every two years	The scientific observer program has not commenced by December 2003	Funding for this new program will be sourced from the fishery participants
2	Total level of funding committed to research projects that the Director, NSW Fisheries determines provide a flow of benefits to the Estuary General Fishery	Annual review by the Director, NSW Fisheries of total research funding from consolidated and external funds that are being spent on the Estuary General Fishery	Begin 2003	To be determined by NSW Fisheries in consultation with the Estuary General MAC	Part of the annual reporting on the fishery management strategy (as described in section 9(c)) will include expenditure on research for the fishery
3	Number of research grant applications submitted to external funding agencies annually relating to the Estuary General Fishery	Via the Estuary General MAC submit at least two grant applications that relate to the fishery to external funding agencies annually	Begin 2003	There are less than two such applications submitted annually	The outcome of such grant applications can not be guaranteed
4	Rate of successful external research funding applications relating to the Estuary General Fishery, measured as a percentage	No monitoring program will be identified until a performance monitor has been developed	-	To be determined	
5	Accuracy of catch return data measured every two years	An analytical comparison of commercial catch returns with Registered Fish Receiver data and observer-based surveys	Begin 2003 and review every two years	The Director, NSW Fisheries, determines that accuracy of data has not improved (assessment of data accuracy is integral to the stock assessment program)	Accuracy will be measured by undertaking comparisons with market records using a sample of endorsement holders and by comparison of data from the observer program

c) Reporting on the performance of the management strategy

There are two types of reports to be prepared under this management strategy. One of these is a review report, which is to be prepared if a performance indicator for the fishery is breached. The other type of report is an annual performance report which reports generally on the performance of the fishery with respect to the management strategy. Both types of reports are discussed in further detail below.

i) Review report in response to trigger points

If the trigger point for a performance indicator is breached, a review is to be undertaken of the likely causes for the breach. Any such review is to include consultation with the Estuary General MAC. In some circumstances, the breach may be related to a performance indicator that measures broader cross fishery issues and will require consultation with other management advisory committees or the Ministerial advisory councils. Cross fishery issues are most likely to involve catch levels of a species that is harvested in more than one fishery.

The majority of information needed to measure performance indicators for the fishery, including catch data and other statistics, will become available around March/April of each year. It would therefore be practical to collect and analyse other information relevant to the performance of the fishery, such as compliance rates and economic data, at the same time. This does not, however, prevent a review from being conducted at any other time should it become apparent that a performance indicator has breached a trigger point.

Once the relevant information is obtained an initial analysis against the trigger points will be undertaken by NSW Fisheries. Where the data or information indicate that a trigger point has been breached, details will be provided to the relevant fishery MACs and the relevant Ministerial advisory councils.

A meeting of the Estuary General MAC should be scheduled around May of each year to review the performance of the fishery against the management strategy. At this meeting, the MAC will be able to review performance indicators that have been breached and provide advice on the suspected reasons for any trigger point breaches. At the same time, the MAC will also be able to provide advice on the preparation of any review reports that are required.

A review report is to be provided to the Minister for Fisheries within three months of the trigger point being breached, and must include the likely reasons for the breach (where known), and any recommendations for remedial actions.

Reviews arising from landings data exceeding trigger points should consider, but not be limited to, the following factors:

- changes in the relative catch levels among harvest sectors (including those beyond NSW jurisdiction)
- new biological or stock information (from any source) available since the most recent review of the species
- changes in the activities or effectiveness of fishing businesses targeting the species
- changes in principal markets or prices for the species
- environmental factors.

A review report should include whether the suspected reasons for the trigger point being breached are the result of a fishery effect or an influence external to the fishery, or both.

If a review concludes that the reasons for the trigger point being breached are due to the operation of the fishery, or if the relevant fishery objectives are compromised if the fishery continued to operate unchanged, management action must be taken with the aim to return the performance indicator to an acceptable range within a specified time period. The nature of any remedial action proposed may vary depending on the circumstances that have been identified as responsible for the trigger point being breached.

A review relating to catch levels of a species may recommend modifications to any fishery management strategy that allows harvesting of that species. This approach to the review process will avoid triggering multiple reviews for a species which is caught in multiple fisheries.

There may be circumstances where no change to management arrangements or the management strategy is deemed necessary following the review. For example, a review could be triggered because the landed catch of a species declines. However, there would be little cause for concern over the performance of the management strategy if the decline in landed catch of a species was clearly caused by a drop in market prices. Any price fluctuations can result in fishers adjusting their activities.

If a review considers that the management objectives or the performance monitoring provisions are inappropriate and need to be modified, the management strategy itself may be amended by the Minister for Fisheries. If the reasons are considered to be due to impacts on the resource from factors external to the fishery, these factors should be identified in the review and referred to the relevant managing agency for action.

All review reports will be publicly available.

ii) Annual performance report

An annual performance report assessing the performance of the fishery will be submitted to the Minister for Fisheries each year following the review of trigger points by the MAC. The annual performance report is the formal mechanism for reporting on performance indicators and trigger points, and will be made publicly available. This report will also include a review of progress made in implementing each of the management responses.

The vast majority of management responses in the management strategy are linked to specified implementation timeframes. Some of these management actions are subject to specific trigger points that ensure reviews and appropriate remedial actions if the target timeframes are not met.

If the performance report identifies that any specified target timeframe has not been met, a review will be undertaken and any necessary remedial measures recommended to the Minister for Fisheries⁵.

The fishery will continue to be regarded as being managed within the terms of the management strategy whilst any remedial measures associated with breaches in timeframes or

⁵ In some circumstances a required action may be completed outside the scheduled timeframe, but prior to the commencement of the review (e.g. an action was due for completion by September 2003, but it is actually completed in October 2003). When this occurs, it is not necessary to proceed with a review.

triggering of performance indicators are being considered through the review process and/or by the Minister for Fisheries.

d) Contingency plans for unpredictable events

In addition to the circumstances outlined above, the Minister for Fisheries may order a review and/or make a modification to the management strategy in circumstances declared by the Minister as requiring contingency action, or upon the recommendation of the Estuary General MAC. In the case of the former, the Minister must consult the Estuary General MAC on the proposed modification or review.

These circumstances may include (but are not limited to) food safety events, environmental events, results of research programs or unpredictable changes in fishing activity over time. The Minister may also amend this fishery management strategy if matters identified during the finalisation of any other fishery management strategy indicate that a modification is necessary.

Notwithstanding the above, however, the Minister for Fisheries may make amendments to the management strategy that the Minister considers to be minor in nature at any time.

e) Monitoring performance of stock assessment

Stock assessment involves the use of various statistical and mathematical calculations to make quantitative predictions about the reactions of fish populations to alternative management choices (Hilborn and Walters, 1992). These calculations can vary from simple graphical presentations of commercial landings to sophisticated computer models that predict the biomass of the stock under various harvest regimes. The data and the scientific expertise required to apply these methods vary enormously. Stock assessment processes for the Estuary General Fishery need to be defined to suit the resources available. To achieve this outcome, short-term and long-term approaches will be applied.

The short-term approach will be to use landings of target species to monitor the performance of this fishery. A catch and effort working group convened by NSW Fisheries undertakes an annual workshop with stakeholders (including members of management advisory committees, the Seafood Industry Council and the Nature Conservation Council) during which catch data from the previous year are reviewed to detect concerning trends and identify areas where future research should be focussed.

Within 12 months of the commencement of the management strategy a stock assessment process for primary species will be proposed. The process needs to be appropriate for the data available and the value of this fishery. This will be the long-term approach that will be used to assess the primary species of this fishery. Two principles will apply to the long-term proposal for stock assessments:

- €# assessment methods will be consistent with the data (ie. the assessment program design will not rely on data sources that are not funded)
- €# assessment methods will be at least equivalent to approaches for fisheries of similar value in other Australian jurisdictions.

The exact methods that will be proposed may require the development of novel approaches. Trigger points will be an integral component of the stock assessment proposal for each species. Peer review of the assessment methods will be completed within three years of the proposal being developed, with the following terms of reference, to:

- ## report upon the technical soundness of the assessment methods proposed
- ## report upon the cost-effectiveness of the assessment methods proposed
- ## indicate if the assessment process will be likely provide timely information for the management of the fishery
- ## report upon the conditions where the assessment process is likely to be unsatisfactory
- ## recommend revisions to the proposed approach including additional data collection strategies that should be considered.

The schedule for providing stock assessments can not and should not be the same for all primary species. Priorities for each species should be determined in consultation with the assessment scientists and the appropriate MACs. The Estuary General MAC will be briefed on information used in the stock assessment process and other research outcomes relevant to the fishery. This information will be used in the preparation of NSW Fisheries' status reports.

f) Setting trigger points for monitoring changes in commercial landings

A system to detect undesirable changes in landings will be used while stock assessments are being developed for primary species. This primary monitoring tool is also likely to be in place for an extended period for the many species of low value (and/or catch) that do not have better estimates of stock status. As biological reference points become available from stock assessments, monitoring based solely on landings will be phased out.

Systems for monitoring based on landings only are rarely formalised, as proposed in this management strategy, and published examples of such systems could not be found. However, the large number of species caught in most NSW fisheries means that some species must remain a relatively low priority for stock assessment. For these species, monitoring landings is the only practical choice.

A more sophisticated treatment of catch data often used in stock assessments is catch per unit effort (or CPUE) analysis. However, caution must be taken in analysing CPUE information for the reasons described in the box on the following page.

The aim of trigger points based on changes in catch is to force a review of a species' circumstance when landings go beyond a reasonable expected range. Trigger points must be set at a level where they are sensitive enough to be likely to register a real problem but not so sensitive that they constantly trigger when there is no need for a review.

Trigger points will be set in a precautionary manner relative to known levels of variation in annual catch levels. That is, trigger levels will be set to be within the known range of past landings variation, leading to the expectation of "false alarms". This is desirable insurance that ensures reviews will be done when management action is needed.

Note on the use of catch per unit effort as an indicator of relative abundance

It is tempting to consider that there is a simple relationship between fish stock abundance and catch which has been scaled by units of fishing effort (known as catch per unit of effort or CPUE). Most stock assessment models assume that CPUE is directly proportional to stock abundance. This can only be the case if fishing effort is randomly distributed, and we know that this is seldom the case. Some fisheries target aggregations of fish, which can mean that CPUE stays high, even as total abundance drops because the remaining fish continue to aggregate.

The correct use of fishing effort data requires a good knowledge of the biology of each species that it is applied to, so that its spatial distribution can be adequately considered. Information about fishers' behaviour and gear is also important so that effort units can be standardised and changes over time can be accounted for.

An index of relative abundance based on CPUE is likely to be biased when applied to a range of species, even when caught by the same gear (Richards and Schnute, 1986). This means the application of CPUE information from commercial catch records would need to be adjusted for each species.

Finally, CPUE series need to take account of changes in reporting (see Pease and Grinberg, 1995) or other changes that may have changed catchability. The difficulties as they relate to the NSW Estuary General Fishery are discussed in Scandol and Forrest (2001). For these reasons, CPUE has not been used in the development of initial performance indicators and trigger points in this management strategy.

There are a number of factors that must be considered when selecting a trigger level based on performance of fishery or species landings:

- ⌘ level of variation in recorded historic landings
- ⌘ management changes over time that may affect landings levels
- ⌘ changes in the catch recording system that limit interpretation of landings data
- ⌘ relevant environmental events
- ⌘ changes in activities by important harvesters of that species.

All these factors have and will continue to influence how changes in catch can be interpreted.

The landings-based trigger points are designed to measure different types of changes in catch of the primary and key secondary species.

The first type of trigger point is designed to cause a review when landings change dramatically from one year to next – the “single year trigger”. The change that triggers a review is not an unprecedented change but rather a change that was well within the normal range of variation, but expected infrequently (perhaps once every five to ten years). The single year triggers are based on the variation in year-to-year changes in the historical catch data. The trigger points are set at a level of change that occurs less than 20% of the time. In other words, changes that are at least as large as the largest 20% of historical changes will trigger a review. This level of change is chosen to ensure that there will be a review if there is a dramatic change in the circumstances of the fishery over a short period. Setting the trigger points this way means accepting the inevitable “false alarms” when the performance indicator is at the edge of its natural range. The review will determine which trigger breaches are “false alarms”. The reference level for this short term trigger will be the landings level from the previous year as presented in Table 17.

The second type of trigger point is designed to detect patterns in landings that are of sufficient concern to require a review (e.g. a downward or upward trend over several years). Time series of landings for any commercial species are likely to be correlated from one year to the next (ie. the level

of landings one year is related to the level of landings in one or more previous years.) This type of data structure will complicate the analysis of trends in landings. It is not a trivial exercise to devise an objective system to force a review when catch data exhibit certain patterns. For example, downward trends in landings should cause concern but the monitoring system must consider the importance of the rate of decline and the time period over which the decline occurs. The analysis must address the likelihood of relationships between data points and any relevant biological considerations (e.g. does the species come from a group that is known to be relatively long- or short-lived?).

The assistance of a statistical expert will be sought to develop an objective system for defining trigger points that detect concerning trends in landings. The system will be developed and tested during the first nine months and applied to all species taken in the fishery when the first performance report is prepared. The system may involve several different measures, including the steepness of the trend and the period over which the trend occurs.

g) How trigger points based on landings will be applied

The single year trigger is explained in the examples shown in Figure 4. These examples below explain how the single year trigger points will work with a hypothetical starting point (five years ago), trigger levels and existing catch data.

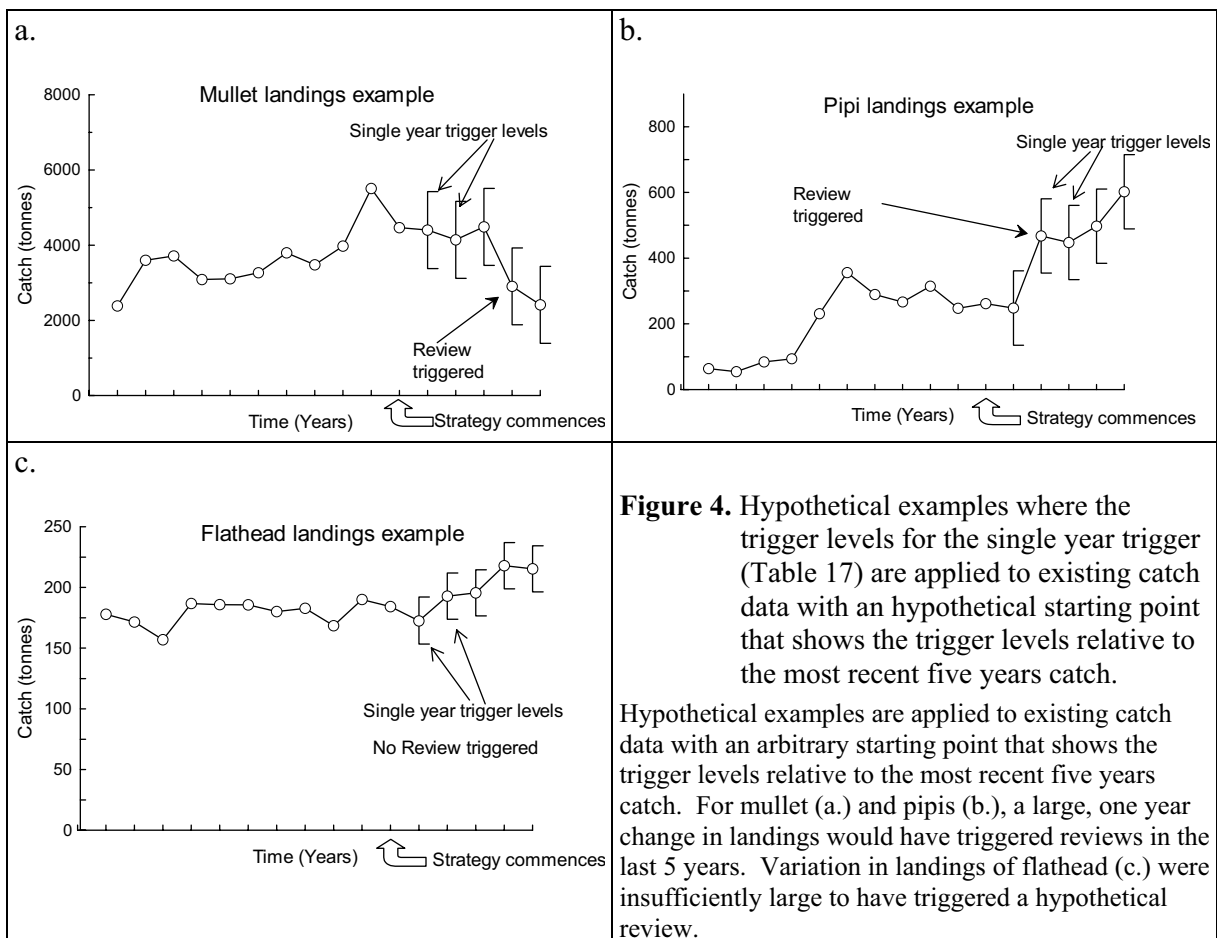


Figure 4. Hypothetical examples where the trigger levels for the single year trigger (Table 17) are applied to existing catch data with an hypothetical starting point that shows the trigger levels relative to the most recent five years catch.

Hypothetical examples are applied to existing catch data with an arbitrary starting point that shows the trigger levels relative to the most recent five years catch. For mullet (a.) and pipis (b.), a large, one year change in landings would have triggered reviews in the last 5 years. Variation in landings of flathead (c.) were insufficiently large to have triggered a hypothetical review.

Table 17. Levels of trigger points for single year trigger.

Note: These levels will apply for the first year of the management strategy only. At each annual review the trigger levels for the next year will be calculated, using the most recent year of catch data as the new reference level. The average annual change was calculated over the 16 years commencing in 1984/85 except for river eels, where records commenced in 1990/91. All values are in tonnes. (CI = confidence interval)

	Reference level (2000/01 catch)	Average annual change (+ 80% CI)	First year upper trigger point	First year lower trigger point
<i>Primary species</i>				
Sea mullet	3230.2	1022	4252.2	2208.2
Luderick	509.0	102.9	611.9	406.1
Yellowfin bream	296.6	101.7	398.3	194.9
School prawns	1141.1	373.5	1514.6	767.6
Dusky flathead	174.6	18.7	193.3	155.9
Eastern king prawn	1066.5	179.4	1245.9	887.1
Sand whiting	149.3	38.7	188.0	110.6
Mud crab	128.1	40.2	168.3	87.9
River eels	185.3	64.7	250.0	120.6
Pipis	621.5	113.3	734.8	508.2
<i>Key secondary species</i>				
Blue swimmer crab	130.2	68.5	198.7	61.7
Greasyback prawns	21.5	28.9	50.4	0.0
Mulloway	65.4	30	95.4	35.4
Cockles	51.1	27.3	78.4	23.8
Beachworms	19.4	14.7	34.1	4.7
River garfish	36.4	12.7	49.1	23.7
Silver biddy	131.6	43.8	175.4	87.8
Flat tail mullet	94.7	29.6	124.3	65.1
Trumpeter whiting	62.8	16.1	78.9	46.7

Reference level figures extracted in June 2002.

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Appendix 1 The ten most prominent species in the Estuary General Fishery

This section provides an overview of the selected primary and secondary species, which constitute in excess of 80% of the total landed weight taken in the Estuary General Fishery. The description of each species includes four graphs showing catch trends, seasonal trends, catch between other commercial fisheries and the main gear types used in harvesting each of these species. For a full description of the species and historic catch and effort trends, refer to the current NSW Fisheries' *Status of Fisheries Resources* report, which are made available on the NSW Fisheries website: www.fisheries.nsw.gov.au. Information relating to prices for the species was obtained from Sydney Fish Market records, and other marketing information was obtained from fish wholesalers or exporters in NSW.

Sea mullet (*Mugil cephalus*)

The following overview is based on information provided in SPCC (1981b), Kailola *et al.*, (1993), Pollard and Grown (1993), Pease and Grinberg (1995), Virgona (1995) Gibbs (1997), Yearsley *et al.*, (1999), Fletcher and McVea (2000), and the NSW Fisheries catch statistics database.

The sea, bully or striped mullet (*Mugil cephalus*) occurs around much of the Australian coastline, as well as in many temperate and subtropical areas worldwide. In NSW waters, sea mullet are found primarily within estuaries and inshore waters, although they also occur within the freshwater reaches of coastal rivers. Within estuaries, sea mullet are found in association with shallow weed beds and bare substrates. They mostly eat microscopic plants (e.g. blue-green algae, filamentous green algae and diatoms), macroalgae (e.g. the green sea lettuce *Ulva* spp.) and detritus, and often ingest large amounts of substrate in the process.

Spawning occurs at sea, from autumn to early winter. The larvae enter estuaries and the small juveniles subsequently live in sheltered shallow water habitats. Many sea mullet travel into freshwaters, where they may reside for long periods, particularly if denied passage back to the estuary. Sea mullet grow quite quickly, taking about 4 years to reach 440 mm in length. Maximum length is approximately 750 mm. Between late summer and early winter, adult sea mullet (two or more years of age) leave estuaries in large schools that then travel northward along the open coastline on their way to spawning grounds. This behaviour appears to be triggered by strong westerly winds and falling water temperatures. Shorter migrations by so-called 'hard-gut' (sub-adult) also occur periodically, possibly in response to heavy flooding.

Sea mullet comprise the largest catch by weight of all species taken in commercial fisheries in NSW. Mesh nets are the principal gear type used to catch sea mullet in this fishery.

Annual landings progressively increased after 1984/85 and peaked at 5560 tonnes in 1993/94. Landings remained relatively high, between 4500 and 5000 tonnes until 1997/98. These trends reflected an increase in ocean landings, which occurred in response to the development of an export market for roe. Throughout this period, estuary landings were relatively stable. After 1997/98, landings declined significantly. This decline has been most dramatic in the ocean fishery, but estuary landings have also declined slightly. The recent decline in landings almost certainly reflects a decrease in abundance of stock, although the cause is unclear. The decline in abundance may be an effect of over-harvesting by the ocean hauling fishery, but could also be a natural fluctuation due to recruitment variability.

The majority of the sea mullet harvest from NSW estuaries is sold as whole fish and a significant quantity of the female roe (eggs) is exported. When sold as whole fish through the Sydney Fish Market, sea mullet attracted an average wholesale price of \$1.78/kg for the period 1995/96 to 1999/2000. A much higher return however, is achieved by exporting the roe to markets in South-East Asia and the Middle East.

Sea mullet (*Mugil cephalus*)

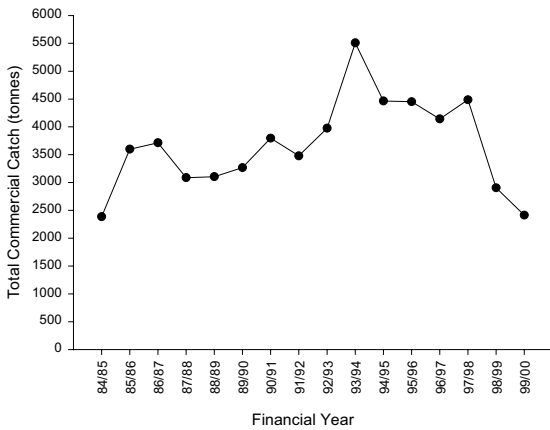


Figure A1. The total reported commercial catch of sea mullet in NSW for the period 1984/85 to 1999/2000

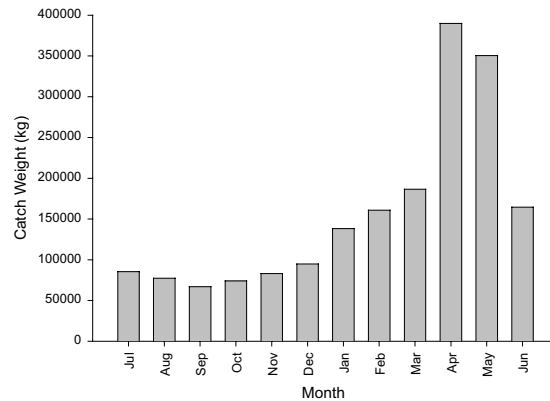


Figure A2. The average reported catch per month of sea mullet in the estuary general fishery for the period 1997/98 and 1998/99.

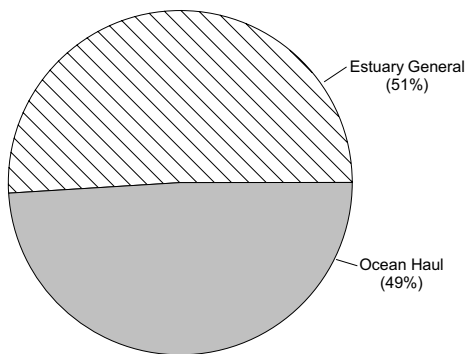


Figure A3. The average percentage of reported catch of sea mullet between commercial fisheries for the period 1997/98 and 1998/99

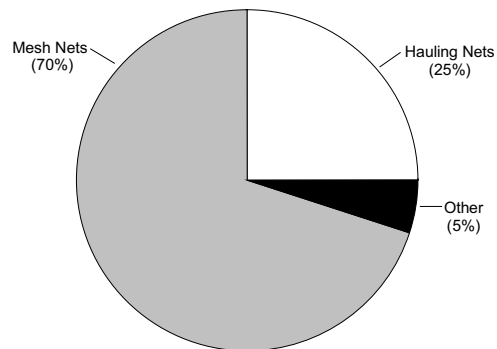


Figure A4. The average percentage of reported catch of sea mullet by gear types in the estuary general fishery for the period 1997/98 and 1998/99.

Luderick (*Girella tricuspidata*)

The following overview is based on information provided in Pease *et al.*, (1981c), Kailola *et al.*, (1993), Pollard and Grouns (1993), Pease and Grinberg (1995), Gibbs (1997), Yearsley *et al.*, (1999), Fletcher and McVea (2000), and the NSW Fisheries catch statistics database.

The luderick (*Girella tricuspidata*) occurs from Noosa in Queensland to Tasmania and South Australia and is also found in New Zealand. In NSW Waters, luderick are found primarily within estuaries and around nearshore rocky reefs. Within estuaries, luderick are mainly found in association with 'weedy' habitats such as seagrass beds and rocky reefs. They are primarily herbivorous, preferring certain species of green macroalgae; although other foods (particularly small invertebrates) also form part of their diet.

Spawning occurs in surf zones near estuary entrances, typically during winter. The larvae enter estuaries and the small juveniles subsequently live in sheltered shallow water habitats (particularly seagrass beds and mangrove channels). Larger juveniles occur in slightly deeper waters, and are particularly common around estuarine reefs. Luderick grow fairly slowly, taking approximately 5 years to reach 270 mm (fork length). They mature at around 250 mm and undertake a northerly migration along the NSW coast prior to spawning. Maximum length is approximately 700 mm (total length). Adults usually return to estuarine waters after spawning.

Luderick in the estuary general fishery are primarily caught in mesh nets and hauling nets during autumn and winter.

When sold as whole fish through the Sydney Fish Market, luderick attracted an average wholesale price of \$1.42/kg for the period 1995/96 to 1999/2000. A higher price is generally obtained in the Melbourne Fish Market, so many fishers on the south coast send luderick to markets in Melbourne rather than to Sydney. A proportion of luderick is salted and used for bait in the commercial rock lobster fishery, although estimates of this amount are not recorded.

Luderick (*Girella tricuspidata*)

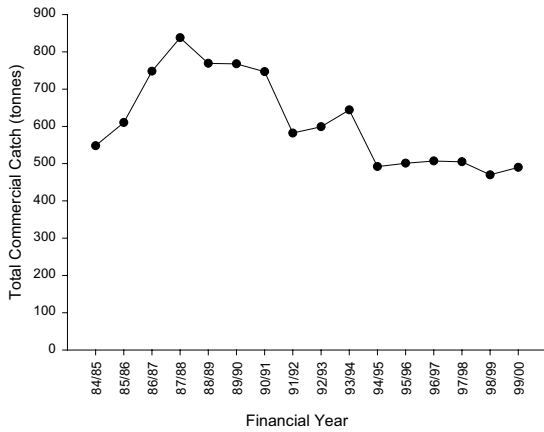


Figure A5. The total reported commercial catch of luderick in NSW for the period 1984/85 to 1999/2000.

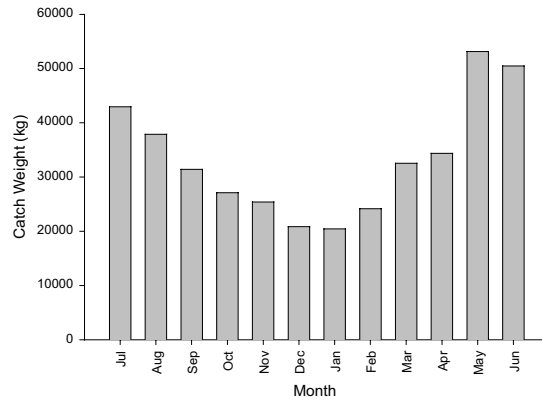


Figure A6. The average reported catch per month of luderick in the estuary general fishery for the period 1997/98 and 1998/99.

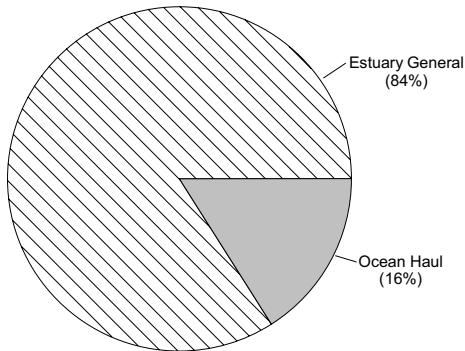


Figure A7. The average percentage of reported catch of luderick between commercial fisheries for the period 1997/98 and 1998/99.

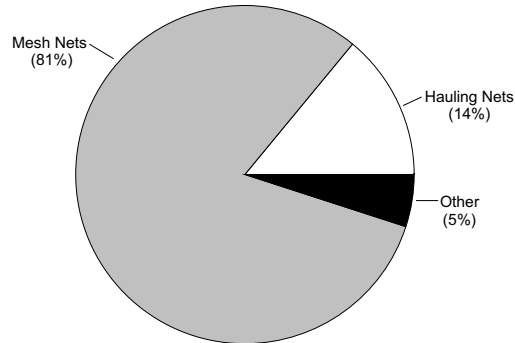


Figure A8. The average percentage of reported catch of luderick by gear types in the estuary general fishery for the period 1997/98 and 1998/99.

Yellowfin bream (*Acanthopagrus australis*)

The following overview is based on information provided in SPCC (1981b), Kailola *et al.*, (1993), Pollard and Growns (1993), West (1993) Pease and Grinberg (1995), Gibbs (1997), Yearsley *et al.*, (1999), Fletcher and McVea (2000), Gray *et al.*, (2000) and the NSW Fisheries catch statistics database.

The yellowfin bream (*Acanthopagrus australis*) is endemic to Australia and occurs from Townsville in Queensland to the Gippsland lakes in Victoria. In NSW Waters, yellowfin bream are found primarily within estuaries and along nearshore beaches and rocky reefs, although they also occur within the lower freshwater reaches of coastal rivers. Within estuaries, yellowfin bream are found in association with all types of habitat, including seagrass beds, mangroves, bare substrates and rocky reefs. They eat a wide variety of foods, including small fish, molluscs, crustaceans and worms.

Spawning occurs in surf zones near estuary entrances, typically during winter. The larvae enter estuaries and the small juveniles subsequently live in sheltered shallow water habitats (particularly seagrass beds and mangrove channels). Larger juveniles occur in slightly deeper waters, and are particularly common around estuarine reefs. Yellowfin bream grow slowly, taking about 5 years to reach 230 mm (fork length). They mature at around 220 mm and appear to undertake extensive pre-spawning migrations. Maximum length is about 660 mm (total length). Adults usually return to estuarine waters after spawning.

The majority of bream taken in the estuary general fishery are caught in meshing and hauling nets with a smaller number taken in fish traps. The highest commercial catches of bream occur in winter and autumn. Yellowfin bream are also taken in large quantities by recreational fishers.

Reported landings of bream have declined over the past seven years. Reductions in past three years may be partly attributed to phasing out the use of pound (figure 6) nets in Port Stephens and adjoining coastal waters, but could also be attributable to general declines in reported estuarine fishing effort. Declines in landings could also be attributed to environmental conditions and the availability of fish in the ocean hauling fishery. Despite the recent reductions in reported landings, the age compositions of catches have remained relatively stable, indicating no declines in older fish. The absence of a reliable index of stock abundance casts much uncertainty over the status of the bream stock.

Bream are a popular table fish with the majority sold fresh on the domestic market. When sold as whole fish through the Sydney Fish Market, bream attracted an average wholesale price of \$8.68/kg for the period 1995/96 to 1999/2000. Yellowfin bream should not be confused with blue morwong, which are often sold under the marketing name of 'bream' or 'sea bream'. Luderick are also often sold as 'sea bream'.

Black bream are a similar species to yellowfin bream and are found in estuarine waters on the NSW coast south of Myall Lakes. They are almost exclusively found in estuarine waters, and generally only enter ocean waters after periods of flood. Black bream are often reported as yellowfin bream during catch reporting, as distinguishing the difference between the species by visual examination can be very difficult. The differentiation between the species is made more difficult through a percentage of hybrids that exist as a result of the two species interbreeding. Black bream only constitute a small component (less than 5%) of overall estuarine bream catches.

Yellowfin bream (*Acanthopagrus australis*)

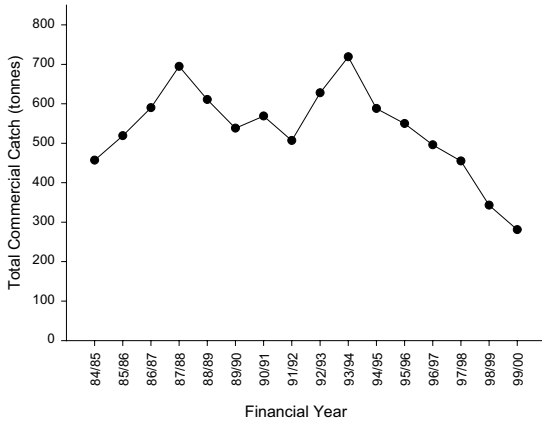


Figure A9. The total reported commercial catch of bream (yellowfin & black) in NSW for the period 1984/85 to 1999/2000.

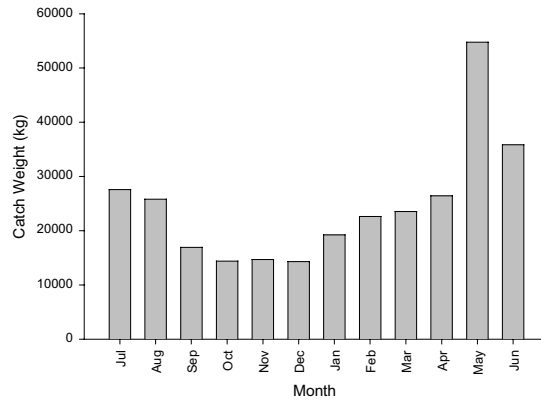


Figure A10. The average reported catch per month of bream (yellowfin & black) in the estuary general fishery for the period 1997/98 and 1998/99.

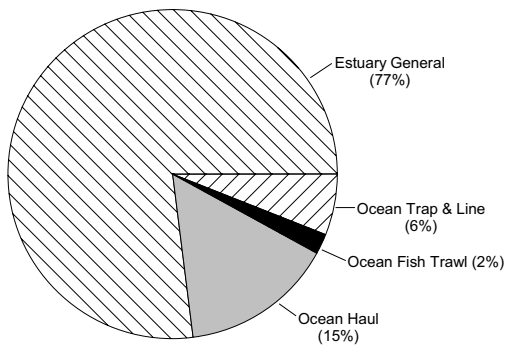


Figure A11. The average percentage of reported catch of bream (yellowfin & black) between commercial fisheries for the period 1997/98 and 1998/99

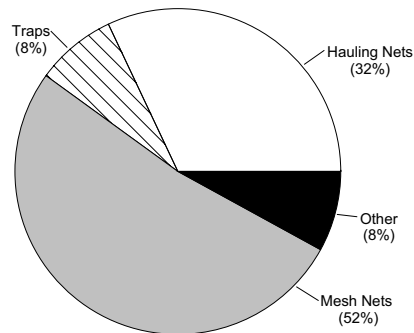


Figure A12. The average percentage of reported catch of bream (yellowfin & black) by gear types in the estuary general fishery for the period 1997/98 and 1998/99.

School prawns (*Metapenaeus macleayi*)

The following overview is based on information provided in Grey *et al.*, (1983), Kailola *et al.*, (1993), Pollard and Grown (1993), Pease and Grinberg (1995), Yearsley *et al.*, (1999), Fletcher and McVea (2000), and the NSW Fisheries catch statistics database.

The school prawn (*Metapenaeus macleayi*) occurs along the east coast of Australia, between southern Queensland and eastern Victoria. Throughout this range, school prawns inhabit both estuaries (mostly as juveniles and sub-adults) and inshore ocean waters (as adults). Within estuaries, they prefer soft muddy substrates and areas of seagrass, and can be found well upstream into brackish to fresh waters. School prawns eat a variety of small invertebrates and detritus.

School prawns spawn in the ocean off NSW between February and May. After a larval stage of about 2 to 3 weeks, the postlarval prawns enter estuaries and move upstream. By the following spring, the now adolescent prawns return downstream in preparation for the next spawning. School prawns grow to 130 mm (males) and 160 mm (females) and generally live for 12 to 18 months, spawning only once. Rainfall and the associated river discharge are thought to be important cues in the life cycle of school prawns, in that it appears to facilitate downstream migration, gonad maturation, spawning success and larval return. School prawns may undertake oceanic migrations of up to approximately 100 km.

School prawns are taken in hauling nets, running nets, set pockets nets and seine nets in this fishery. They are also heavily targeted by the estuary prawn trawl fishery, and by the ocean prawn trawl fleet after periods of high rainfall or flooding.

There is a large domestic market for larger school prawns for human consumption, and substantial quantities, especially from the Clarence and Hawkesbury Rivers, are sold elsewhere for recreational fishing bait. When sold for consumption through the Sydney Fish Market, school prawns attracted an average wholesale price of \$6.87/kg for the period 1995/96 to 1999/2000.

School prawns (*Metapenaeus macleayi*)

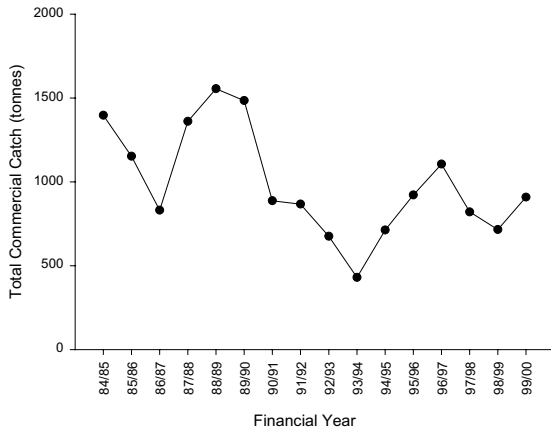


Figure A13. The total reported commercial catch of school prawn in NSW for the period 1984/85 to 1999/2000.

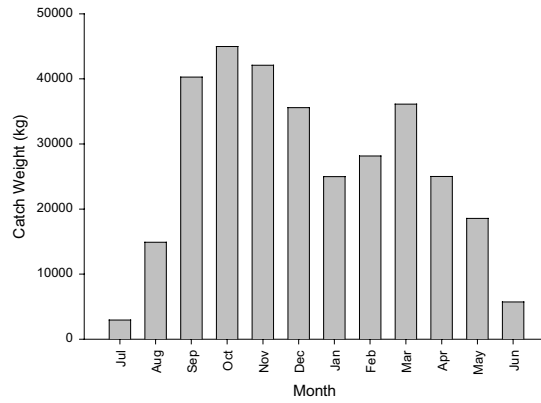


Figure A14. The average reported catch per month of school prawn in the estuary general fishery for the period 1997/98 and 1998/99.

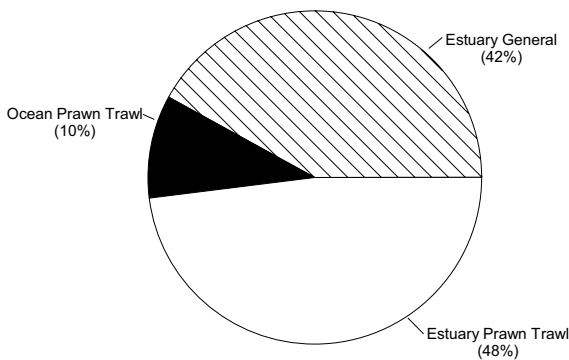


Figure A15. The average percentage of reported catch of school prawn between commercial fisheries for the period 1997/98 and 1998/99.

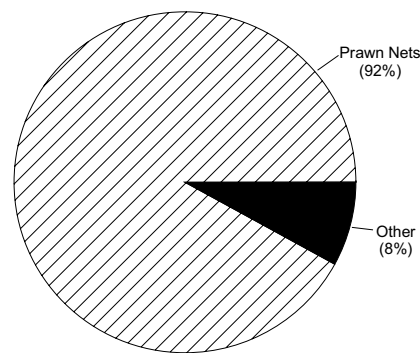


Figure A16. The average percentage of reported catch of school prawn by gear types in the estuary general fishery for the period 1997/98 and 1998/99.

Dusky flathead (*Platycephalus fuscus*)

The following overview is based on information provided in SPCC (1981b), Kailola *et al.*, (1993), Pollard and Growns (1993), West (1993), Pease and Grinberg (1995), Gibbs (1997), Yearsley *et al.*, (1999), Fletcher and McVea (2000), and the NSW Fisheries catch statistics database.

The dusky flathead (*Platycephalus fuscus*) is endemic to Australia and occurs from Cairns in Queensland to South Australia. In NSW Waters, dusky flathead are found primarily within estuaries, but also occur in inshore ocean waters. They are a bottom dwelling fish and are normally found on soft substrates, including mud, sand and seagrass. Dusky flathead eat small fish and a variety of invertebrates including prawns, crabs and squid. They are essentially ambush predators that lie and wait (often partly buried) for passing prey.

Spawning appears to occur both in the lower reaches of estuaries and in the sea, typically during summer. The larvae enter estuaries and the small juveniles subsequently live in the same habitats as the adults. Dusky flathead grow quickly, reaching 400 mm (Fork Length) after 3 years. They mature at around 320 mm (males) to 360 mm (females). They are reported to reach 1.5 metres in length.

Commercial catch of dusky flathead is almost exclusively limited to the estuary general fishery with large numbers also taken by recreational fishers. The highest levels of commercial catches occur during the winter months. In July 2001, the minimum legal length for this species increased from 33 to 36 cm.

Dusky flathead are sold mostly as fillets or whole fish. When sold as whole fish through the Sydney Fish Market, dusky flathead attracted an average wholesale price of \$4.08/kg for the period 1995/96 to 1999/2000.

Dusky flathead (*Platycephalus fuscus*)

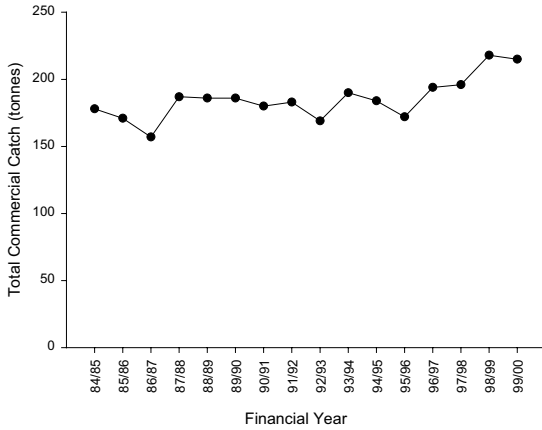


Figure A17. The total reported commercial catch of dusky flathead in NSW for the period 1984/85 to 1999/2000

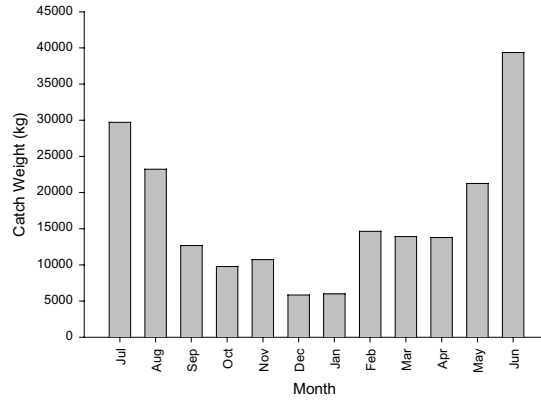


Figure A18. The average reported catch per month of dusky flathead in the estuary general fishery for the period 1997/98 and 1998/99.

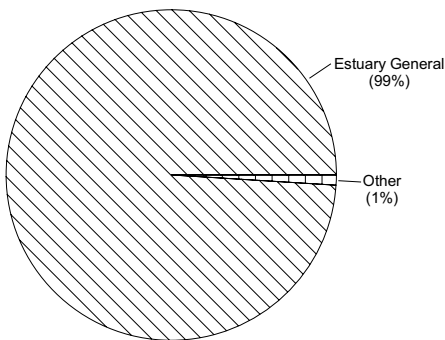


Figure A19. The average percentage of reported catch of dusky flathead between commercial fisheries for the period 1997/98 and 1998/99.

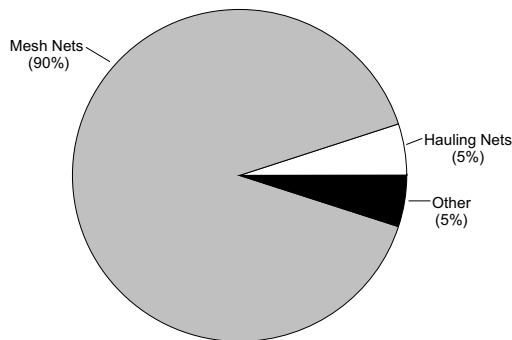


Figure A20. The average percentage of reported catch of dusky flathead by gear types in the estuary general fishery for the period 1997/98 and 1998/99.

Blue swimmer crab (*Portunus pelagicus*)

The following overview is based on information provided in Kailola *et al.*, (1993), Pollard and Grouns (1993), Pease and Grinberg (1995), Yearsley *et al.*, (1999), Fletcher and McVea (2000), and the NSW Fisheries catch statistics database.

The blue swimmer crab (*Portunus pelagicus*) inhabits coastal waters in all Australian states except Tasmania and Victoria, and is also widely distributed throughout the Indo-Pacific region. In NSW Waters, blue swimmer crabs are found primarily within lower estuaries and inshore coastal waters. Within estuaries, they are found in association with mud, sand and seagrass, and are often buried in the sediment. Blue swimmer crabs mostly prey on slow-moving invertebrates such as bivalve molluscs, crustaceans and worms, but also scavenge on material including dead fish and squid.

Based on reports from South Australia and Western Australia, blue swimmer crabs in NSW are likely to spawn in both lower estuarine and ocean waters, with peak spawning expected in spring or summer. The larvae may drift well out to sea before settling in shallow estuarine or inshore waters, in areas similar to those inhabited by adults. Blue swimmer crabs grow in excess of 200 mm (carapace width) and live for up to 3 years. Size at maturity is variable, but based on studies from other states, is likely to be around 90 mm in NSW (ie. at about 1 year of age).

Reported landings of blue swimmer crab increased dramatically from <50 to >200 tonnes between 1990 and 1992, after which it stabilised to around 200 tonnes per-annum. This increase in landings is possibly related to expansions in the market for blue swimmer crab and the associated value of the product.

Blue swimmer crabs are caught in fish traps, hoop nets and mesh nets in the estuary general fishery, and are also caught as an incidental catch in the estuary prawn trawl fishery.

There is a small export market for blue swimmer crabs, but the majority of crabs are sold whole cooked or uncooked in local markets. When sold as whole fish through the Sydney Fish Market, blue swimmer crabs attracted an average wholesale price of \$6.46 per kilogram for the period 1995/96 to 1999/2000.

Blue swimmer crab (*Portunus pelagicus*)

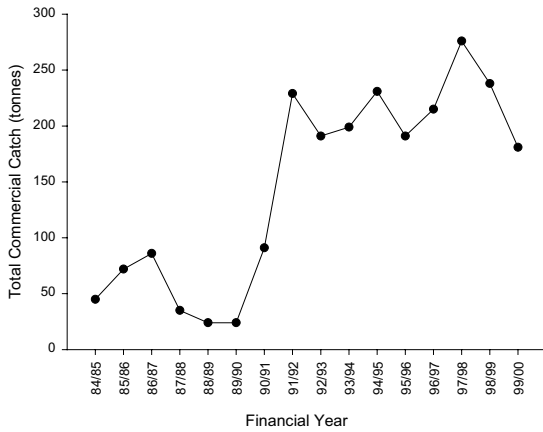


Figure A21. The total reported commercial catch of blue swimmer crab in NSW for the period 1984/85 to 1999/2000.

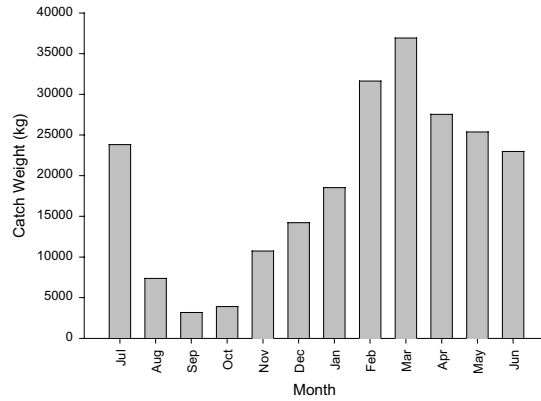


Figure A22. The average reported catch per month of blue swimmer crab in the estuary general fishery for the period 1997/98 and 1998/99.

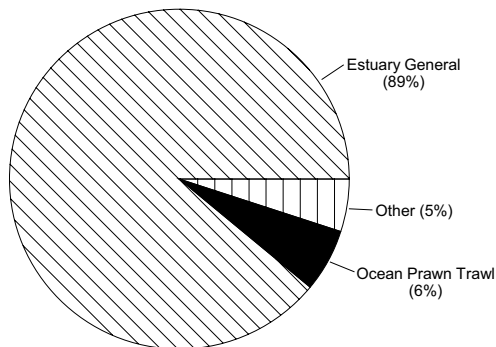


Figure A23. The average percentage of reported catch of blue swimmer crab between commercial fisheries for the period 1997/98 and 1998/99.

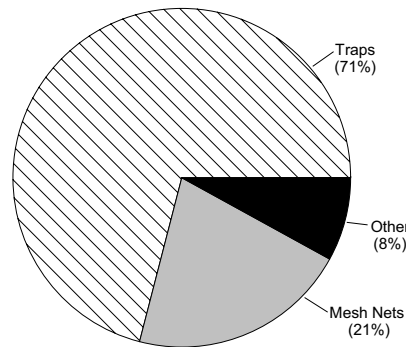


Figure A24. The average percentage of reported catch of blue swimmer crab by gear types in the estuary general fishery for the period 1997/98 and 1998/99.

Sand whiting (*Sillago ciliata*)

The following overview is based on information provided in SPCC (1981a), Hutchins and Swainston (1986), Kailola *et al.*, (1993), Pollard and Grown (1993), West (1993) Pease and Grinberg (1995), Gibbs (1997), Yearsley *et al.*, (1999), Fletcher and McVea (2000), and the NSW Fisheries catch statistics database.

The sand whiting (*Sillago ciliata*) occurs along the entire eastern coastline of Australia, from Cape York (Queensland) down to eastern Tasmania. It is also found in New Caledonia and Papua New Guinea. In NSW waters, sand whiting are found within estuaries and in coastal waters off ocean beaches. Within estuaries, the favoured habitat is bare sandy substrate. Sand whiting eat bottom-dwelling invertebrates, particularly polychaete worms, crustaceans and molluscs taken by fossicking through the sand.

Spawning occurs near river mouths, typically during summer. Many of the larvae enter estuaries, with the small juveniles preferring shallow water (particularly along sandy shores, but also in and around seagrasses and mangroves). Sand whiting grow fairly slowly, taking about 5 years to reach 290 mm (fork length). They mature at around 240 mm (males) to 260 mm (females). Maximum length is about 500 mm (total length). After spawning, adults may either enter estuarine waters or remain along ocean beaches.

The majority of sand whiting taken in the estuary general fishery are caught in hauling nets and the catch is reasonably well spread throughout the year.

They are generally sold as whole fish or fillets and when sold whole fish through the Sydney Fish Market, sand whiting attracted an average wholesale price of \$9.27/kg for the period 1995/96 to 1999/2000.

Sand whiting (*Sillago ciliata*)

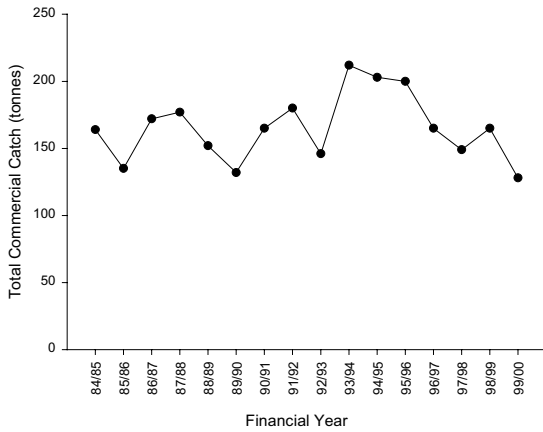


Figure A25. The total reported commercial catch of sand whiting in NSW for the period 1984/85 to 1999/2000.

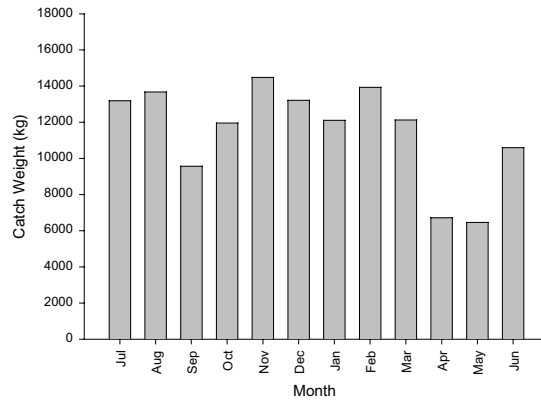


Figure A26. The average reported catch per month of sand whiting in the estuary general fishery for the period 1997/98 and 1998/99.

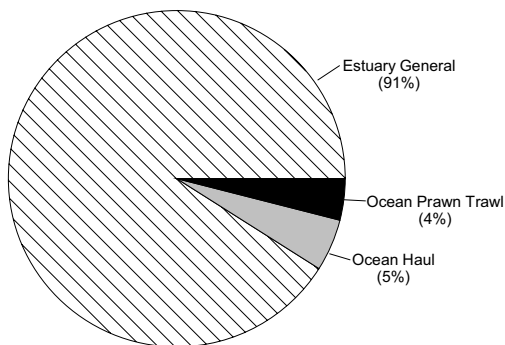


Figure A27. The average percentage of reported catch of sand whiting between commercial fisheries for the period 1997/98 and 1998/99

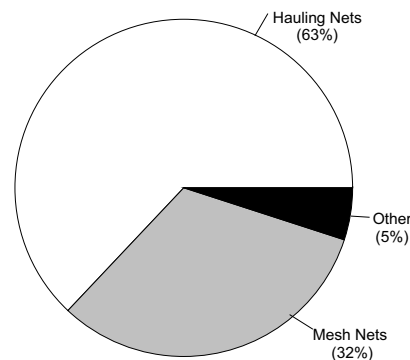


Figure A28. The average percentage of reported catch of sand whiting by gear types in the estuary general fishery for the period 1997/98 and 1998/99.

Silver biddy (*Gerres subfasciatus*)

The following overview is based on information provided in SPCC (1981a), Kailola *et al.*, (1993), Pollard and Grouns (1993), Pease and Grinberg (1995), Gibbs (1997), Hannan and Williams (1998), Yearsley *et al.*, (1999), Fletcher and McVea (2000), and the NSW Fisheries catch statistics database.

The silver biddy (*Gerres subfasciatus*) is widely distributed, occurring on both the east and west coasts of Australia. In NSW Waters, silver biddies are found in both estuaries and inshore waters. Within estuaries, they are generally found over sand and mud bottoms. Their diet consists of small invertebrates, particularly polychaetes.

Spawning appears to occur within both inshore waters and marine-dominated estuaries, primarily during summer and early autumn. The larvae enter estuaries and the small juveniles subsequently live in sheltered shallow water habitats (particularly where cover such as seagrass or algae are available). Larger juveniles appear to be less dependent on such cover, and are found over open bare substrate. Silver biddies are thought to mature at around 200 mm in length. Maximum length is only about 230 mm (total length). Little is known about growth rates or migration patterns.

Silver biddies are one of the smallest finfish commercially harvested in NSW. Silver biddies are similar in appearance to small bream, and this often causes mistaken concern amongst people viewing commercial fishing operations or browsing at fish in retail outlets. Prior to the 1980s silver biddies were landed in small quantities and sold as an incidental catch in hauling operations as their relative value was low.

As prices began to rise for silver biddies, quantities of this previously discarded species started to be more readily retained and sold, leading to a significant expansion in recorded catch. For instance, the average annual recorded catch of silver biddies from 1970/71 to 1980/81 was 51.4 tonnes compared with recent annual catches of more than 130 tonnes. This species is taken mainly by hauling nets year round.

When sold as whole fish through the Sydney Fish Market, silver biddies attracted an average wholesale price of \$2.18/kg for the period 1995/96 to 1999/2000.

Silver biddy (*Gerres subfasciatus*)

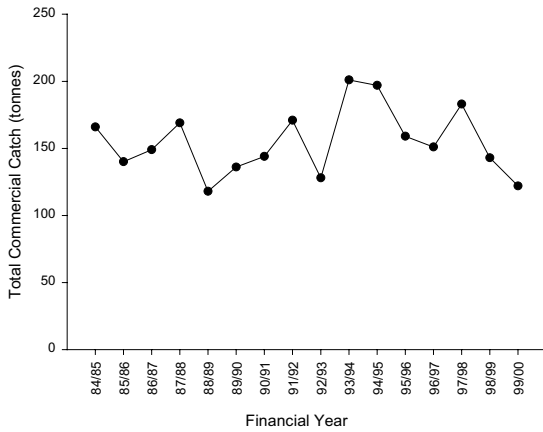


Figure A29. The total reported commercial catch of silver biddy in NSW for the period 1984/85 to 1999/2000.

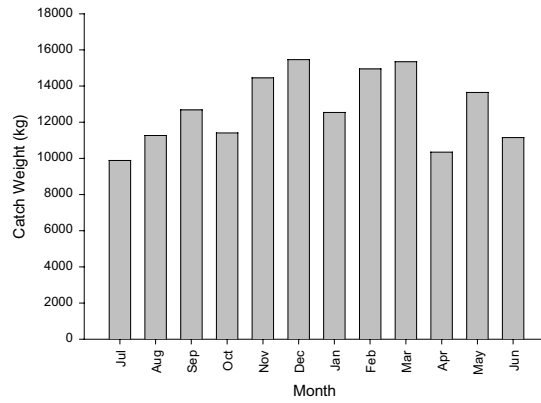


Figure A30. The average reported catch per month of silver biddy in the estuary general fishery for the period 1997/98 and 1998/99.

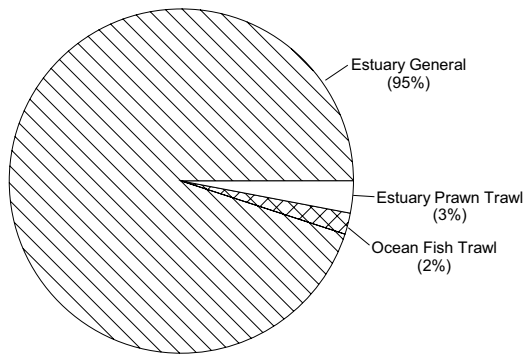


Figure A31. The average percentage of reported catch of silver biddy between commercial fisheries for the period 1997/98 and 1998/99.

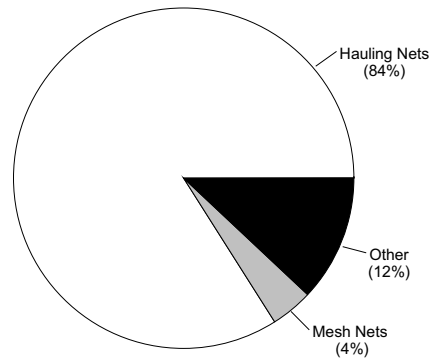


Figure A32. The average percentage of reported catch of silver biddy by gear types in the estuary general fishery for the period 1997/98 and 1998/99.

River (longfinned) eels (*Anguilla reinhardtii*)

The following overview is based on information provided in Kailola *et al.*, (1993), Pollard and Growns (1993), Pease and Grinberg (1995), Beumer (1996), Yearsley *et al.*, (1999), Fletcher and McVea (2000), Pease (pers. comm.) and the NSW Fisheries catch statistics database.

There are two species of ‘river eels’: the long-finned river eel (*Anguilla reinhardtii*) and the short-finned river eel (*A. australis*). Both species occur along the entire NSW coast, but longfinned eels are the primary target of the commercial fishery. Within Australia, the short-finned river eel has a more southerly distribution (approximately between Brisbane and Tasmania) than the long-finned river eel (between Cape York and Tasmania). Both species are also found at Lord Howe Island and Norfolk Island as well as in New Caledonia and New Zealand. Longfinned eels are also found in New Guinea and the Solomon Islands. In NSW waters, both species occur within estuaries and in most freshwaters east of the Great Dividing Range, with the long-finned river eel preferring riverine and estuarine habitats while the short-finned river eel is more likely to be found in still or slow flowing fresh waters. River eels are the top carnivores in upper catchment waters, feeding on crustaceans, molluscs, terrestrial and aquatic insects, and in the case of larger individuals, fish (including other eels) and small waterfowl.

Spawning occurs in deep ocean waters (believed to be the Coral Sea), typically during winter. River eels pass through two distinct larval stages: the leaf-like ‘leptocephali’ larva and the unpigmented, eel-shaped postlarvae known as ‘glass eel’ or ‘elver’. After a long larval period (almost one year) the elvers enter estuaries and freshwaters. In the process, they quickly develop into fully pigmented sub-adults or ‘yellow eels’, which are the focus of the commercial fishery. River eels are less affected by instream barriers than are most finfish, and are able to ascend most dams and weirs provided suitably damp conditions are available. River eels appear to grow slowly, taking about 10 to 50 years to reach sexual maturity. In general, females grow to a much larger size than males. Mature eels migrate downstream (with the assistance of floodwaters) before swimming up to 3000 km to reach the spawning area. Maximum length is about 1650 mm for long-finned river eels and about 1100 mm for short-finned river eels. Adults are presumed to die after spawning.

River eel landings were first recorded separately in 1969. Recorded landings remained low (less than 100 tonnes per year) until 1991. During this period most of the landings were recorded from the Clarence River. The primary market was for locally smoked eel meat or frozen fillets exported to Europe. Prices for both markets were relatively low. In the early 1990s, a high value market developed for live eels for export to China. Fishing effort in the estuaries increased substantially and permits were issued for harvesting from farm dams and impoundments in 1991. Landings quickly increased to a peak of over 400 tonnes in the fiscal year 1992/93. Fishing effort levelled off and landings declined to around 300 tonnes in the mid-1990s. Since 1997, annual landings have stabilised to around 200 tonnes

Peaks in eel fishing activity vary between catchments. In the Clarence River eel trapping is generally a winter activity. Commercial eel fishing in the Hawkesbury River, however, peaks earlier in the year, and is possibly market driven to supply the high export demand for the Chinese New Year.

Eels are taken almost exclusively in eel traps. Most of the catch is exported live to China and a very small proportion of the catch is sold as whole fish through the Sydney Fish Market where they attracted an average wholesale price of \$2.83 kg for the period 1995/96 to 1999/2000. The export value to fishers was as high as \$12 kg during this period.

River (longfinned) eels (*Anguilla reinhardtii*)

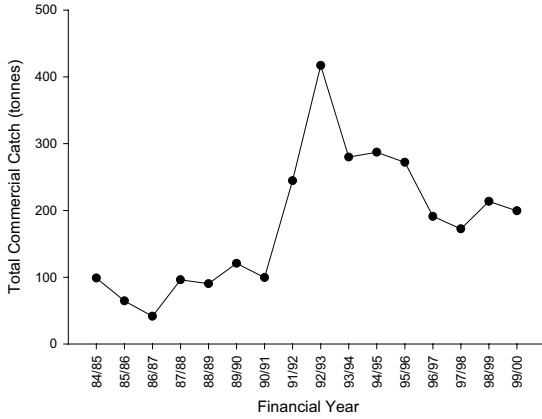


Figure A33. The total reported commercial catch of longfinned river eel in NSW for the period 1984/85 to 1999/2000.

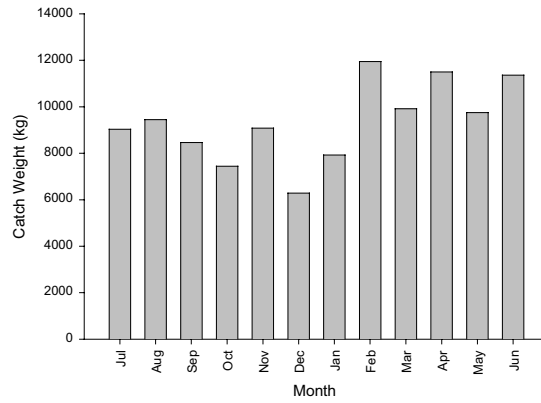


Figure A34. The average reported catch per month of longfinned river eel in the estuary general fishery for the period 1997/98 and 1998/99.

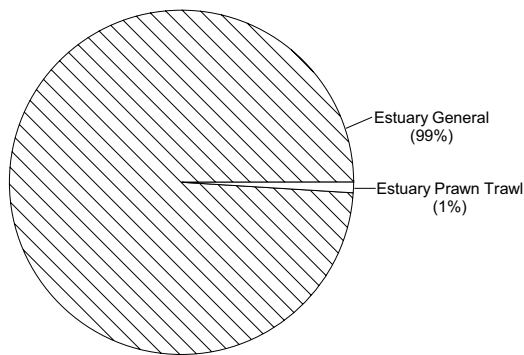


Figure A35. The average percentage of reported catch of longfinned river eel between commercial fisheries for the period 1997/98 and 1998/99

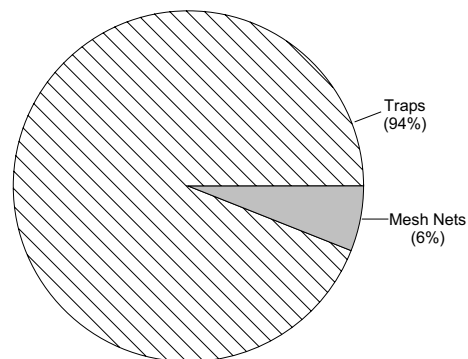


Figure A36. The average percentage of reported catch of longfinned river eel by gear types in the estuary general fishery for the period 1997/98 and 1998/99

Pipis (*Plebidonax deltoides*)

The following overview is based on information provided in Robinson and Gibbs (1982) and Kailola *et al.*, (1993), Pease and Grinberg (1995), Yearsley *et al.*, (1999), Fletcher and McVea (2000), the NSW Fisheries catch statistics database and on Philip Gibbs (pers. comm.).

The pipi (*Plebidonax deltoides*) occurs on surf beaches from southern Queensland to Eyre Peninsula in South Australia. They are found within the surf zone, (ie. within intertidal and shallow subtidal waters) along high energy coastlines. Whilst pipis are harvested under the estuary general fishery, they are not normally found within estuaries proper. Like most bivalve molluscs, pipis filter feed by extracting microscopic matter (particularly phytoplankton) from the water.

Based on studies in South Australia, pipis probably spawn in spring, with the juveniles recruiting to the same habitat as that occupied by adults. Maturity is likely to be reached at around 36 mm shell length and 13 months of age. Pipis grow to more than 60 mm shell length and are believed to live for up to 4 or 5 years.

There was a considerable peak in landings of pipis in 1996/97 before several events of human sickness following consumption of pipis caused this part of the fishery to be closed periodically during 1997 and 1998. The pipis were contaminated by algal blooms occurring off some beaches in summer. Access to this part of the fishery has subsequently been limited to fishers who operate in accordance with an approved biotoxin management program. Under the program, fishers test the water regularly for the presence of algae and cease harvesting if concentrations are above established levels.

Reported landings of pipis have increased from around 50 tonnes per annum in 1984/85 to over 600 tonnes per annum in 1999/00. Increased landing throughout this period probably arose due to increased market and product value. It is envisaged that the value of pipis will continue to rise.

Pipis are collected exclusively by hand gathering endorsement holders in the estuary general fishery, by the method of hand picking. Apart from human consumption in soups and chowders, pipis are often used sold as recreational fishing bait. When sold through the Sydney Fish Market, pipis attracted an average wholesale price of \$2.50 kg for the period 1995/96 to 1999/2000, although this average is probably affected by public confidence during the food poisoning events. The average price appears now to be rising and it is likely to continue to do so over the coming years.

Pipis (*Plebidonax deltoides*)

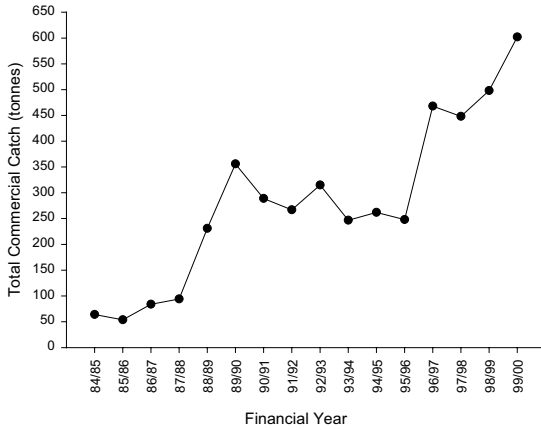


Figure A37. The total reported commercial catch of pipis in NSW for the period 1984/85 to 1999/2000.

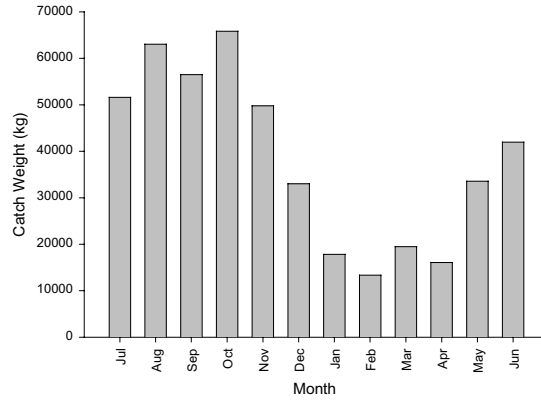


Figure A38. The average reported catch per month of pipis in the estuary general fishery for the period 1997/98 and 1998/99.

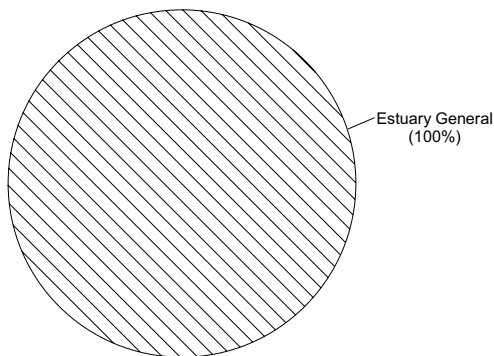


Figure A39. The average percentage of reported catch of pipis between commercial fisheries for the period 1997/98 and 1998/99.

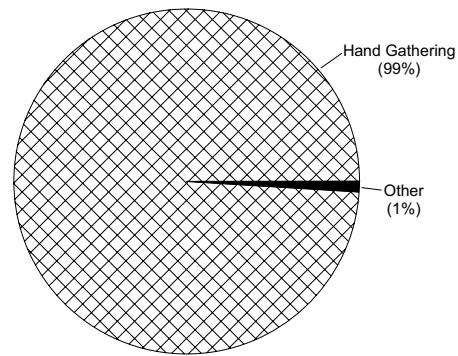


Figure A40. The average percentage of reported catch of pipis by gear types in the estuary general fishery for the period 1997/98 and 1998/99.

Appendix 2 Estuary General Fishery – Fishing Gear Regulations

The *Fisheries Management (General) Regulation 1995* includes descriptions (including standard and non-standard dimensions) for the fishing gear used in the Estuary General Fishery, as well as identifying the waters in which the gear may be used.

A comprehensive review of the Regulation was undertaken during 2002 and new Regulations will be gazetted to in late 2002 to implement some of the components of this management strategy. Up-to-date regulations can be viewed on NSW Fisheries website (www.fisheries.nsw.gov.au). The regulations relating to permitted gear types will change as a result of implementing various management responses in the strategy and will be incorporated into the share management plan prepared for the fishery in 2003. At the commencement of the strategy the following changes will be provided for in the Regulation. Information in this appendix should be read in conjunction with the *Fisheries Management (General) Regulation 1995* which is available on the NSW Fisheries website.

Changes required to fishing gear/method regulations	
Gear/method	Change to regulation
Fish trap	*
Eel trap	*
Crab trap	*
Hoop or lift net	*
Meshing net	*
Flathead net	* Also, dimensions to be determined in accordance with management response 1.1a
Hauling net (general purpose)	* Also, nets previously with a maximum length of 1000 m and 725 m will be restricted to a maximum of 500 m. The use of these nets will also be limited to one completed shot per day
Prawn net (hauling)	*
Pilchard anchovy and bait net	Nil
Trumpeter whiting net (hauling)	Nil
Bait net	Nil
Garfish net (hauling)	Nil
Garfish net (bullringing)	*
Seine net (prawns)	Nil
Prawn net (set pocket)	Nil
Prawn running net	Nil
Push or scissors net (prawns)	*
Hand-hauled prawn net	*
Hand gathering	Limited to the estuaries in Appendix 3 (as well as ocean beaches)
Handlining	Limited to the estuaries in Appendix 3
Dip or scoop net (prawns)	*
Lampara net	This gear type will be removed

* The *Fisheries Management (General) Regulation 1995* has historically permitted (subject to any closures) these gear types to be used in 'all other waters' or 'any waters'. Under the management strategy, the use of these gear types and methods will (subject to any closures) be limited to certain estuaries as specified in Appendix 3. Estuaries not listed in Appendix 3 do not form part of the fishery.

Appendix 3 Estuary general fishing gear/methods permitted in the estuaries open to estuary general fishing

The listed gear and methods specified in this appendix are permitted to be used in the corresponding estuary. Any methods not listed alongside an estuary are not permitted to be used in that estuary. Some important points to note regarding the information in this appendix are:

- ## Many of the estuaries listed below include tributaries that are open to the Estuary General Fishery, although not specifically identified in the list.
- ## Parts of these estuaries may be closed to all commercial fishing or certain methods at some or all times (e.g. seasonal, weekend and area based fishing closures). Parts of estuaries affected by closures are detailed in individual fishing closure notices provided for under the *Fisheries Management Act 1994*. Details of up-to-date fishing closures made under the Act can be found on the NSW Fisheries website at www.fisheries.nsw.gov.au or by contacting your local Fisheries Office.
- ## The *Fisheries Management (General) Regulation 1995* also controls the size and dimensions of different gear types used in the various estuary waters available to the fishery. See section 3(d) for a description of the standard fishing gear authorised in the Estuary General Fishery.
- ## Areas available to the Estuary General Fishery are subject to change. For example, if areas are designated as recreational fishing havens or sanctuary, habitat protection or special purpose zones are established within marine protected areas. Fishing regulations are subject to marine park and aquatic reserve restrictions.
- ## Other authorities (e.g. local government councils) may prohibit fishing in estuaries due to poor water quality or other reasons. Examples of estuaries currently subject to such restrictions include Manly Lagoon, Curl Curl Lagoon and Dee Why Lagoon. It is advised to check with the appropriate authority for details.
- ## In addition to the estuaries, gear types and methods that follow, the Estuary General Fishery includes the gathering by hand of fish such as beachworms and pipis from ocean beaches (except where closures apply).

COMMERCIAL FISHING GEAR/METHODS PERMITTED IN THE NSW ESTUARY GENERAL FISHERY		
Name of Estuary	Gear permitted	
Tweed River	Hauling net (general purpose)	Prawn net (hauling)
	Garfish net (bullringing)	Meshing net
	Bait net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
	Cudgen Lake	Hand hauled prawn net
Dip or scoop net		Hoop or lift net
Fish trap		Crab trap
Eel trap		Hand lining
Handgathering		
Cudgera Creek	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Hoop or lift net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Mooball Creek	Hand hauled prawn net	Dip or scoop net
	Push or scissor net	Hoop or lift net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Brunswick River	Hand hauled prawn net	Dip or scoop net
	Push or scissor net	Hoop or lift net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Belongil Creek	Hand hauled prawn net	Dip or scoop net
	Hoop or lift net	Fish trap
	Push or scissor net	Eel trap
	Crab trap	Handgathering
	Hand lining	
Tallow Creek	Hand hauled prawn net	Push or scissor net
	Hoop or lift net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Broken Head Creek	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Richmond River	Bait net	Hauling net (general purpose)
	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering

COMMERCIAL FISHING GEAR/METHODS PERMITTED IN THE NSW ESTUARY GENERAL FISHERY		
Name of Estuary	Gear permitted	
Evans River	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Crab trap	Hand lining
	Handgathering	
Jerusalem Creek	Hand hauled prawn net	Dip or scoop net
	Push or scissor net	Hoop or lift net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Clarence River <i>(including Lake Wooloweyah)</i>	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (set pocket)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Sandon River	Eel trap	Fish trap
	Crab trap	Hand lining
	Handgathering	
Wooli Wooli River	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Station Creek	Hand hauled prawn net	Hoop or lift net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Corindi River	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Arrawarra Creek	Dip or scoop net	Hoop or lift net
	Hand hauled prawn net	Hand lining
	Handgathering	
Darkum Creek	Dip or scoop net	Hand hauled prawn net
	Push or scissor net	Hoop or lift net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Woolgoolga Lake	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	

COMMERCIAL FISHING GEAR/METHODS PERMITTED IN THE NSW ESTUARY GENERAL FISHERY		
Name of Estuary	Gear permitted	
Hearns Lake	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Moonee Creek	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Coffs Harbour Creek	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Boambee Creek	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Bonville Creek (including Pine Creek)	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Dalhousie Creek	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Oyster Creek	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Nambucca River	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Macleay River	Seine net (prawns)	Hauling net (general purpose)
	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering

COMMERCIAL FISHING GEAR/METHODS PERMITTED IN THE NSW ESTUARY GENERAL FISHERY		
Name of Estuary	Gear permitted	
South West Rocks Creek	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Saltwater Creek	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Korogoro Creek	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Killick River	Hand hauled prawn net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Lake Innes	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
Lake Cathie	Prawn net (set pocket)	Dip or scoop net
	Hand hauled prawn net	Hoop or lift net
	Push or scissor net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Camden Haven River	Prawn net (set pocket)	Seine net (prawns)
	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Manning River	Prawn net (hauling)	Hauling net (general purpose)
	Garfish net (bullringing)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Khappinghat Creek	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	

COMMERCIAL FISHING GEAR/METHODS PERMITTED IN THE NSW ESTUARY GENERAL FISHERY		
Name of Estuary	Gear permitted	
Wallis Lake	Prawn net (hauling)	Prawn net (set pocket)
	Seine net (prawns)	Hauling net (general purpose)
	Garfish net (bullringing)	Meshing net
	Flathead net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Smiths Lake	Prawn net (hauling)	Prawn net (set pocket)
	Hauling net (general purpose)	Seine net (prawns)
	Garfish net (bullringing)	Meshing net
	Flathead net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Myall Lakes	Hauling net (general purpose)	Prawn net (hauling)
	Garfish net (bullringing)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Myall River	Prawn net (set pocket)	Trumpeter whiting net
	Garfish net (bullringing)	Hauling net (general purpose)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Lake Booloombayt	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Port Stephens	Hauling net (general purpose)	Trumpeter whiting net
	Garfish net (hauling)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	

COMMERCIAL FISHING GEAR/METHODS PERMITTED IN THE NSW ESTUARY GENERAL FISHERY		
Name of Estuary	Gear permitted	
Karuah River	Hauling net (general purpose)	Garfish net (bullringing)
	Meshing net	Hoop or lift net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Hunter River	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Tuggerah Lakes	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Prawn net (set pocket)
	Prawn running net	Seine net (prawns)
	Meshing net	Flathead net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Wamberal Lagoon	Hand lining	Handgathering
Terrigal Lake	Hand lining	Handgathering
Avoca Lake	Hand lining	Handgathering
Cockrone Lake	Hand lining	Handgathering
Brisbane Water	Hand lining	Handgathering
Hawkesbury River	Garfish net (hauling)	Hauling net (general purpose)
	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Whitebait species net (by permit only)	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
Pittwater	Handgathering	
Pittwater	Hauling net (general purpose)	Garfish net (bullringing)
	Garfish net (hauling)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Whitebait species net (by permit only)	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
Narrabeen Lagoon	Hand lining	Handgathering
Dee Why Lagoon	Hand lining	Handgathering

COMMERCIAL FISHING GEAR/METHODS PERMITTED IN THE NSW ESTUARY GENERAL FISHERY		
Name of Estuary	Gear permitted	
Curl Curl Lagoon <i>(Harbord Lagoon)</i>	Hand lining	Handgathering
Manly Lagoon	Hand lining	Handgathering
Sydney Harbour	Garfish net (hauling)	Prawn net (hauling)
	Pilchard, anchovy and bait net (hauling)	Hauling net (general purpose)
	Garfish net (bullringing)	Meshing net
	Whitebait species net (by permit only)	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Port Hacking	Hand lining	Handgathering
Towradgie Creek	Prawn net (hauling)	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Port Kembla	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Lake Illawarra	Hauling net (general purpose)	Prawn net (hauling)
	Prawn running net	Seine net (prawns)
	Prawn net (set pocket)	Garfish net (bullringing)
	Meshing net	Flathead net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
Handgathering		
Minnamurra River	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Spring Creek	Prawn net (hauling)	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Werri Lagoon	Hand hauled prawn net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Crooked River	Dip or scoop net	Hand hauled prawn net
	Push or scissor net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering

COMMERCIAL FISHING GEAR/METHODS PERMITTED IN THE NSW ESTUARY GENERAL FISHERY		
Name of Estuary	Gear permitted	
Shoalhaven River <i>(including Crookhaven River)</i>	Prawn net (hauling)	Hauling net (general purpose)
	Garfish net (bullringing)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Lake Wollumboola	Prawn running net	Hauling net (general purpose)
	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Jervis Bay <i>(including Currambene Creek)</i>	Meshing net	Hauling net (general purpose)
	Garfish net (bullringing)	Garfish net (hauling)
	Prawn net (hauling)	Hand hauled prawn net
	Whitebait species net (by permit only)	Push or scissor net
	Hoop or lift net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Swan Lake	Prawn running net	Hauling net (general purpose)
	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Berrara Creek	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Hand lining
	Handgathering	
Nerrindilah Creek	Prawn net (hauling)	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Termeil Lake	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Willinga Lake	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering

COMMERCIAL FISHING GEAR/METHODS PERMITTED IN THE NSW ESTUARY GENERAL FISHERY		
Name of Estuary	Gear permitted	
Durras Lake	Prawn running net	Meshing net
	Garfish net (bullringing)	Prawn net (hauling)
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Batemans Bay <i>(including Clyde River and Cullendulla Creek)</i>	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Candlagan Creek	Hand lining	Handgathering
Moruya River	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Congo Creek	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Meringo River	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Coila Lake	Hauling net (general purpose)	Prawn net (hauling)
	Prawn running net	Garfish net (bullringing)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Lake Brou	Prawn running net	Hauling net (general purpose)
	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering

COMMERCIAL FISHING GEAR/METHODS PERMITTED IN THE NSW ESTUARY GENERAL FISHERY		
Name of Estuary	Gear permitted	
Kianga Lake	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Wagonga Inlet	Hand lining	Handgathering
Nangudga Lake	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Corunna Lake	Prawn running net	Hauling net (general purpose)
	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Tilba Tilba Lake	Prawn running net	Hauling net (general purpose)
	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Wallaga Lake	Hauling net (general purpose)	Prawn net (hauling)
	Prawn running net	Meshing net
	Garfish net (bullringing)	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Barragoot Lake	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Cuttagee Lake	Hauling net (general purpose)	Prawn running net
	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering

COMMERCIAL FISHING GEAR/METHODS PERMITTED IN THE NSW ESTUARY GENERAL FISHERY		
Name of Estuary	Gear permitted	
Murrah Lake	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Bunga Lagoon	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Wapengo Lake	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Middle Lake (Bega)	Prawn running net	Hauling net (general purpose)
	Garfish net (bullringing)	Prawn net (hauling)
	Meshing net	Hoop or lift net
	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Wallagoot Lake	Garfish net (bullringing)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Bournda Lagoon	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Merimbula Lake	Hand hauled prawn net	Push or scissor net
	Dip or scoop net	Fish trap
	Crab trap	Eel trap
	Hand lining	Handgathering
Pambula Lake	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	

COMMERCIAL FISHING GEAR/METHODS PERMITTED IN THE NSW ESTUARY GENERAL FISHERY		
Name of Estuary	Gear permitted	
Curalo Lake	Hauling net (general purpose)	Garfish net (bullringing)
	Prawn net (hauling)	Meshing net
	Hoop or lift net	Hand hauled prawn net
	Push or scissor net	Dip or scoop net
	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Merrica River	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Nadgee River	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	
Nadgee Lake	Fish trap	Crab trap
	Eel trap	Hand lining
	Handgathering	

Department of Land and Water Conservation

Land Conservation

ARMIDALE OFFICE

Department of Land and Water Conservation

108 Faulkner Street, Armidale, NSW 2350

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APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified in that Column, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
The person for the time being holding the office of Senior Lecturer, School Of Education Studies, University Of New England, Armidale (ex-officio member)	NEW England Regional Art Museum Reserve Trust	Reserve No. 96366 Public Purpose: Museum Notified: 24 September 1982 File Reference: AE82R53/4
The person for the time being holding the office of Representative, NERAM Foundation (ex-officio member)		
The person for the time being holding the office of Chairperson, National Trust Of Australia, Armidale Branch (ex-officio member)		
The person for the time being holding the office of Representative, Members Of New England Regional Art Museum (ex-officio member)		

COLUMN 1	COLUMN 2	COLUMN 3
Brian Ronald Thomas (new member)		
Brian Stoddart (new member)		
Michael Henry Rose (new member)		
Thelma Dalzell McCarthy (re-appointment)		
Austin Harold Rummery (re-appointment)		
James Richard Forster Harris (re-appointment)		
Rodney Francis Davis (re-appointment)		

For a term commencing 01 January 2003 and expiring 31 December 2007.

GOULBURN OFFICE
Department of Land and Water Conservation
159 Auburn Street (PO Box 748), Goulburn, NSW 2580
Phone: (02) 4828 6725 Fax: (02) 4828 6730

APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified in that Column, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

JOHN AQUILINA, M.P.,
 Minister for Land and Water Conservation

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Colin Anthony Gilson (new member) Geoffrey Phillip Kettle (new member)	Marulan Public Hall Trust	Dedication No. 530021 Public Purpose: Public Hall Notified: 13 December 1963 File Reference: GB80R268

For a term commencing the date of this notice and expiring
 18 July 2004.

GRAFTON OFFICE
Department of Land and Water Conservation
76 Victoria Street (Locked Bag 10), Grafton, NSW 2460
Phone: (02) 6640 2000 Fax: (02) 6640 2035

APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedules hereunder are appointed, for the terms of office specified in that Column, as members of the trust boards for the reserve trusts specified opposite thereto in Column 2, which have been established and appointed as trustees of the reserves referred to opposite thereto in Column 3 of the Schedules.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

SCHEDULE 1

COLUMN 1	COLUMN 2	COLUMN 3
Patrick Joseph O'CONNOR (new member)	Burringbar Public Recreation Reserve Trust	Reserve No. 67652 Public Purpose: Public Recreation Notified: 3 June 1938 File Reference: GF80R163
Stuart Ian CAHILL (re-appointment)		
Gary David MARSHALL (re-appointment)		

For a term commencing the date of this notice and expiring 06 February 2008.

SCHEDULE 2

COLUMN 1	COLUMN 2	COLUMN 3
Frederick Bernard SMITH (new member)	Wardell Recreation Ground Trust	Reserve No. 627 Public Purpose: Public Recreation Notified: 14 June 1880
Jean Jacques Charles VAN ROTTERDAM (new member)		Reserve No. 1002921 Public Purpose: Community And Sporting Club Facilities Notified: 31 March 2000 File Reference: GF81R261
Athol Bruce STEEL (new member)		
Donald John HODGSON (new member)		
Warwick James ARMSTRONG (new member)		
Raymond Joseph WALSH (re-appointment)		
David Michael DALEY (re-appointment)		

For a term commencing the date of this notice and expiring 06 February 2008.

APPOINTMENT OF ADMINISTRATOR TO MANAGE A RESERVE TRUST

PURSUANT to Section 117 of the Crown Lands Act 1989, the person specified in Column 1 of the Schedule hereunder is appointed as administrator for the term also specified in Column 1, of the reserve trust specified opposite thereto in Column 2, which is trustee of the reserves referred to in Column 3 of the Schedule

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation.

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Paul Joseph Massey-Reed	Coffs Jetty Foreshore Reserve Trust	Reserve No 140093 for the purpose Community and Sporting Club Facilities Notified : 8 December 1995 File Reference: GF 03 R 4, Reserve No 140102 for the purpose Public Recreation and Environmental Protection Notified : 28 June 1996 File Reference : GF 03 R 5

For a term commencing 7 February 2003 and expiring 6 August 2003.

GRIFFITH OFFICE
Department of Land and Water Conservation
2nd Floor, Griffith City Plaza,
120–130 Banna Avenue (PO Box 1030), Griffith NSW 2680
Phone: (02) 6962 7522 Fax: (02) 6962 5670

ERRATUM

THE following notice appeared in *Government Gazette* No. 237, folio 10159 dated 29 November 2002 under the heading of “GRAFTON OFFICE.” The notice should have appeared under the heading of “GRIFFITH OFFICE.” The notice is republished below in full. This notice amends that error.

DISSOLUTION OF RESERVE TRUST

PURSUANT to section 92(3) of the Crown Lands Act 1989, the reserve trust specified in Column 1 of the Schedule hereunder, which was established in respect of the reserve specified opposite thereto in Column 2 of the Schedule, is dissolved.

JOHN AQUILINA, M.P.,
 Minister for Land and Water Conservation

SCHEDULE

COLUMN 1	COLUMN 2
Kikaira Public Recreation Reserve Trust	Reserve No. 71567 Public Purpose: Public Recreation Notified: 29th June 1945 File Reference: GH89R131/3

Notes: Due to be amalgamated with Kikaira Public Hall Reserve Trust

SCHEDULE

COLUMN 1	COLUMN 2
Kikaira Public Hall Trust	Reserve No. 64091 Public Purpose: Public Hall Notified: 4 August 1933 File Reference: GH89R149/2

Notes: Due to be amalgamated with Kikaira Public Recreation Reserve Trust

MAITLAND OFFICE
Department of Land and Water Conservation
Cnr Newcastle Road & Banks Street (PO Box 6), East Maitland, NSW 2323
Phone: (02) 4934 2280 Fax: (02) 4934 2252

NOTIFICATION OF CLOSING OF ROAD

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein ceases to be a public road and the rights of passage and access that previously existed in relation to the road are extinguished.

JOHNAQUILINA, M.P.,
 Minister for Fair Trading
 and Minister for Land and Water Conservation

Description

Parish – Quorrobolong; County – Northumberland;
Land District – Maitland;
Local Government Area – Cessnock

Road Closed: Lot 1 DP 1048711 at Quorrobolong (not being land under the Real Property Act).

File Reference: MD01 H 138

Note: On closing, the land within Lot 1 DP 1048711 will remain land vested in the Crown as Crown land.

ROADS ACT 1993

ORDER

Transfer of a Crown Road to a Council

IN pursuance of the provisions of Section 151, Roads Act 1993, the Crown road specified in Schedule 1 is transferred to the Roads Authority specified in Schedule 2, hereunder, as from the date of publication of this notice and as from that date, the road specified in Schedule 1 ceases to be a Crown road.

JOHNAQUILINA, M.P.,
 Minister for Land and Water Conservation
 and Minister for Fair Trading

SCHEDULE 1

Parish & Town – Gosford; County – Northumberland;
Land District – Gosford;
Local Government Area – City of Gosford

That part of laneway 6.09 metres wide, east of lot 4 DP22567 off Range Road, North Gosford.

SCHEDULE 2

Roads Authority: Gosford City Council

File No: MD03 H17

Council's Reference: DA17763/2002.

**ASSESSMENT OF CROWN LAND UNDER PART 3
 OF THE CROWN LANDS ACT 1989 AND CROWN
 LANDS REGULATION 2000**

A DRAFT assessment has been prepared for Crown land situated as described hereunder.

Inspection of this draft assessment during normal business hours may be made at the following listed locations.

Department of Land and Water Conservation (Maitland),
 Cnr Banks and Newcastle Road, East Maitland Wyong Shire
 Council Hely Street Wyong.

Submissions in writing will be accepted by the Manager Resource Knowledge of the Newcastle Regional Office, Department of Land and Water Conservation, 464 King Street, Newcastle West 2302 until 4 p.m on 7 March 2003.

JOHNAQUILINA, M.P.,
 Minister for Fair Trading
 and Minister for Land and Water Conservation

Description

Draft assessment of Crown land being land below the mean high water mark of Ourimbah Creek fronting Lot 52 DP 546456, about 30 square metres, Parish Tuggerah, County Northumberland.

Land Assessment Number 570.

File number MD 02 H 263.

**ASSESSMENT OF CROWN LAND UNDER PART
 3 OF THE CROWN LANDS ACT 1989 AND
 CROWN LANDS REGULATION 2000**

A DRAFT assessment has been prepared for Crown land situated as described hereunder.

Inspection of this draft assessment during normal business hours may be made at the following listed locations.

Department of Land and Water Conservation (Maitland),
 Cnr Banks and Newcastle Road, East Maitland Scone Shire
 Council Liverpool Street Scone.

Submissions in writing will be accepted by the Manager Resource Knowledge of the Newcastle Regional Office, Department of Land and Water Conservation, 464 King Street, Newcastle West 2302 until 4 p.m on 7 March 2003.

JOHNAQUILINA M.P.,
 Minister for Fair Trading
 and Minister for Land and Water Conservation

Description

Draft assessment of Crown land being Lot 1 DP 1043208 about 3573 square metres at Main Street Scone, Parish Scone, County Brisbane. Land NSW proposes to dispose of the land by public auction sale.

Land Assessment Number 572.

File number MD 02 H 07.

Submissions in writing will be accepted by the Manager Resource Knowledge of the Newcastle Regional Office, Department of Land and Water Conservation, 464 King Street, Newcastle West 2302 until 4 p.m on 7 March 2003.

JOHN AQUILINA M.P.,
Minister for Fair Trading
and Minister for Land and Water Conservation

Description

Draft assessment of Crown land being land below the mean high water mark of Wyong River fronting lot 41 DP 10543 at Golding Grove Wyong, about 20 square metres, Parish Munmorah, County Northumberland. Land NSW is considering a waterfront licence application.

Land Assessment Number 571

File number MD 02 H 342.

**ASSESSMENT OF CROWN LAND UNDER PART 3
OF THE CROWN LANDS ACT 1989 AND
CROWN LANDS REGULATION 2000**

A DRAFT assessment has been prepared for Crown land situated as described hereunder.

Inspection of this draft assessment during normal business hours may be made at the following listed locations.

Department of Land and Water Conservation (Maitland),
Cnr Banks and Newcastle Road, East Maitland Wyong Shire
Council Hely Street Wyong.

ORANGE OFFICE

**Department of Land and Water Conservation
92 Kite Street (PO Box 2146), Orange NSW 2800
Phone: (02) 6393 4300 Fax: (02) 6362 3896**

NOTIFICATION OF CLOSING OF A ROAD

IN pursuance of the provisions of the Roads Act 1993, the road hereunder specified is closed and the road ceases to be public road and the rights of passage and access that previously existed in relation to the road are extinguished.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

Description

Land District – Bathurst; Shire – Bathurst

Roads Closed: Lot 1 DP 1038551, Parish of Bathurst, County of Bathurst. File No: OE02H17, Council's Ref: JW.GH:2002.0383 02/05179.

Note: On closing, title for the land comprised in Lot 1, remains vested in the Bathurst City Council as operational land.

NOTIFICATION OF CLOSING OF A ROAD

IN pursuance of the provisions of the Roads Act 1993, the road hereunder specified is closed and the road ceases to be public road and the rights of passage and access that previously existed in relation to the road are extinguished.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

Description

Land District – Bathurst; Shire – Bathurst

Roads Closed: Lot 4 DP 1042075, Parish of Bathurst, County of Bathurst. File No: OE01H401, Council's Ref: BP6159:RRC.

Note: On closing, title for the land comprised in Lot 4, remains vested in the Bathurst City Council as operational land.

TAMWORTH OFFICE

Department of Land and Water Conservation
25-27 Fitzroy Street (PO Box 535), Tamworth, NSW 2340
Phone: (02) 6764 5100 Fax: (02) 6766 3805

NOTIFICATION OF CLOSING OF ROADS

IN pursuance of the provisions of the Roads Act 1993, the road hereunder described is closed and the land comprised therein cease to be public road and the rights of passage and access that previously existed in relation to this road are extinguished.

JOHN AQUILINA, M.P.,
 Minister for Land and Water Conservation

Description

Land District – Gunnedah;
Local Government Area – Gunnedah

Road Closed: Lots 1 and 2 in Deposited Plan 1046928, Parish Tamarang, County Pottinger (not being land under the Real Property Act).

File No: TH01H226.

Note: On closing, the land within Lots 1 and 2 in Deposited Plan 1046928 will remain vested in the Crown as Crown Land.

TAREE OFFICE

Department of Land and Water Conservation
102-112 Victoria Street (PO Box 440), Taree, NSW 2430
Phone: (02) 6552 2788 Fax: (02) 6552 2816

NOTIFICATION OF CLOSING OF A ROAD

IN pursuance of the provisions of the Roads Act, 1993, the road hereunder described is closed and the land comprised therein ceases to be public road and the rights of passage and access that previously existed in relation to the road is extinguished.

JOHN AQUILINA, M.P.,
 Minister for Land and Water Conservation

Description

Land District – Taree;
Local Government Area – Great Lakes.

Lot 2 DP859640 Parish Forster, County Gloucester (not being land under the real Property Act).

Note: The land remains vested in the Crown as Crown land. TE01 H 42

ROADS ACT 1993

ORDER

Transfer of Crown Road to a Council

IN pursuance of the provisions of section 151 of the Act, the Crown road specified in Schedule 1 is transferred to the roads authority specified in Schedule 2 hereunder as from the date of publication of this notice and as from that date the road specified in Schedule 1 ceases to be a Crown road.

JOHN AQUILINA, M.P.,
 Minister for Land and Water Conservation

SCHEDULE 1

The section of crown public road, known as Millers Road, commencing at the northern boundary of Lot 3 DP754436 to the westerly prolongation of the northern boundary of the road created by Road Plan R20607-1603, Parish Marsh, County Macquarie at Bobin.

SCHEDULE 2

Roads Authority: Greater Taree City Council

File No: TE03 H 11 Council Ref: R3282 RCL.

WAGGA WAGGA REGIONAL OFFICE
Department of Land and Water Conservation
Corner Johnston and Tarcutta Streets (PO Box 60), Wagga Wagga, NSW 2650
Phone: (02) 6921 2503 Fax: (02) 6921 1851

APPOINTMENT OF TRUST BOARD MEMBERS

PURSUANT to section 93 of the Crown Lands Act 1989, the persons whose names are specified in Column 1 of the Schedule hereunder are appointed, for the terms of office specified in that Column, as members of the trust board for the reserve trust specified opposite thereto in Column 2, which has been established and appointed as trustee of the reserve referred to opposite thereto in Column 3 of the Schedule.

JOHN AQUILINA, M.P.,
 Minister for Land and Water Conservation

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Lindsay Kenneth Smith (new member)	Ardlethan Recreation Reserve Trust	Reserve No. 43862 Public Purpose: Public Recreation Notified: 12 May 1909 File Reference: WA81R52
Brian Douglas Rayment (re-appointment)		
Charles Finlay Martin (re-appointment)		
Bruce Edmund Barry (re-appointment)		
Kevin John Davies (re-appointment)		
Norman Lindsay Litchfield (re-appointment)		
Barry Kenneth Brill (re-appointment)		

For a term commencing this day and expiring 30 September 2007.

Water Conservation

WATER ACT 1912

APPLICATIONS for licences under section 10 of Part 2 of the Water Act have been received as follows:

Kevin and Margaret RIDGEWAY for an 80 mm pump on Howes Lagoon on Lot 1/509073, Parish of Maitland, County of Northumberland for irrigation of 14 hectares. (New licence; improved pasture; pumping restrictions will apply) (20SL061123)

Robert SMITH for a dam on an unnamed watercourse on Lot 4/843070, Parish of Wolfingham, County of Durham for conservation of water for domestic purposes. (New licence; exempt from current embargo) (20SL061124)

Eva MAROSY-WEIDE for two 80 mm pumps on the Manning River on Lot 8/874758, Parish of Tiri, County of Gloucester for irrigation of 45 hectares. (New licence; improved pasture; pumping restrictions will apply) (20SL061124)

Any enquiries regarding the above should be directed to the undersigned, on telephone number (02) 4934 4840.

Written objections specifying grounds thereof must be lodged with the Department within 28 days of the date of this publication as prescribed by the Act.

BRIAN McDUGALL,
Senior Natural Resource Project Officer,
Hunter Region

Department of Land and Water Conservation
PO Box 6, EAST MAITLAND NSW 2323

WATER ACT 1912

APPLICATIONS for licences under section 10 and an authority under section 20 of Part 2 of the Water Act have been received as follows:

SINGLETON SHIRE COUNCIL for two pumping plants on the Hunter River on Part Lot 91/234544, Parish of Howick, County of Durham, and on Part Lot 1/234710, Parish of Wambo, County of Hunter for water supply to the village of Jerrys Plains. (Replacement licence; exempt from current embargo)

Any enquiries regarding the above should be directed to the undersigned, on telephone number (02) 4934 4840.

Written objections specifying grounds thereof must be lodged with the Department within 28 days of the date of this publication as prescribed by the Act.

BRIAN McDUGALL,
Senior Natural Resource Project Officer,
Hunter Region

Department of Land and Water Conservation
PO Box 6, EAST MAITLAND NSW 2323

NOTICE UNDER SECTION 22B OF THE WATER ACT 1912

PUMPING SUSPENSIONS

PIGGABEEN CREEK, COBAKICREEK, DUROBY CREEK,
BILAMBIL CREEK AND THEIR TRIBUTARIES

THE Department of Land and Water Conservation pursuant to section 22B of the Water Act 1912, is satisfied that the quantity of water available in Piggabeen Creek, Cobaki Creek, Duroby Creek, Bilambil Creek and their tributaries is insufficient to meet all requirements and hereby gives notice to all holders of permits, authorities and licences under Part 2 of the Act that from Friday 31 January 2003 and until further notice, the right to pump water is SUSPENDED.

This suspension excludes water supply for town water supply, stock, domestic and farming (fruit washing and dairy washdown) purposes.

Any person who contravenes the restrictions imposed by this notice is guilty of an offence and is liable on conviction to a penalty not exceeding:

- a) where the offence was committed by a Corporation – 200 penalty units.
- b) where the offence was committed by any other person – 100 penalty units.

One penalty unit = \$110.00.

DATED this thirty-first day of January 2003.

G. LOLLBACK,
Resource Access Manager

North Coast Region,
GRAFTON
GA2:467859

NOTICE UNDER SECTION 22B OF THE WATER ACT 1912

PUMPING SUSPENSIONS

BRUNSWICK RIVER, MARSHALLS CREEK, SIMPSON
CREEK, TYAGARAH CREEK, LACKS CREEK AND
THEIR TRIBUTARIES

THE Department of Land and Water Conservation pursuant to section 22B of the Water Act 1912, is satisfied that the quantity of water available in Brunswick River, Marshalls Creek, Simpson Creek, Tyagarah Creek, Lacks Creek and their tributaries is insufficient to meet all requirements and hereby gives notice to all holders of permits, authorities and licences under Part 2 of the Act that from Friday 31 January 2003 and until further notice, the right to pump water is SUSPENDED.

This suspension excludes water supply for town water supply, stock, domestic and farming (fruit washing and dairy washdown) purposes.

Any person who contravenes the restrictions imposed by this notice is guilty of an offence and is liable on conviction to a penalty not exceeding:

- a) where the offence was committed by a Corporation – 200 penalty units.
- b) where the offence was committed by any other person – 100 penalty units.

One penalty unit = \$110.00.

DATED this thirty-first day of January 2003.

G. LOLLBACK,
Resource Access Manager

North Coast Region
GRAFTON
GA2: 467860

NOTICE UNDER SECTION 22B OF THE WATER ACT 1912

PUMPING RESTRICTIONS

BELLINGERRIVER, NEVERNEVERRIVER AND THEIR TRIBUTARIES

THE Department of Land and Water Conservation pursuant to Section 22B of the Water Act 1912, is satisfied that the quantity of water available Bellinger River, Never Never River and their tributaries is insufficient to meet all requirements and hereby gives notice to all holders of permits, authorities and licences under Part 2 of the Act that from Friday 31 January 2003 and until further notice, the right to pump water is RESTRICTED to a maximum of eight hours in any twenty-four hour period between the hours of 4pm – 10am.

This restriction excludes water supply for town water supply, stock, domestic and farming (fruit washing and dairy washdown) purposes.

Any person who contravenes the restrictions imposed by this notice is guilty of an offence and is liable on conviction to a penalty not exceeding:

- a) where the offence was committed by a Corporation – 200 penalty units.
- b) where the offence was committed by any other person – 100 penalty units.

One penalty unit = \$110.00.

DATED this thirty-first day of January 2003.

G. LOLLBACK,
Resource Access Manager

North Coast Region
GRAFTON
GA2: 467861

WATER ACT 1912

APPLICATIONS under Part 2, being within a proclaimed (declared) local area under Section 10 of the Water Act 1912, as amended.

Applications for licences within a proclaimed local area as generally described hereunder have been received as follows:

Namoi River Valley

Judy Helen MARHEINE for two pumps on the Peel River located on Lot 1, DP 753851, Parish of Woolomol, County of Inglis for irrigation of 61 hectares (fodder crops). Replacement licence, additional pump. Existing entitlement. L.O. Papers 90SL100661. GA2460840.

William James RUSSELL, Joy Jeanette RUSSELL and Bruce James RUSSELL for two pumps on the Namoi River on Lot 4, DP 361904, Parish of Manilla, County of Darling for industrial (poultry) purposes and irrigation of 62 hectares of fodder crops. Permanent transfer of existing entitlement, amalgamation of existing licences. L.O. Papers 90SL100663. GA2460839.

Written objections to the applications specifying the grounds thereof may be made by any statutory authority or local occupier within the proclaimed (declared) area, whose interest may be affected and must be lodged with the Department's Manager, Resource Access, Tamworth within 28 days as specified in the Act.

GEOFF CAMERON,
Manager Resource Access

Department of Land and Water Conservation
PO Box 550, TAMWORTH NSW 2340

WATER ACT 1912

APPLICATION for a licence under Part 2 of the Water Act 1912 being within a Proclaimed (declared) local area under section 5 (4) of the Act.

An application for an Authority under section 20 of Part 2 of the Water Act, has been received as follows:

Lachlan River Valley

Stephen Neale TODD and Sarah Frances LAND for a pump on the Lachlan River on Lot 271, DP 752962, Parish of Wongajong, County of Forbes for water supply for stock purposes and irrigation of 72 hectares (lucerne) (new authority – amendment of existing entitlement – additional holder – no increase in allocation- no increase in area) (In lieu of advertisements in *Government Gazette*, dated 20 July 2001, *The Forbes Advocate* dated 19 July 2001). (GA2:512475)(Ref:70SA009577).

Written objections specifying grounds thereof, may be made by any statutory authority or local occupier within the proclaimed local area whose interests may be effected and must be lodged with the Department within 28 days of the date of this publication as prescribed by the Act.

V. RUSSELL,
Resource Access Manager,

Department of Land and Water Conservation
Central West Region
PO Box 136 Forbes NSW 2871 (02) 6852 1222

Water Sharing Plan for the Commissioners Waters Water Source 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

 Water Sharing Plan for the Commissioners Waters Water Source 2003

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Water Sharing Plan for the Commissioners Waters Water Source 2003

Water Sharing Plan for the Commissioners Waters Water Source 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Commissioners Waters Water Source 2003* (hereafter *this Plan*).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter *the Act*).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Mid North Coast Water Management Area known as the Commissioners Waters Water Source (hereafter *this water source*) as shown on the map in Schedule 2.

Note. The Mid North Coast Water Management Area is shown on the map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

- (2) This water source is divided into the following management zones, shown on the map in Schedule 2:
 - (a) Commissioners Waters management zone (hereafter *Zone 1*), and

Note. Zone 1 includes all rivers in this water source apart from the main trunk of the Dumaresq Creek downstream of Armidale.
 - (b) Dumaresq Creek management zone (hereafter *Zone 2*).

Note. Zone 2 includes the main trunk of Dumaresq Creek downstream of Armidale.
- Note.** Specific conditions apply to access licence dealings and access to water within these management zones.

5 Waters to which this Plan applies

- (1) The waters of this water source include all water occurring on the land surface shown on the map in Schedule 2 including, but not limited to:
 - (a) all rivers in this water source including, but not limited to, those nominated in Schedule 3, and
 - (b) all lakes and wetlands in this water source.

Water Sharing Plan for the Commissioners Waters Water Source 2003

- (2) The waters of this water source exclude all water contained within aquifers underlying this water source.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter *the SWMOP*).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

Water Sharing Plan for the Commissioners Waters Water Source 2003

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

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

10 Vision

The vision for this Plan is to ensure the water needs of the whole Commissioners Waters Water Source community are provided for and the environment receives the necessary water to maintain or re-establish healthy, functioning ecosystems.

11 Objectives

The objectives of this Plan are to:

- (a) maintain natural in-river processes within the Oxley Wild Rivers National Park by managing extraction upstream to ensure sufficient flows through the Park,
- (b) protect pools and natural low flows in this water source by limiting extractions,
- (c) improve water quality in this water source through the management of flows,
- (d) protect and enhance water dependent ecosystems, threatened species and endangered ecological communities by managing access to flows,
- (e) contribute to the well being of communities in this water source by allowing opportunities for extraction,
- (f) protect natural water level in pools during periods of no flows, inundation patterns and distribution of floodwaters supporting natural wetland and floodplain ecosystems,
- (g) maintain or improve the overall health of the Macleay River, its estuary and adjacent inshore waters by ensuring sufficient contributions to this system through flows from this water source,
- (h) imitate natural river variability, including the protection of freshes, in this water source through the management of access to various flow classes,
- (i) protect and enhance water dependent ecosystems, threatened species and endangered ecological communities by managing access to flows, and
- (j) recognise and protect Aboriginal heritage sites and values through access management, and in water licensing decisions.

12 Strategies

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,

Water Sharing Plan for the Commissioners Waters Water Source 2003

- (c) limit the long-term average extraction of water,
- (d) clearly define access conditions for water extraction and rules for extracting water from this water source,
- (e) establish rules for determining the water available from time to time under access licences,
- (f) establish water allocation accounting rules, and
- (g) specify access licence dealing rules that maximise flexibility for water users without adversely impacting on this water source.

13 Performance indicators

The following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in low to moderate flows (combined A and B class flows),
- (b) change in high flows (C class flows),
- (c) change in local water utilities access,
- (d) change in ecological condition of this water source and dependent ecosystems,
- (e) extent to which basic landholder rights requirements have been met,
- (f) change in economic benefits derived from water extraction and use,
- (g) extent to which native title rights requirements have been met,
- (h) extent of recognition of spiritual, social and customary values of water to Aboriginal people,
- (i) change in consultation on Aboriginal values in water licensing decisions, and
- (j) contribution to the achievement of water quality to support the environmental values of this water source.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow variability in this water source.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in this water source within the limits of water availability on a long-term average basis, and
 - (b) sharing of the flows that occur in this water source on a daily basis.

16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Macleay River Extraction Management Unit, and is shown on the map in Schedule 6.

17 Flow classes

This Plan establishes the following flow classes as the basis for sharing of daily flows:

- (a) For Zone 1:
 - (i) very low flow class at or less than 1 megalitres per day (hereafter *ML/day*),
Note. The 1 ML/day in subclause (i) corresponds to the estimated 85th percentile of all days in December, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (ii) combined A and B class flows greater than 1 ML/day and at or less than 9 ML/day, and
 - (iii) C class flows greater than 9 ML/day.
- (b) For Zone 2:
 - (i) very low flow class at or less than 1 ML/day, or
 - (ii) only while Armidale water treatment plant discharges flushing effluent into Dumaresq Creek, very low flow class at or less than visible flow applicable to those licences listed in Schedule 5, at a location defined on each of these licences, and
 - (iii) combined A and B class flows greater than 1 ML/day and at or less than 9 ML/day, and
 - (iv) C class flows greater than 9 ML/day.

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Note. The flow classes have been determined based on flow information that inherently includes seasonal effects as well as evaporation and seepage losses.

18 Flow reference point

For the purpose of this Plan, all flows referred to relate to the estimated flows at the flow reference point at the downstream end of this water source, as shown on the map in Schedule 2.

19 Determination of flow class

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at a flow gauging station, correlated to the flow reference point established in clause 18.

Part 4 Environmental water provisions

20 Environmental water provisions

This Part is made in accordance with sections 5 (3), 8 and 20 (1) (a) of the Act.

21 Environmental health water

- (1) Environmental health water is identified and established as follows:
 - (a) In very low flows, the flow occurring in this water source minus 0.04 ML/day.
Note. 0.04 ML/day is the amount of water estimated at the commencement of this Plan for basic landholder rights.
 - (b) In combined A and B class flows, the flow occurring in this water source minus 4.54 ML/day.
Note. 4.45 ML/day is amount of water estimated at the commencement of this Plan for the combined A and B class total daily extraction limit and basic landholder rights.
 - (c) In C class flows, the flow occurring in this water source minus 6.64 ML/day.
Note. 6.64 ML/day is amount of water estimated at the commencement of this Plan for C class total daily extraction limit and basic landholder rights.
- (2) Environmental health water is maintained as follows:
 - (a) In very low flows:
 - (i) the holders of access licences are not permitted any access, and
 - (ii) persons exercising domestic and stock and native title rights may take a combined total of up to 0.04 ML/day.
Note. In times of severe water shortage the Minister may issue an Order under section 60 (2) of the Act which suspends the provisions of this Plan and the priorities it establishes.
Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment, for reasons of public health, or to preserve basic landholder rights.
 - (b) In combined A and B class flows:
 - (i) the holders of access licences have restricted access to water as specified in clause 46,
 - (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 0.04 ML/day in this flow class, the access to water for unregulated river access licences will be reduced in accordance with clause 51 to maintain the environmental water in this flow class.
 - (c) In C class flows:

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- (i) the holders of access licences have restricted access to water as specified in clause 46,
 - (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 0.04 ML/day in this flow class the access to water for unregulated river access licences will be reduced in accordance with clause 51 if this is necessary to maintain the environmental water in this flow class.
- (d) In all flow classes, limits are imposed on the availability of water in accordance with clauses 36 and 38, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

Note. These rules protect the water for the environment by limiting both the water extracted in the long term, and the rate of extraction of water in different flow ranges, thereby achieving the objectives of this Plan.

Note. This Plan recognises that the environmental health water provisions provide non-extractive benefits, including traditional Aboriginal spiritual, social and cultural benefits, and improved water quality.

22 Extraction by water supply work

Notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

23 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

24 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

Part 5 Basic landholder rights

25 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

26 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 0.04 ML/day.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting rivers and lakes in this water source and/or as a result of an increase of the exercise of basic landholder rights by existing landholders.

27 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are estimated to be a total of 0 ML/day.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. Increase in use of native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

28 Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to the harvestable rights Order published in the NSW Government Gazette on 23 March 2001 under section 54 of the Act.

Part 6 Bulk access regime

29 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9 Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

Part 7 Requirements for water under access licences

30 Requirements for water under access licences

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

Note. The amount of water specified in this Part represents the total volumes specified on access licences in this water source. It is not a commitment to supply that water.

31 Estimate of water requirements

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within this water source will total approximately 2,141 megalitres per year (hereafter *ML/yr*).
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, there will be several runoff harvesting access licences in this water source, that will have their access licence share component expressed as the water that can be extracted from time to time from the approved work.
- (3) This Plan recognises that the total requirements for water for extraction within this water source, may change during the term of this Plan as a result of:
 - (a) the granting, surrender, cancellation or non-renewal of access licences, or
 - (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act.

Part 8 Rules for granting access licences

32 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in this water source and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:
 - (a) local water utility access licences,
Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's share component at 5 year intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) domestic and stock access licences,
 - (c) an access licence resulting from an application of a type listed in section 82 (1) of the Act,
 - (d) unregulated river (Aboriginal cultural) access licences where the share components does not exceed 10 ML/yr per application, or
 - (e) unregulated river (research) access licences where the share components does not exceed 10 ML/yr per application.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction components sought will be the minimum required to meet that purpose and circumstance.
- (5) Subclause (4) does not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (6) Any individual daily extraction limit (hereafter **IDEL**) granted in accordance with this clause cannot exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 51.
- (7) In accordance with section 56 of the Act, all access licences in this water source shall have a share component expressed as a volume in ML/yr.
- (8) Notwithstanding subclause (7), runoff harvesting access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from the specified works.

33 Aboriginal assessment of new access licences

- (1) The Minister should seek the views of the Armidale Local Aboriginal Land Council in relation to all new access licence applications.
- (2) The Minister should consider any advice provided under subclause (1) before determining the access licence application.

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

34 Limits to the availability of water

This Division is made in accordance with section 20 (2) (a) of the Act.

35 Extraction management unit

Management of the long-term extraction of water from this water source will be undertaken in the context of the Macleay River Extraction Management Unit (hereafter *this Unit*) referred to in clause 16 (2).

36 Long-term average extraction limit

The long-term average extraction limit for this Unit of which this water source is a part will be the total of:

- (a) the quantity of water specified in conditions attached to or included in entitlements issued under Part 2 of the *Water Act 1912* in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit, and
- (b) an estimate of annual extraction of water under domestic and stock and native title rights in this Unit at the commencement of this Plan.

37 Variation of the long-term average extraction limit

The long-term average extraction limit of this Unit may be varied by the Minister if dealings under Part 11 of this Plan result in the issuing or cancellation of access licences in this Unit.

Division 2 Available water determinations

38 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 36, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,
Note. A water accounting year is defined in clause 43 (3).
 - (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,

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- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
- (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be of such volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 36 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 36, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components,
- (j) a new available water determination for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

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Part 10 Rules for managing access licences

Division 1 General

39 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b), 21 (a) and 21 (c) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

40 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

41 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in this water source.

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

Note. Water allocations may also be re-credited to these accounts in accordance with section 76 of the Act, subject to the operation of a return flows scheme established under section 75 of the Act.

42 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 38.

43 Annual accounting for water extraction

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is as follows:
 - (a) 100% of the access licence share component from 2003/4 to 2004/5,
 - (b) 200% of the access licence share component from 2004/5 to 2005/6, and

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- (c) thereafter, the sum of the previous two available water determinations.
- (5) Notwithstanding subclause (4) total water in any water allocation account cannot exceed 3 times the share component of the access licence:
 - (a) plus any water allocations assigned from another licence by water allocation assignment under section 71G of the Act in that year,
 - (b) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (c) minus any water allocations assigned to another licence by water allocation assignment under section 71G of the Act in that year.
- (6) In any one water accounting year, water taken from this water source under an access licence may not exceed a volume consisting of:
 - (a) twice the water allocation accrued under the licence that year,
 - (b) plus any water allocations assigned from another licence by water allocation assignment under section 71G of the Act in that year,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence, by water allocation assignment under section 71G of the Act in that year.
- (7) A water allocation account shall remain at or above zero at all times.

44 Three year accounting for water extraction

- (1) Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
 - (a) the water allocations accrued under the licence in those years,
 - (b) plus any water allocations assigned from another licence by water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by water allocation assignment under section 71G of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
 - (a) 3 times the share component of the access licence,
 - (b) plus any water allocations assigned from another licence by water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by water allocation assignment under section 71G of the Act in those years.

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Division 3 Sharing flows on a daily basis

45 Sharing flows on a daily basis

This Division is made in accordance with sections 20 (2) (b) and 21 (a) of the Act.

46 Total daily extraction limits

(1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:

- (a) 4.5 ML/day for the combined A and B class, and
- (b) 6.6 ML/day for C class.

Note. These flows represent 50% of the top of combined A and B class flows for all days in December, and in C class flows represents 30% of the 30th percentile flows for all days in December.

(2) The TDEL for each flow class specified in subclause (1) applies to all rivers within this water source apart from those rivers defined as minor streams in a harvestable right Order made under section 54 of the Act.

Note. The harvestable rights Order applying to this area at the commencement of this Plan is that gazetted on 23 March 2001 under section 54 of the Act. It identifies minor streams as non-permanent 1st and 2nd order streams as shown on topographic maps.

47 Initial assignment of the TDEL to categories of access licence

The TDEL for each flow class will initially be assigned to categories of access licences according to the following:

- (a) Domestic and stock access licences:
 - (i) 0.5 ML/day of combined A and B class, and
 - (ii) 0.5 ML/day of C class.
- (b) Unregulated river access licences:
 - (i) 4 ML/day of combined A and B class, and
 - (ii) 6.1 ML/day of C class.

48 Unassigned TDEL

At the commencement of this Plan, there is no unassigned TDEL.

Note. Unassigned TDEL may increase as a result of the surrender, cancellation or non-renewal of an access licence's IDELs.

49 Daily extraction limits for individual access licence holders

- (1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 47 as its share component bears to all the share components of access licences of that category.
- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

50 Granting of unassigned TDEL

- (1) Any unassigned TDEL may be assigned to access licences in the following circumstances:
 - (a) where they are applied for as part of a new access licence application,
 - (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
 - (c) to existing access licences for the purpose of pumping into farm dams if:
 - (i) the purpose of the additional IDEL sought is established by the proponent,
 - (ii) the IDEL sought is the minimum required to satisfy that purpose, and
 - (iii) the extraction is consistent with the objectives and principles of this Plan.
- (2) Where additional IDELs are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 49.

51 Adjustment to TDELS and IDELS

- (1) Where IDELS are assigned under clause 50, the unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category in clause 47 is increased accordingly.
- (2) Pursuant to section 42 (2) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan:
 - (a) first the unassigned TDEL specified in clause 48 then, if necessary, the TDEL for unregulated river access licences in clause 47 (b) shall be diminished to allow these additional basic landholder rights to be met, and
 - (b) the IDELS of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 42 (2) of the Act, if any unassigned TDEL cannot meet either:
 - (a) the IDEL requirements of applicants for new access licences for domestic and stock access, unregulated river (Aboriginal cultural) access and unregulated river (research) access, or
 - (b) a local water utility's IDEL requirements,then the TDEL for unregulated river access licences in clause 47 (b) will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELS of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (5) Any adjustment to unregulated river access licence IDELS arising from this clause will be done at intervals of no greater than 5 years.
- (6) If water that, pursuant to an access licence:

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- (a) is committed to adaptive environmental water, then the TDEL for the classes specified on the committed access licence in the specified category will be reduced by the IDEL on the access licence so committed and clauses 46 and 47 adjusted accordingly, or
- (b) is uncommitted to adaptive environmental water, then the TDEL for the classes specified on the committed access licence in the specified category will be increased by the IDEL on the access licence so uncommitted and clauses 46 and 47 adjusted accordingly.

52 Administrative arrangements for managing access to daily flows

Notwithstanding the forgoing provisions of this Division, this Plan provides that access licences may be managed as a group with respect to the IDELs, subject to the following rules:

- (a) all access licences (excepting local water utility licences) with IDELs shall be made part of a group established and maintained by the Minister at the time when IDELs are first assigned under clause 47,
- (b) access licence holders have the right to have their access licence removed from the group, in which case they shall be permitted to extract under that access licence a maximum of the licensed IDEL,
- (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject access licence,
- (d) access licence holders may make a request to form a group for their access licences,
- (e) daily extraction under all access licences within a group will be assessed as a whole against the combined IDELs,
- (f) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,
- (g) where it been assessed that a holder of a licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that licence from the group,
- (h) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,
- (i) should a holder of an access licence which is part of a group commit the IDELs of that access licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
- (j) an access licence may not be in more than one group, and
- (k) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

53 Infrastructure failure

In the event of infrastructure failure, the Minister can elect to:

- (a) continue to announce the current flow class,

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- (b) announce another flow class based on climatic conditions and any other flow gauging information, or
- (c) restrict access to water to the lowest flow class.

Note. Infrastructure is defined in the dictionary.

Note. If satisfied that it is necessary to do so in the public interest, the Minister may direct the holders of an access licence to cease using a water supply work in accordance with section 323 of the Act.

Part 11 Access licence dealing rules

54 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 4.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

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

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

55 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71D, 71F and 71J of the Act, and with respect to water allocation assignments within this water source under section 71G of the Act.

- (2) Dealings are prohibited under this clause if any of the access licences or water allocations involved are not within this water source, unless the dealing is permitted under clause 60.

Note. Clause 57 relates to any dealings that involve an access licence moving from one water source to another.

- (3) If a dealing under this clause results in the extraction component of an access licence listed in Schedule 5 being assigned to an access licence nominating a work in Zone 1, then access to flows below 1ML/day, as amended by clause 75, will not be permitted.
- (4) If a dealing under this clause results in the extraction component of an access licence listed in Zone 1 being assigned to an access licence nominating a work in Zone 2, then access to flows below 1ML/day, as amended by clause 75, will not be permitted.

56 Rules for access licence dealings which alter the times, rates or circumstances specified in access licence extraction components

Notwithstanding clause 55, applications under section 71F of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited, except in accordance with clause 50 (1) (c).

57 Rules for change of water source

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

Note. Section 71E dealings are the mechanism by which access licences can move from one water source to another. Once the change in water source has been affected, if permitted, the new licence will have to nominate specified works (by a dealing under section 71J of the Act) in the receiving water source before extraction can commence.
- (2) Dealing under section 71E of the Act are prohibited in this water source, unless provided for in this clause.
- (3) An access licence with a share component specifying this water source may be cancelled and a new licence issued in another water source only if:
 - (a) the new access licence issued is within this Unit, and
 - (b) the access licence dealing rules in the other water source permit such a dealing.
- (4) An access licence with a share component specifying another water source may be cancelled and a new licence issued in this water source under this dealing only if:
 - (a) the access licence cancelled is within this Unit, and
 - (b) the access licence dealing rules in the other water source permit such a dealing.
- (5) The volume of the share component on a licence issued under a dealing provided for in this clause is to be the volume of the cancelled access licence share component.
- (6) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

58 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
 - (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence,
 - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence, or
 - (c) the conversion is from domestic and stock access licence to an unregulated river access licence.

Note. Any access to very low flows previously possible under the domestic and stock access licence will not be carried over to the new unregulated river access licence.
- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.

59 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in the interstate transfer of an access licence into or out of this water source are prohibited.

60 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act, in relation to water allocation assignments between water sources.
- (2) Dealing under section 71G of the Act that result in water allocation assignments to or from access licences in this water source are prohibited unless provided for in this clause.
- (3) Dealings that assign water allocations between access licences inside this water source and access licences outside this water source, but inside this Unit, are permitted only if the access licence dealing rules in the other water source permit such a dealing.

Note. Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

61 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in interstate assignment of water allocations to or from this water source are prohibited.

Part 12 Mandatory conditions

62 Mandatory conditions on access licences

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.
- (2) All access licences shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:
 - (a) the specification of share component of the access licence,
 - (b) the specification of extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
 - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
 - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
 - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
 - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
 - (g) any other conditions required to implement the provisions of this Plan.

63 Unregulated river access licences

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

64 Local water utility access licences

All local water utility access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of supplying water for the exercise of a water supply function of the local water utility or for other such purposes provided for under the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, and

Water Sharing Plan for the Commissioners Waters Water Source 2003

- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

65 Domestic and stock access licences

All domestic and stock access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

66 Runoff harvesting access licences

All runoff harvesting access licences shall have a mandatory condition imposed on them specifying that water may be taken without restriction in rate, but only from the specified work.

67 Unregulated river (Aboriginal cultural) access licences

All unregulated river (Aboriginal cultural) access licences shall have mandatory conditions to give effect to the following:

- (a) water shall only be taken for Aboriginal personal, domestic and communal purposes including the purposes of drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, hunting, fishing, and gathering, and for recreational, cultural and ceremonial purposes,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

68 Unregulated river (research) access licences

All unregulated river (research) access licences shall have mandatory conditions to give effect to the following:

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- (a) water shall only be taken for the purpose of scientific research, experimentation or teaching by accredited tertiary institutions, government bodies or other organisations, where any primary production resulting from the research program is not sold for profit,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

69 Mandatory conditions on water supply works approvals

All approvals for water supply works in this water source shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:

- (a) flow measurement devices:
 - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,
- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work,
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence, and
- (f) approvals for in-river dams must include a condition requiring the passing of such flows as the Minister determines to be appropriate to achieve the objectives of this Plan.

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Part 13 Granting and amending water supply works approvals

70 Granting and amending water supply works approvals

This Part is made in accordance with section 21 (b) of the Act.

71 Runoff harvesting dams

- (1) New or expanded runoff harvesting dams shall, in addition to other considerations, be subject to the dam capacity not exceeding that which is consistent with the access licence share component specifying the runoff harvesting dam as the nominated work.
- (2) When the water allocations that may be taken from a runoff harvesting dam are reduced either by the Minister, or on application of the approval holder, or by an assignment in accordance with Part 11 of this Plan, the Minister may impose an additional condition requiring the dam to be modified so as to reduce its capacity, or requiring the water taken and evaporated from the dam to be reduced, consistent with the reduction in water allocations available.

Note. Extraction of water from a runoff harvesting dam requires a runoff harvesting access licence, unless the runoff harvesting dam is within the maximum harvestable right dam capacity for the property on which it is located, in which case no licences or approvals are required. Runoff harvesting is a category of access licence to be established by regulation under section 57 (k) of the Act.

72 In-river dams

No new in-river dams shall be approved within this water source.

Note. Taking of water from an in-river dam requires an access licence unless it is taken in accordance with section 52 of the Act (domestic and stock rights). In either case, however, the dam requires a water management works approval unless exempted by regulation under the Act.

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Part 14 Monitoring and reporting

73 Monitoring and reporting of performance indicators

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

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

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

Note. Implementation Program

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

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

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

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Part 15 Amendment of this Plan

74 Amendment of this Plan

This Part is made in accordance with section 42 (2) of the Act.

75 Amendment of very low flow provisions

- (1) The Minister may, under section 42 (2) of the Act and by notice published in the NSW Government Gazette, vary the very low flow levels established in clauses 17(a)(i) and 17(b)(i), and consequently the bottom of combined A and B class established in clauses 17(a)(ii) and 17(b)(iii), following field verification.
- (2) Any variation made under subclause (1) should not result in the very low flow level being less than 1 ML/day or being greater than 2 ML/day.
- (3) The Minister should cause the field verification in subclause (1) to be undertaken as soon as practical, but before the review of this Plan under section 43 (2) of the Act.
- (4) The field verification should assess the degree to which the objective in clause 11 (b) is met.
- (5) In undertaking the field verification the Minister should:
 - (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture and the NSW National Parks and Wildlife Service, and
 - (b) prepare a report documenting:
 - (i) the methodology adopted,
 - (ii) the hypotheses tested,
 - (iii) the field results and conclusions in terms of the degree to which objective 11 (b) is met,
 - (iv) the flow level recommended to meet the objective, and
 - (v) the socio-economic impacts of recommended changes to the flow level.

76 Review of field verification

- (1) The Minister should seek advice from a review body on the field verification report specified in clause 75 (5) (b) before varying this Plan in accordance with clause 75 (1), if the field verification recommends a variation in the very low flow levels established in clause 17.
- (2) This review body may be:
 - (a) a water management committee with water sharing responsibilities for this water source, if one exists,
 - (b) an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a water management committee referenced at subclause (2) (a), or

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- (c) if there is no water management committee with water sharing responsibilities for this water source, then by a catchment management board with responsibilities for this water source or an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a catchment management board.
- (3) The review body should provide advice to the Minister on the field verification report, and advise on any changes to the recommendations contained in the report in relation to any variation of the very low flow levels.
- (4) The review body should respond to the Minister as soon as practical after receiving the report, or within 3 months of that date at the latest.

77 Other amendment of this Plan

This Plan can be amended in accordance with clause 51 in respect to adjustments to TDELS and IDELS.

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Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

account water is the balance in a licence water allocation account at a particular time.

Note. A licence water allocation account records water allocations accrued under the licence as well as water allocations taken, assigned or re-credited. The operation of the account is also governed by rules for the carrying over of credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

conversion factor refers to the adjustment factor that is to be applied to share components when they are cancelled or reissued in a different water source and visa versa, or when the licence category is changed. It is designed to provide for the fact that the value of a unit of share component in terms of the average water allocations that result from it may vary from one water source to another, or from one category of licence to another.

endangered ecological communities means ecological communities listed in Schedule 1 of the *Threatened Species Conservation Act 1995* or Schedule 4 of the *Fisheries Management Act 1994*.

extraction limit is a limit on the amount of water that may be extracted, on average, from an extraction management unit.

extraction management unit is a group of water sources for the purpose of managing annual average extraction.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs. See also **in-river dam** and **runoff harvesting dam**.

flow classes are categorised by the size and duration of flow levels in unregulated rivers, for example:

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

flow gauging station is a device that is used to measure the height of a river, from which the flow in the river can be calculated.

individual daily extraction limit (IDEL) is the volume of water that may be extracted by an individual access licence from an unregulated river on a daily basis from a particular flow class.

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infrastructure includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within this water source.

in-river dam is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a “river” gazetted 23rd March 2001. See also *farm dam* and *runoff harvesting dam*.

management zone is an area within the water source in which daily extraction limits may be defined, or where dealing restrictions are applied. Management zones may be designated where the water source to which the water sharing plan applies is divided into areas and daily extraction limits are defined for each area. They may also be designated where local dealing restrictions are in place.

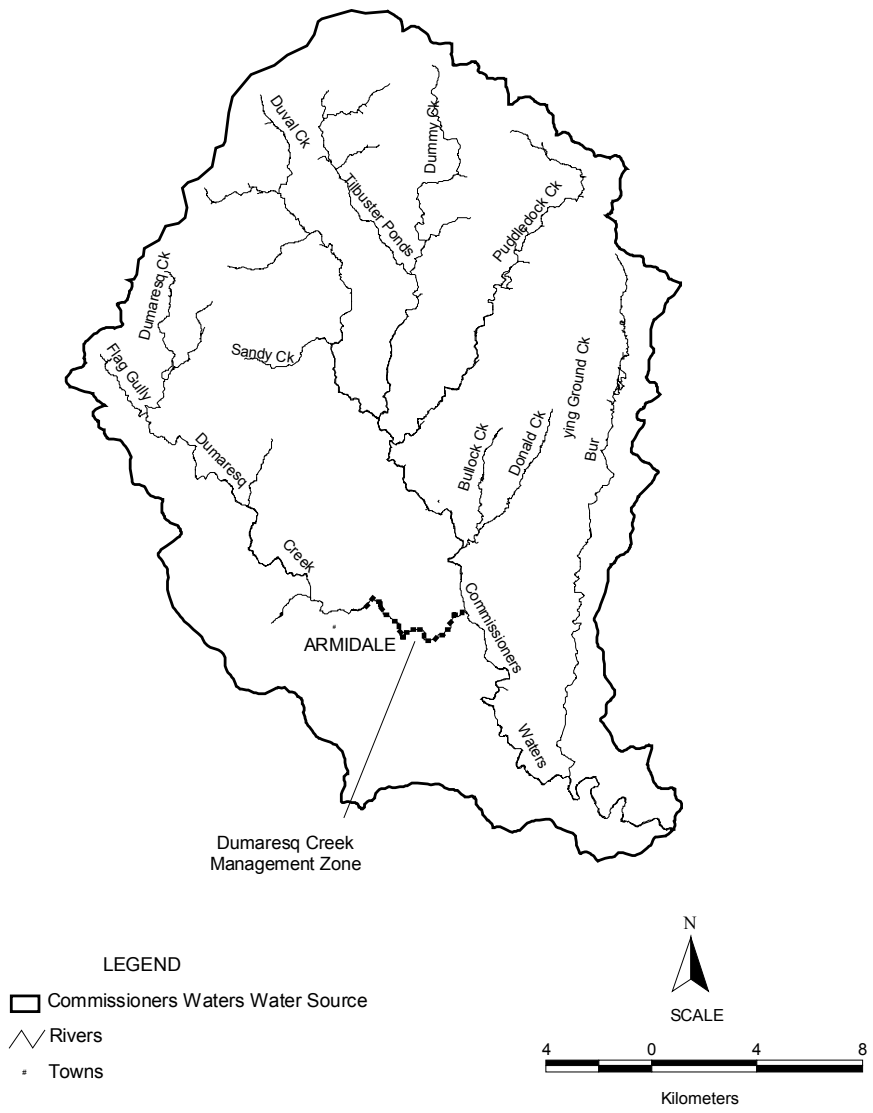
runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a river gazetted 23rd March 2001. See also *farm dam* and *in-river dam*.

Note. This Order refers to watercourses shown as blue lines on topographic maps. The lines which are uppermost in a catchment are 1st order streams, when two 1st order streams are joined they make a 2nd order stream, etc. For more information see the Farm Dams Assessment Guide available from the Department of Land and Water Conservation.

total daily extraction limit (TDEL) is the volume of water that may be extracted under access licences from an unregulated river on a daily basis from a particular flow class.

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Schedule 2 Commissioners Waters Water Source



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Schedule 3 Rivers in the Commissioners Waters Water Source

This water source includes, without limitation:

Bullock Creek
Buryingground Creek
Commissioners Waters
Donald Creek
Dumaresq Creek
Duval Creek
Flag Gully
Hardcrackers Gully
Pipeclay Creek
Puddledock Creek
Sandy Creek
Tilbuster Ponds

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Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL – contributes to target in full

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

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to target

Relevant Target	Level of contribution	Comments
Target 1c Long-term average annual extraction limits which are ecologically sustainable, and which minimise downstream impacts, established in all coastal water sources	HIGH	<ul style="list-style-type: none"> This Plan clearly sets out the basis for the extraction limit for the Macleay River Extraction Management Unit. Until the cumulative impact of this limit can be assessed for all of this Unit it is not possible to properly assess ecological sustainability and downstream impact, however there is a relatively low level of access licence share components in this Unit and application of IDELs should ensure adequate downstream flows.
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	<ul style="list-style-type: none"> Rules set out in Part 9 of this Plan.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	<ul style="list-style-type: none"> Part 10 of this Plan puts in place IDELs to protect/restore environmental flows. This Plan has significantly improved very low to moderate flow protection. Allows some limited erosion of moderate to high flows into Oxley Wild Rivers National Park Is consistent with relevant Threatened Species Recovery Plans.
Target 4a Wherever the frequency	FULL	<ul style="list-style-type: none"> Total daily extraction limits

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Relevant Target	Level of contribution	Comments
of “end of system” daily flows would be less than 60% of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60% of predevelopment levels or increased by at least 10% of the predevelopment frequency		protect 50% of moderate and 70% of high flows.
Target 4b Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the predevelopment 95 th percentile	FULL	<ul style="list-style-type: none"> • Cease to pump levels protect flows below 85th percentile in critical months and verified through field inspections to provide minimal connectivity between pools.
Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components	FULL	<ul style="list-style-type: none"> • This Plan establishes daily extraction limits for distribution to individual access licensees.
Target 6b For surface water sources, a pathway for reducing the share components to 200% of the long term average annual extraction limit to be established not later than the end of the term of the SWMOP	FULL	<ul style="list-style-type: none"> • Total access licence share components for the Macleay River Extraction Management Unit should not exceed 200% of extraction limit for this Unit.
Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy	HIGH	<ul style="list-style-type: none"> • This Plan proposes an exemption from the access licence embargo for Aboriginal cultural heritage purposes. • No unallocated water is available. • The Government has established alternative mechanisms to address this target.
Target 8 Daily extraction components specified and tradeable, subject to metering,	FULL	<ul style="list-style-type: none"> • To meet this target Statewide, the individual plans should as far as practicable, establish total daily

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Relevant Target	Level of contribution	Comments
reporting and compliance, for at least 50% of unregulated river access licences and for 80% of stressed unregulated rivers		extraction limits across the whole water source, and this Plan does this.
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use	FULL	<ul style="list-style-type: none"> • Cease to pump level will protect flows for domestic and stock rights. • Total daily extraction limits also explicitly provide for domestic and stock requirements.
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	PARTIAL	<ul style="list-style-type: none"> • Aboriginal community representatives have been involved in development of this Plan, but it is unlikely that the broader Aboriginal communities have been given enough capacity to deal with the issues.
Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them	FULL	<ul style="list-style-type: none"> • This Plan does not address specific Aboriginal cultural or traditional requirements and has not identified any sites of particular importance. • This Plan does provide reasonably high level of environmental protection which should assist in protecting Aboriginal values.
Target 16a All share components of access licences tradeable	FULL	<ul style="list-style-type: none"> • This Plan provides for trading of share components and IDELS.
Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water	FULL	<ul style="list-style-type: none"> • Part 11 of this Plan establishes conversion factors of 1:1 for trading between water sources in Macleay River Extraction Management Unit.
Target 16d Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery	FULL	<ul style="list-style-type: none"> • This Plan does not impose reduction factors.
Target 16e Any unassigned access rights identified and clear	FULL	<ul style="list-style-type: none"> • No unassigned access rights established by this Plan.

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Relevant Target	Level of contribution	Comments
mechanisms established for their future assignment		
Target 16f Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit	FULL	<ul style="list-style-type: none"> • This Plan establishes water trading zones.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	HIGH	<ul style="list-style-type: none"> • This Plan includes a generalised water quality objective. • This Plan does provide reasonably high level of environmental protection which should assist in protecting water quality.

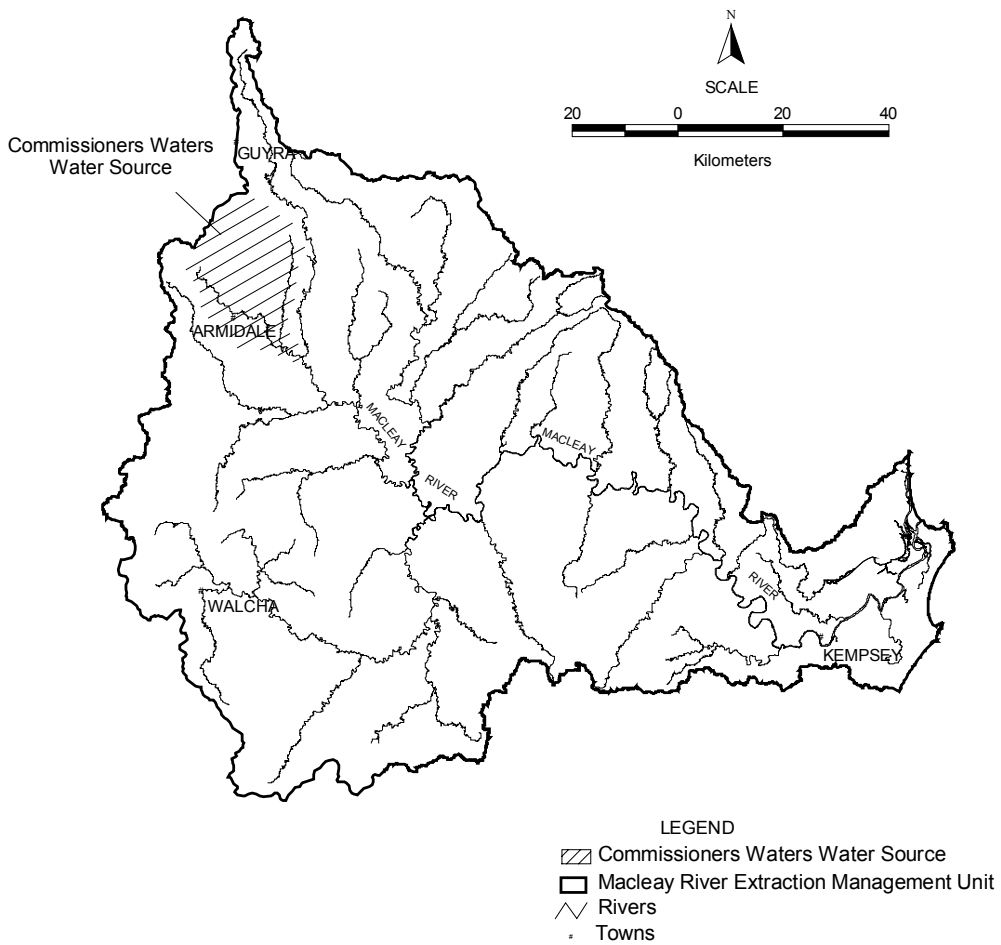
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Schedule 5 Dumaresq Creek management zone access licences

Water Act 1912 Licence Number	Holder
30SL066083	Reardon, Mark & Valerie Ruth
30SL025539	University of New England
30SL050126	Reardon, Mark & Valerie Ruth
30SL038686	Tombs, Robert John & Wendy Margaret
30SL033393	Gasbarri, Guiseffe & Valeria
30SL065592	Thomas, Norman Robert
30SL045443	O'Donnell, Christopher John
30SL051171	Myhill, Ila & Peter
30SL046906	Kelly, Stephen Keith

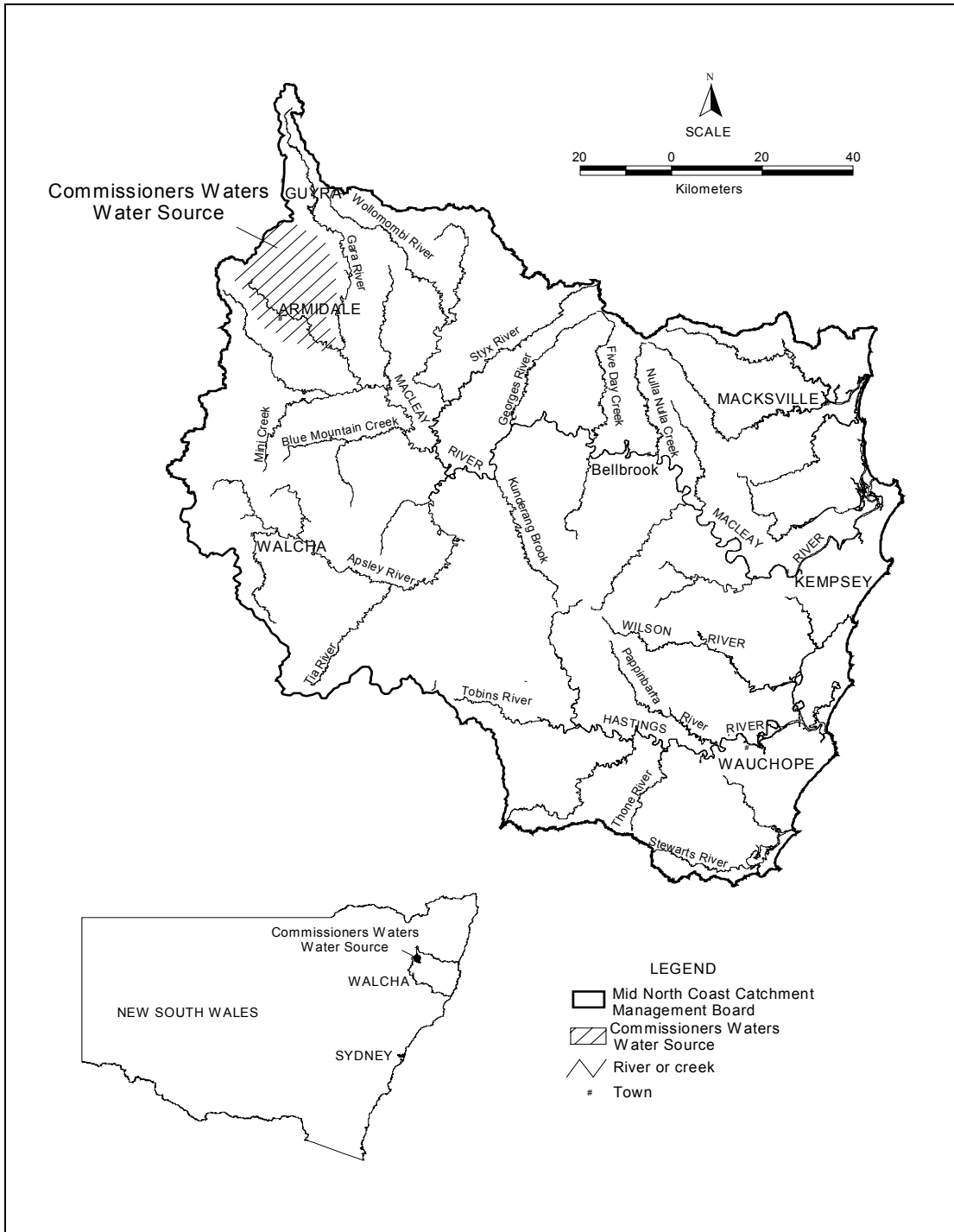
Note. The access licence details in this Schedule may change during the period of this Plan. The District Office of the Department of Land and Water Conservation, shown in Appendix 2, should be contacted for a current list.

Schedule 6 Macleay River Extraction Management Unit



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Appendix 1 Mid North Coast Water Management Area



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Appendix 2 Location of maps for public inspection

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

Regional Office
Department of Land and Water Conservation
Victory Street
GRAFTON NSW 2460

District Office
Department of Land and Water Conservation
Faulkner Street
ARMIDALE NSW 2350

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Appendix 3 Performance indicators

Performance indicators for the Commissioners Waters Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(a) Change in low to moderate flows.	11 (a) 11 (c) 11 (d) 11 (f) 11 (g)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points. 	<ul style="list-style-type: none"> River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. Note. Not every objective is relevant to every river in NSW. Plan will contribute to a decrease in the frequency and duration of low flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(b) Change in high flows.	11 (a) 11 (c) 11 (d) 11 (f) 11 (g)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points. 	<ul style="list-style-type: none"> RFO 3. Plan will maintain or increase the frequency and duration of moderate to high flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(c) Change in local water utilities and major water utilities access (where those utilities are involved in urban water	11 (e)	<ul style="list-style-type: none"> Change in safe yield (<i>safe yield</i> is the annual demand that can be supplied from the water supply headworks and is based on the 	<ul style="list-style-type: none"> Water sharing plans for unregulated water sources have the potential to impact on urban water supplies.

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Performance indicators for the Commissioners Waters Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
provision).		period of records used and an acceptable level of restriction).	
(d) Change in ecological condition of this water source and dependent ecosystems.	11 (a) 11 (b) 11 (c) 11 (d) 11 (f) 11 (h)	<ul style="list-style-type: none"> • Periodic assessment of identified indicators for ecological condition. 	<ul style="list-style-type: none"> • Water sharing plans are limited to providing for changes in flow regime aimed at improving the conditions for the ecological condition of the river. • There are many other factors that contribute to ecological objectives. • The focus of this performance indicator will be the effect of flow strategies. Therefore assessment of ecological condition should be based largely on hydrologic parameters (such as wetted area, depth in pools and velocity). This attempts to exclude external, non - water sharing plan related factors (such as climate and catchment landuse changes).
(e) Extent to which basic landholder rights requirements have been met.	11 (e)	<ul style="list-style-type: none"> • Assessment of cease to pump levels in relation to basic rights requirements. 	<ul style="list-style-type: none"> • Basic landholder rights usage figures in water sharing plans are estimated (not actual use).
(f) Change in economic benefits derived from water extraction and use.	11 (c) 11 (e)	<ul style="list-style-type: none"> • Number of days access provided. • Percentage change in number and volume of farm dams. • Change in unit price of water transferred. 	<ul style="list-style-type: none"> • There are many factors affecting economic status of a region, for example commodity prices. • Measurement of the number of farm dams will attempt to identify the impact of the plan provisions.
(g) Extent to	11 (h)	<ul style="list-style-type: none"> • Assessment of 	<ul style="list-style-type: none"> • The collection of information on the

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Performance indicators for the Commissioners Waters Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
which native title rights requirements have been met.		cease to pump levels in relation to basic rights requirements.	values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(h) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.	11 (b) 11 (d) 11 (f) 11 (h)	<ul style="list-style-type: none"> Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people. 	<ul style="list-style-type: none"> The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(i) Change in consultation on Aboriginal values in water licensing decisions.	11 (b) 11 (d) 11 (f) 11 (h)	<ul style="list-style-type: none"> The number of licence applications referred to the Amaroo Local Aboriginal Land Council. 	<ul style="list-style-type: none"> Consultation with the local Aboriginal community will seek to minimise effects on important social, customary, cultural, and spiritual values.
(j) Contribution to the achievement of water quality to support the environmental values of this water source.	11 (i)	<ul style="list-style-type: none"> Change in the baseline figures of identified water quality variables. 	<ul style="list-style-type: none"> Many factors may affect water quality that are not related directly to flow management.

Appendix 4 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

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groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, **commitments to take water** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.
- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings**11. Transfer of access licences**

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.

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- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
 - (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and

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- (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).

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- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.
- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or

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- (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or

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- (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
 - (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
 - (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
 - (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
 - (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
 - (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
 - (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
 - (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or

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- (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:
 - (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
 - (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
 - (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and

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- (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or
 - (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.

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- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Water Sharing Plan for the Apsley River Water Source 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

 Water Sharing Plan for the Apsley River Water Source 2003

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Water Sharing Plan for the Apsley River Water Source 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Apsley River Water Source 2003* (hereafter **this Plan**).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter **the Act**).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Area to which this Plan applies

The area in respect of which this Plan is made is that area of land within the Mid North Coast Water Management Area known as the Apsley River Water Source (hereafter **this water source**) as shown on the map in Schedule 2.

Note. The Mid North Coast Water Management Area is shown on a map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

5 Waters to which this Plan applies

- (1) The waters of this water source include all water occurring on the land surface shown on the map in Schedule 2 including, but not limited to:
 - (a) all rivers in this water source including, but not limited to, those nominated in Schedule 3, and
 - (b) all lakes and wetlands in this water source.
- (2) The waters of this water source exclude all water contained within aquifers underlying this water source.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of those terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

Water Sharing Plan for the Apsley River Water Source 2003

7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter *the SWMOP*).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

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

10 Vision

The vision for this Plan is to ensure the water needs of the whole Apsley River water source community are provided for and the environment receives the necessary water to maintain or re-establish healthy, functioning ecosystems.

11 Objectives

The objectives of this Plan are to:

- (a) maintain natural in-river processes within the Oxley Wild Rivers National Park by managing extraction upstream to ensure sufficient flows through the Park,
- (b) protect pools and natural low flows in this water source by limiting extractions,
- (c) improve water quality in this water source through the management of flows,
- (d) protect and enhance water dependent ecosystems, threatened species and endangered ecological communities by managing access to flows,
- (e) contribute to the prosperity of communities within this water source by allowing some opportunities for extraction,
- (f) maintain or improve the overall health of the Macleay River and estuary by ensuring sufficient contributions to this system through flows from this water source,
- (g) imitate natural river variability, including the protection of freshes, in this water source through the management of access to various flow classes, and
- (h) recognise and protect Aboriginal heritage sites and values through the management of flows and in water licensing decisions.

12 Strategies

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,
- (c) limit the long-term average extraction of water,
- (d) clearly define access conditions for water extraction and rules for extracting water from this water source,
- (e) establish rules for determining the water available from time to time under access licences,

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- (f) establish water allocation accounting rules, and
- (g) specify access licence dealing rules that maximise flexibility for water users without adversely impacting on this water source.

13 Performance indicators

The following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in low flows,
- (b) change in moderate to high flows,
- (c) change in local water utilities access,
- (d) change in ecological condition of this water source and dependent ecosystems,
- (e) extent to which basic landholder rights requirements have been met,
- (f) change in economic benefits derived from water extraction and use,
- (g) extent to which native title rights requirements have been met,
- (h) extent of recognition of spiritual, social and customary values of water to Aboriginal people,
- (i) change in consultation on Aboriginal values in water licensing decisions, and
- (j) contribution to the achievement of water quality to support the environmental values of this water source.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow variability in this water source.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in this water source within the limits of water availability on a long-term average basis, and
 - (b) sharing of the flows that occur in this water source on a daily basis.

16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Macleay River Extraction Management Unit, and is shown on the map in Schedule 5.

17 Flow classes

This Plan establishes the following flow classes as the basis for sharing of daily flows:

- (a) very low flow class at or less than 1 megalitre per day (hereafter *ML/day*),
Note. The 1 ML/day in (a) corresponds to the estimated 80th percentile of all days in December, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
- (b) B class flows greater than 1 ML/day and at or less than 11 ML/day, and
- (c) C class flows greater than 11 ML/day.

Note. The flow classes have been determined based on flow information that inherently includes seasonal effects as well as evaporation and seepage losses.

18 Flow reference point

For the purpose of this Plan, all flows referred to relate to the estimated flows at the flow reference point at the downstream end of this water source, as shown on the map in Schedule 2.

19 Determination of flow class

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at a flow gauging station, correlated to the flow reference point established in clause 18.

Part 4 Environmental water provisions

20 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

21 Environmental health water

- (1) Environmental health water is identified and established as follows:
 - (a) In very low flows, the flow occurring in this water source minus 0.08 ML/day.

Note. This figure is the amount of water estimated at the commencement of this Plan for basic landholder rights.
 - (b) In B class flows, the flow occurring in this water source minus 3.88 ML/day.

Note. This figure is amount of water estimated at the commencement of this Plan for B class total daily extraction limit and basic landholder rights.
 - (c) In C class flows, the flow occurring in this water source minus 8.48 ML/day.

Note. This figure is amount of water estimated at the commencement of this Plan for C class total daily extraction limit and basic landholder rights.
- (2) Environmental health water is maintained as follows:
 - (a) In very low flows:
 - (i) the holders of access licences are not permitted any access, and
 - (ii) persons exercising domestic and stock and native title rights may take a combined total of up to 0.08 ML/day.

Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment, for reasons of public health, or to preserve basic landholder rights.
 - (b) In B class flows:
 - (i) the holders of access licences have restricted access to water as specified in clause 46,
 - (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 0.08 ML/day in this flow class the access to water for access licences will be reduced in accordance with clause 51 to maintain the environmental water in this flow class.
 - (c) In C class flows:
 - (i) the holders of access licences have restricted access to water as specified in clause 46,
 - (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 0.08 ML/day in this flow class the access to

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water for access licences will be reduced in accordance with clause 51 if this is necessary to maintain the environmental water in this flow class.

- (d) In all flow classes, limits are imposed on the availability of water in accordance with clauses 36 and 38, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

Note. These rules protect the water for the environment by limiting the total water taken, and the rate of extraction of water in different flow ranges, thereby achieving the objectives of this Plan.

Note. This Plan recognises that the environmental health water provisions provide non-extractive benefits, including the protection of Aboriginal heritage sites and values, and maintenance and improvement of water quality.

22 Extraction by water supply work

Notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

23 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

24 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

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Part 5 Basic landholder rights

25 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

26 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 0.07 ML/day.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting rivers and lakes in this water source or as a result of an increase of the exercise of basic landholder rights by existing landholders.

27 Native title rights

- (1) At the commencement of this Plan the water requirements of holders of native title rights are estimated to be a total of 0.01 ML/day.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. Increase in use of native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

28 Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to the harvestable rights Order published in the NSW Government Gazette on 23 March 2001 under section 54 of the Act.

Part 6 Bulk access regime

29 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

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Part 7 Requirements for water under access licences

30 Requirements for water under access licences

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

Note. The amount of water specified in this Part represents the total volumes specified on access licences in this water source. It is not a commitment to supply that water.

31 Estimate of water requirements

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within this water source will total approximately 333 megalitres per year (hereafter *ML/yr*).
- (2) This Plan recognises that the total requirements for water for extraction within this water source may change during the term of this Plan as a result of:
 - (a) the granting, surrender, cancellation or non-renewal of access licences, or
 - (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act.

Part 8 Rules for granting access licences

32 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in this water source and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:
 - (a) local water utility access licences,
Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's share component at 5 year intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) domestic and stock access licences,
 - (c) an access licence resulting from an application of a type listed in section 82 (1) of the Act,
 - (d) unregulated river (Aboriginal cultural) access licences where the share components does not exceed 10 ML/yr per application, or
 - (e) unregulated river (research) access licences where the share components does not exceed 10 ML/yr per application.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction components sought will be the minimum required to meet that purpose and circumstance.
- (5) Subclause (4) does not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (6) Any individual daily extraction limit (hereafter **IDEL**) granted in accordance with this clause cannot exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 51.
- (7) IDELs will only be granted as part of unregulated river (Aboriginal cultural) and unregulated river (research) access licences while there remains unassigned TDELs.
- (8) In accordance with section 56 of the Act, all access licences in this water source shall have a share component expressed as a volume in ML/yr.
- (9) Notwithstanding subclause (8) runoff harvesting access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from specified works.

33 Aboriginal assessment of new access licences

- (1) The Minister should seek the views of the Amaroo Local Aboriginal Land Council in relation to all new access licence applications.

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- (2) The Minister should consider any advice provided under subclause (1) before determining the access licence application.

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

34 Limits to the availability of water

This Division is made in accordance with section 20 (2) (a) of the Act.

35 Extraction management unit

Management of the long-term extraction of water from this water source will be undertaken in the context of the Macleay River Extraction Management Unit (hereafter *this Unit*) referred to in clause 16 (2).

36 Long-term average extraction limit

The long-term average extraction limit for this Unit of which this water source is a part will be the total of:

- (a) the quantity of water specified in conditions attached to or included in entitlements issued under Part 2 of the *Water Act 1912* in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit, and
- (b) an estimate of annual extraction of water under domestic and stock and native title rights in this Unit at the commencement of this Plan.

37 Variation of the long-term average extraction limit

The long-term average extraction limit of this Unit may be varied by the Minister if dealings under Part 11 of this Plan result in the issuing or cancellation of access licences in this Unit.

Division 2 Available water determinations

38 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 36, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,

Note. A water accounting year is defined in clause 43 (3).

- (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,

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- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
- (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be of such volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 36 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 36, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components,
- (j) a new available water determination for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

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Part 10 Rules for managing access licences

Division 1 General

39 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b), 21 (a) and 21 (c) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

40 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

41 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in this water source.

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

Note. Water allocations may also be re-credited to these accounts in accordance with section 76 of the Act, subject to the operation of a return flows scheme established under section 75 of the Act.

42 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 38.

43 Annual accounting for water extraction

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is as follows:
 - (a) 100% of the access licence share component from 2003/4 to 2004/5,
 - (b) 200% of the access licence share component from 2004/5 to 2005/6, and
 - (c) thereafter, the sum of the previous 2 available water determinations.

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- (5) Notwithstanding subclause (4) total water in any water allocation account cannot exceed 3 times the share component of the access licence:
 - (a) plus any water allocations assigned from another licence by water allocation assignment under section 71G of the Act in that year,
 - (b) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (c) minus any water allocations assigned to another licence by water allocation assignment under section 71G of the Act in that year.
- (6) In any one water accounting year, water taken from this water source under an access licence may not exceed a volume consisting of:
 - (a) twice the water allocation accrued under the licence that year,
 - (b) plus any water allocations assigned from another licence by water allocation assignment under section 71G of the Act in that year,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence, by water allocation assignment under section 71G of the Act in that year.
- (7) A water allocation account shall remain at or above zero at all times.

44 Three year accounting for water extraction

- (1) Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
 - (a) the water allocations accrued under the licence in those years,
 - (b) plus any water allocations assigned from another licence by water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by water allocation assignment under section 71G of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
 - (a) 3 times the share component of the access licence,
 - (b) plus any water allocations assigned from another licence by water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by water allocation assignment under section 71G of the Act in those years.

Division 3 Sharing flows on a daily basis

45 Sharing flows on a daily basis

This Division is made in accordance with sections 20 (2) (b) and 21 (a) of the Act.

46 Total daily extraction limits

(1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:

- (a) 0 ML/day for the very low flow class,
- (b) 3.8 ML/day for B class, and
- (c) 8.4 ML/day for C class.

Note. These flows represent 35% of the top of B class flows, and in C class flows 30% of the 30th percentile flows in December.

(2) The TDEL for each flow class specified in subclause (1) applies to all rivers within this water source apart from those rivers defined as minor streams in a harvestable right Order made under section 54 of the Act.

Note. The harvestable rights Order applying to this area at the commencement of this Plan is that gazetted on 23 March 2001 under section 54 of the Act. It identifies minor streams as non-permanent 1st and 2nd order streams as shown on topographic maps.

47 Initial assignment of the TDEL to categories of access licence

The TDEL for each flow class will initially be assigned to categories of access licences according to the following:

- (a) domestic and stock access licences:
 - (i) 0.5 ML/day of B class, and
 - (ii) 0.5 ML/day of C class.
- (b) unregulated river access licences:
 - (i) 3.3 ML/day of B class, and
 - (ii) 3.3 ML/day of C class.

48 Unassigned TDEL

At the commencement of this Plan, unassigned TDEL in each flow class is as follows:

- (a) 0 ML/day of B class, and
- (b) 4.6 ML/day of C class.

Note. Unassigned TDEL may vary as a result of the surrender, cancellation or non-renewal of an access licence's IDELs, or the operation of Part 8 of this Plan.

49 Daily extraction limits for individual access licence holders

(1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 47 as its share component bears to all the share components of licences of that category.

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- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

50 Granting of unassigned TDEL

- (1) The unassigned TDEL in clause 48 may be assigned to access licences in the following circumstances:
- (a) where they are applied for as part of a new access licence application,
 - (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
 - (c) to existing access licences for the purpose of pumping into farm dams if:
 - (i) the purpose of the additional IDEL sought is established by the proponent,
 - (ii) the IDEL sought is the minimum required to satisfy that purpose, and
 - (iii) the extraction is consistent with the objectives and principles of this Plan.
- (2) Where additional IDELs are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 49.

51 Adjustment to TDELS and IDELS

- (1) Where IDELs are assigned under clause 50 the unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category in clause 47 is increased accordingly.
- (2) Pursuant to section 42 (2) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan:
- (a) first the unassigned TDEL specified in clause 48 then, if necessary, the TDEL for unregulated river access licences in clause 47 (b) shall be diminished to allow these additional basic landholder rights to be met, and
 - (b) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 42 (2) of the Act, if any unassigned TDEL cannot meet a local water utility's IDEL requirements, then the TDEL for unregulated river access licences in clause 47 (b) will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (5) Any adjustment to unregulated river access licence IDELs arising from this clause will be done at intervals of no greater than 5 years.
- (6) If water that, pursuant to an access licence:

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- (a) is committed to adaptive environmental water, then the TDEL for the classes specified on the committed access licence in the specified category will be reduced by the IDEL on the access licence so committed and clauses 46 and 47 adjusted accordingly, or
- (b) is uncommitted to adaptive environmental water, then the TDEL for the classes specified on the committed access licence in the specified category will be increased by the IDEL on the access licence so uncommitted and clauses 46 and 47 adjusted accordingly.

52 Administrative arrangements for managing access to daily flows

Notwithstanding the forgoing provisions of this Division, this Plan provides that access licences may be managed as a group with respect to the IDELs, subject to the following rules:

- (a) all access licences (excepting local water utility licences) with IDELs shall be made part of a group established and maintained by the Minister at the time when IDELs are first assigned under clause 49,
- (b) access licence holders have the right to have their access licence removed from the group, in which case they shall be permitted to extract under that access licence a maximum of the licensed IDEL,
- (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject access licence,
- (d) access licence holders may make a request to form a group for their access licences,
- (e) daily extraction under all access licences within a group will be assessed as a whole against the combined IDELs,
- (f) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,
- (g) where it been assessed that a holder of an access licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that access licence from the group,
- (h) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,
- (i) should a holder of an access licence that is part of a group commit the IDELs of that access licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
- (j) an access licence may not be in more than one group, and
- (k) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

53 Infrastructure failure

In the event of infrastructure failure, the Minister can elect to:

- (a) continue to announce the current flow class,

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- (b) announce another flow class based on climatic conditions and any other flow gauging information, or
- (c) restrict access to water to the lowest flow class.

Note. Infrastructure is defined in the dictionary.

Note. If satisfied that it is necessary to do so in the public interest, the Minister may direct the holders of an access licence to cease using a water supply work in accordance with section 323 of the Act.

Part 11 Access licence dealing rules

54 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (e) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 4.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

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

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

55 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71D, 71F and 71J of the Act, and with respect to water allocation assignments within this water source under section 71G of the Act.
- (2) Dealings are prohibited under this clause if any of the access licences or water allocations involved are not within this water source, unless the dealing is permitted under clause 60.

Note. Clause 57 relates to any dealings that involve an access licence moving from one water source to another.

56 Rules for access licence dealings which alter the times, rates or circumstances specified in access licence extraction components

Notwithstanding clause 55, applications under section 71F of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited, except in accordance with clause 50 (1) (c).

57 Rules for change of water source

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

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

- (2) Dealing under section 71E of the Act are prohibited in this water source, unless provided for in this clause.

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- (3) An access licence with a share component specifying this water source may be cancelled and a new licence issued in another water source only if:
 - (a) the new access licence issued is within this Unit, and
 - (b) the access licence dealing rules in the other water source permit such a dealing.
- (4) An access licence with a share component specifying another water source may be cancelled and a new licence issued in this water source only if:
 - (a) the access licence cancelled is within this Unit, and
 - (b) the access licence dealing rules in the other water source permit such a dealing.
- (5) The volume of the share component on an access licence issued under a dealing provided for in this clause is to be the volume of the cancelled access licence share component.
- (6) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

58 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
 - (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence,
 - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence, or
 - (c) the conversion is from domestic and stock access licence to an unregulated river access licence.

Note. Any access to very low flows previously possible under the domestic and stock access licence will not be carried over to the new unregulated river access licence.
- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.

59 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in the interstate transfer of an access licence into or out of this water source are prohibited.

60 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act, in relation to water allocation assignments between water sources.

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- (2) Dealing under section 71G of the Act that result in water allocation assignments to or from access licences in this water source are prohibited unless provided for in this clause.
- (3) Dealings that assign water allocations between access licences inside this water source and access licences outside this water source, but inside this Unit, may be permitted only if the access licence dealing rules in the other water source permit such a dealing.
- (4) Dealings that assign water allocations between access licences inside this water source, may be permitted.

Note. Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

61 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in interstate assignment of water allocations to or from this water source are prohibited.

Part 12 Mandatory conditions

62 Mandatory conditions on access licences

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.
- (2) All access licences shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
 - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
 - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
 - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
 - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
 - (g) any other conditions required to implement the provisions of this Plan.

63 Unregulated river access licences

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

64 Local water utility access licences

All local water utility access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of supplying water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, and

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- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

65 Domestic and stock access licences

All domestic and stock access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

66 Runoff harvesting access licences

All runoff harvesting access licences shall have a mandatory condition imposed on them specifying that water may be taken without restriction in rate, but only from the specified work.

67 Unregulated river (Aboriginal cultural) access licences

All unregulated river (Aboriginal cultural) access licences shall have mandatory conditions to give effect to the following:

- (a) water shall only be taken for Aboriginal personal, domestic and communal purposes including the purposes of drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, hunting, fishing, and gathering, and for recreational, cultural and ceremonial purposes,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

68 Unregulated river (research) access licences

All unregulated river (research) access licences shall have mandatory conditions to give effect to the following:

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- (a) water shall only be taken for the purpose of scientific research, experimentation or teaching by accredited tertiary institutions, government bodies or other approved organisations, where any primary production resulting from the research program is not sold for profit,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

69 Mandatory conditions on water supply works approvals

All approvals for water supply works in this water source shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:

- (a) flow measurement devices:
 - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the water supply work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,
- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work,
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence, and
- (f) approvals for in-river dams must include a condition requiring the passing of such flows as the Minister determines to be appropriate to achieve the objectives of this Plan.

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Part 13 Granting and amending water supply works approvals

70 Granting and amending water supply works approvals

This Part is made in accordance with section 21 (b) of the Act.

71 Runoff harvesting dams

- (1) New or expanded runoff harvesting dams shall, in addition to other considerations, be subject to the dam capacity not exceeding that which is consistent with the share component of the access licence share component specifying the runoff harvesting dam as the nominated work.
- (2) When the water allocations that may be taken from a runoff harvesting dam are reduced either by the Minister, or on application of the approval holder, or by an assignment in accordance with Part 11 of this Plan, the Minister may impose an additional condition requiring the dam to be modified so as to reduce its capacity, or requiring the water taken and evaporated from the dam to be reduced, consistent with the reduction in water allocations available.

Note. Extraction of water from a runoff harvesting dam requires a runoff harvesting access licence, unless the runoff harvesting dam is within the maximum harvestable right dam capacity for the property on which it is located, in which case no licences or approvals are required. Runoff harvesting is a category of access licence to be established by regulation under section 57 (k) of the Act.

72 In-river dams

No new in-river dams shall be approved within this water source.

Note. Taking of water from an in-river dam requires an access licence unless it is taken in accordance with section 52 of the Act (domestic and stock rights). In either case, however, the dam requires a water management works approval unless exempted by regulation under the Act.

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Part 14 Monitoring and reporting

73 Monitoring and reporting of performance indicators

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

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

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

Note. Implementation Program

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

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

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

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Part 15 Amendment of this Plan

74 Amendment of this Plan

- (1) This Part is made in accordance with section 42 (2) of the Act.
- (2) This Plan can be amended in accordance with clause 51 in respect to adjustments to TDELS and IDELS.

Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

account water is the balance in an access licence water allocation account at a particular time.

Note. A licence water allocation account records water allocations accrued under the licence as well as water allocations taken, assigned or re-credited. The operation of the account is also governed by rules for the carrying over of credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

conversion factor refers to the adjustment factor that is to be applied to share components when they are cancelled or reissued in a different water source and visa versa, or when the licence category is changed. It is designed to provide for the fact that the value of a unit of share component in terms of the average water allocations that result from it may vary from one water source to another, or from one category of licence to another.

endangered ecological communities means ecological communities listed in Schedule 1 of the *Threatened Species Conservation Act 1995* or Schedule 4 of the *Fisheries Management Act 1994*.

extraction limit is a limit on the amount of water that may be extracted on average from an extraction management unit.

extraction management unit is a group of water sources for the purpose of managing annual average extraction.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs. See also **in-river dam** and **runoff harvesting dam**.

flow classes are categorised by the size and duration of flow levels in unregulated rivers, for example:

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

flow gauging station is a device that is used to measure the height of a river, from which the flow in the river can be calculated.

individual daily extraction limit (IDEL) is the volume of water that may be extracted by an individual access licence from an unregulated river on a daily basis from a particular flow class.

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infrastructure includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within this water source.

in-river dam is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the order made under section 5 of the *Water Act 1912* in relation to the definition of a “river” gazetted 23rd March 2001. See also *farm dam* and *runoff harvesting dam*.

management zone is an area within the water source in which daily extraction limits may be defined or where dealing restrictions are approved. Management zones may be designated where the water source to which the plan applies is divided into areas and total daily extraction limits are defined for each area. They may also be designated where local dealing restrictions are in place.

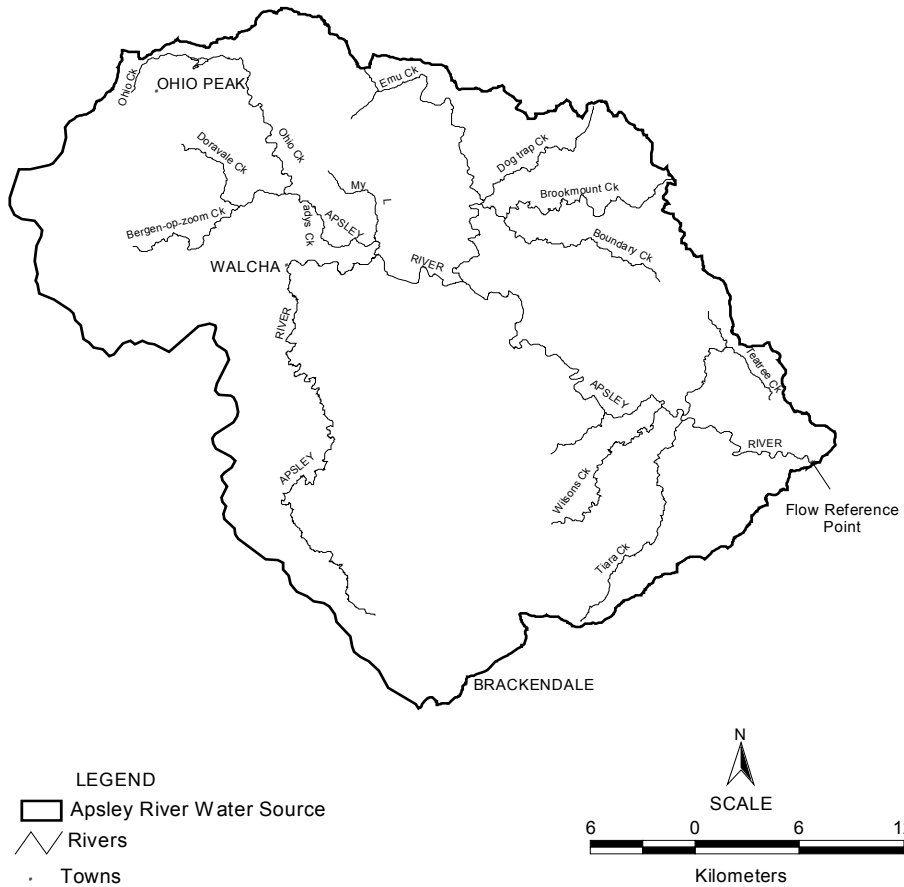
runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a river gazetted 23rd March 2001. See also *farm dam* and *in-river dam*.

Note. This Order refers to watercourses shown as blue lines on topographic maps. The lines which are uppermost in a catchment are 1st order streams, when two 1st order streams are joined they make a 2nd order stream, etc. For more information see the Farm Dams Assessment Guide available from the Department of Land and Water Conservation.

total daily extraction limit (TDEL) is the volume of water that may be extracted under access licences from an unregulated river on a daily basis from a particular flow class.

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Schedule 2 Apsley River Water Source



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Schedule 3 Rivers in the Apsley River Water Source

This water source includes, without limitation:

Apsley River
Bergen Op Zoom Creek
Brookmount Creek
Dog Trap Creek
Doravale Creek
Emu Creek
My Ladys Creek
Ohio Creek
Teatree Creek
Tiara Creek
Wilsons Creek

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Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL – contributes to target in full

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

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to target

Relevant Target	Level of Contribution	Comments
Target 1c Long term average annual extraction limits which are ecologically sustainable, and which minimise downstream impacts, established in all coastal water sources	HIGH	<ul style="list-style-type: none"> Part 9 of this Plan clearly sets out the basis for the extraction limit for the Macleay River Extraction Management Unit. Until the cumulative impact of this limit can be assessed for all of this Unit it is not possible to properly assess ecological sustainability and downstream impacts. However there is a relatively low level of access licence share components in this Unit and application of TDELS should ensure adequate downstream flows.
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	<ul style="list-style-type: none"> Rules set out in Part 9 of this Plan.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	<ul style="list-style-type: none"> Part 10 of this Plan puts in place comprehensive TDELS to protect/restore environmental flows. This Plan has significantly improved low-very low flow protection. This Plan allows some limited erosion of moderate to high flows into Oxley Wild Rivers National Park. This Plan is consistent with relevant Threatened Species Recovery Plans.
Target 4a Wherever the frequency of “end of	FULL	<ul style="list-style-type: none"> Total daily extraction limits protect 60-100% of flows.

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system” daily flows would be less than 60% of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60% of predevelopment levels or increased by at least 10% of the predevelopment frequency		
Target 4b Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the predevelopment 95th percentile	FULL	<ul style="list-style-type: none"> • Cease-to-pump levels protect flows below the 80th percentile in critical months and verified through field inspections.
Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components	FULL	<ul style="list-style-type: none"> • This Plan establishes total daily extraction limits for distribution to individual licensees.
Target 6b A pathway for reducing the share components to 200 percent of the long term average annual extraction limit to be established not later than the end of the term of the SWMOP	FULL	<ul style="list-style-type: none"> • Total licensed share components for the Macleay River Extraction Management Unit does not exceed 200% of extraction limit for this Unit.
Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy	HIGH	<ul style="list-style-type: none"> • This Plan proposes an exemption from the access licence embargo for Aboriginal cultural heritage purposes. • The Government has established alternative mechanisms to address this target.
Target 8 Daily extraction components specified and tradeable, subject to	FULL	<ul style="list-style-type: none"> • This Plan establish total daily extraction limits across the whole water source.

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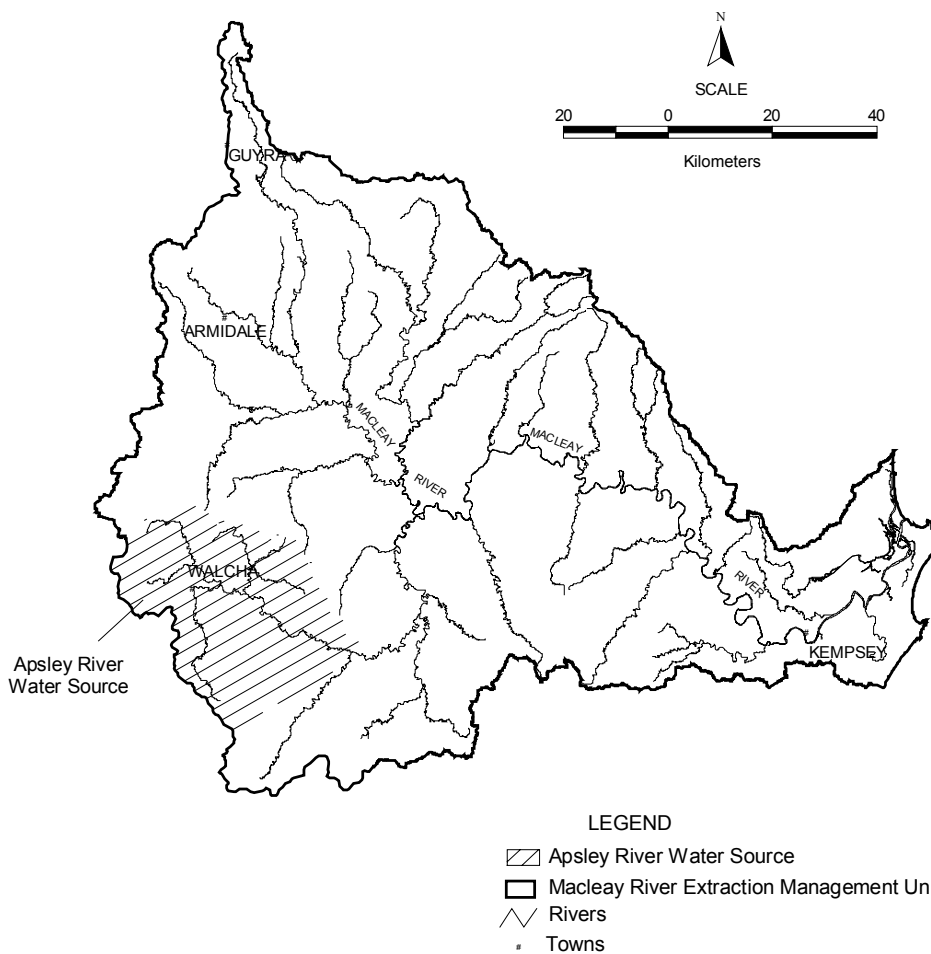
metering, reporting and compliance, for at least 50 percent of unregulated river access licences and for 80 percent of stressed unregulated rivers		
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use	FULL	<ul style="list-style-type: none"> • Cease to pump level will protect flows for domestic and stock requirements and total daily extraction limits also explicitly provide for domestic and stock requirements.
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	HIGH	<ul style="list-style-type: none"> • Aboriginal community representatives have been actively involved in development of this Plan and their advice has been incorporated into this Plan. • This Plan refers all access licence applications and renewals to the Local Aboriginal Land Council.
Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them	FULL	<ul style="list-style-type: none"> • This Plan does not address specific Aboriginal cultural or traditional requirements and has not identified any sites of particular importance. • This Plan does provide reasonably high level of environmental protection which should assist in protecting Aboriginal values. • This Plan refers all access licence applications and renewals to the Local Aboriginal Land Council.
Target 16a All share components of access licences tradeable	FULL	<ul style="list-style-type: none"> • Part 11 of this Plan provides for trading of share components and IDELS.
Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water	FULL	<ul style="list-style-type: none"> • Part 11 of this Plan establishes an exchange rate of 1:1 for trading between water sources in the Macleay River Extraction Management Unit.
Target 16d Reduced conversion factors only applied when necessary to offset increased losses	FULL	<ul style="list-style-type: none"> • This Plan does not impose reduction factors.

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associated with water supply delivery		
Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment	FULL	<ul style="list-style-type: none"> Parts 8 and 10 of this Plan establish the relevant rules.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	HIGH	<ul style="list-style-type: none"> This Plan includes a generalised water quality objective. This Plan does provide reasonably high level of environmental protection which should assist in protecting water quality.

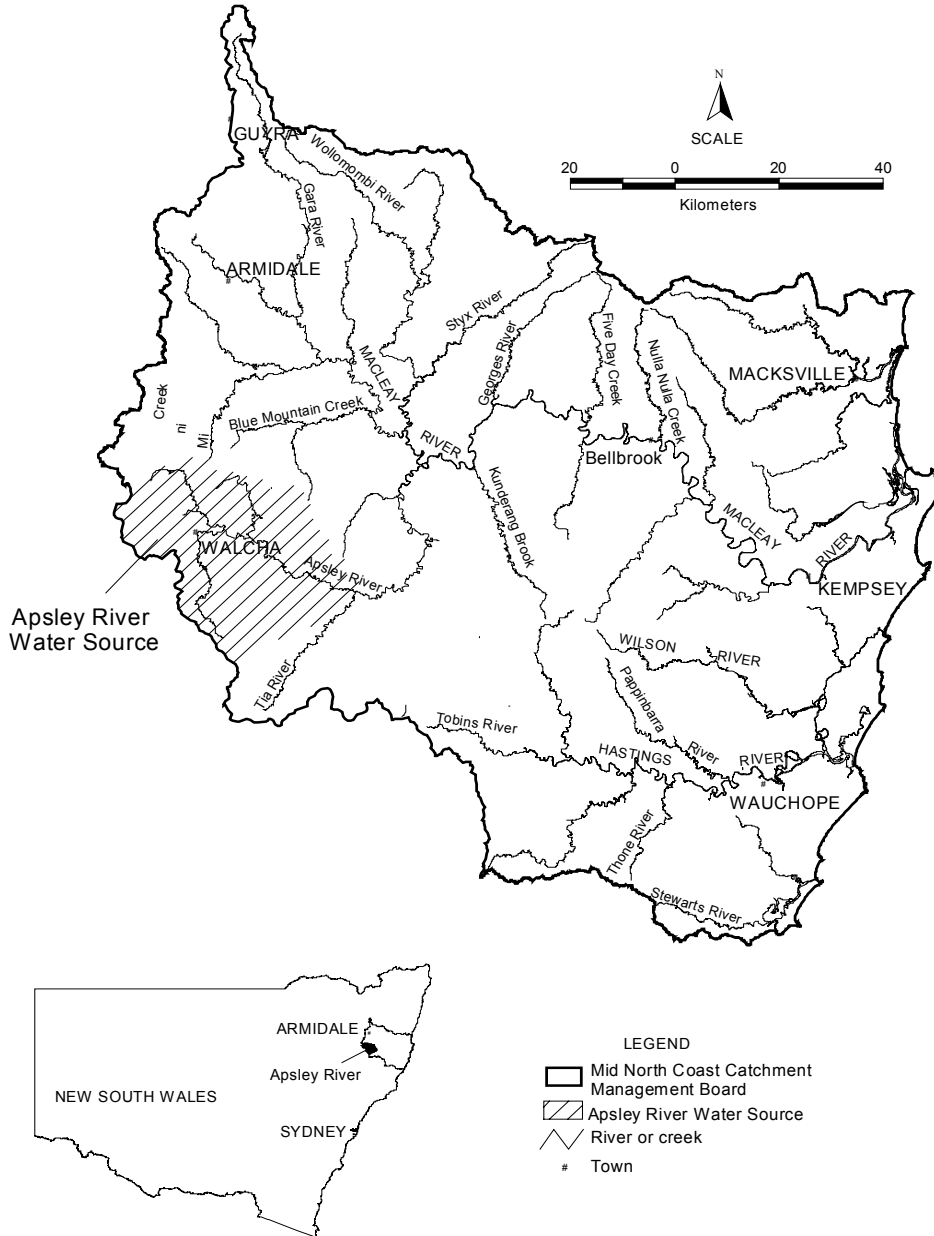
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Schedule 5 Macleay River Extraction Management Unit



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Appendix 1 Mid North Coast Water Management Area



Water Sharing Plan for the Apsley River Water Source 2003

Appendix 2 Location of maps for public inspection

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

Regional Office
Department of Land and Water Conservation
Victory Street
GRAFTON NSW 2460

District Office
Department of Land and Water Conservation
Faulkner Street
ARMIDALE NSW 2350

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Appendix 3 Performance indicators

Performance indicators for the Apsley River Water Sharing Plan			
Performance indicator	Related objective	As measured by	Comments
(a) Change in low flows.	11 (a) 11 (c) 11 (d) 11 (f) 11 (g)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points. 	<ul style="list-style-type: none"> River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. Note. Not every objective is relevant to every river in NSW. Plan will contribute to a decrease in the frequency and duration of low flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(b) Change in moderate to high flows.	11 (a) 11 (c) 11 (d) 11 (f) 11 (g)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points. 	<ul style="list-style-type: none"> RFO 3. Plan will maintain or increase the frequency and duration of moderate to high flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(c) Change in local water utilities and major water utilities access (where those utilities are involved in urban water provision).	11 (e)	<ul style="list-style-type: none"> Change in safe yield (<i>safe yield</i> is the annual demand that can be supplied from the water supply headworks and is based on the period of records used and an acceptable level of restriction). 	<ul style="list-style-type: none"> Water sharing plans for unregulated water sources have the potential to impact on urban water supplies.

Water Sharing Plan for the Apsley River Water Source 2003

Performance indicators for the Apsley River Water Sharing Plan			
Performance indicator	Related objective	As measured by	Comments
(d) Change in ecological condition of this water source and dependent ecosystems.	11 (a) 11 (b) 11 (c) 11 (d) 11 (f) 11 (h)	<ul style="list-style-type: none"> • Periodic assessment of identified indicators for ecological condition. 	<ul style="list-style-type: none"> • Water sharing plans are limited to providing for changes in flow regime aimed at improving the conditions for the ecological condition of the river. • There are many other factors that contribute to ecological objectives. • The focus of this performance indicator will be the effect of flow strategies. Therefore assessment of ecological condition should be based largely on hydrologic parameters (such as wetted area, depth in pools and velocity). This attempts to exclude external, non - water sharing plan related factors (such as climate and catchment landuse changes).
(e) Extent to which basic landholder rights requirements have been met.	11 (e)	Assessment of cease to pump levels in relation to basic rights requirements.	<ul style="list-style-type: none"> • Basic landholder rights usage figures in water sharing plans are estimated (not actual use).
(f) Change in economic benefits derived from water extraction and use.	11 (c) 11 (e)	<ul style="list-style-type: none"> • Number of days access provided. • Percentage change in number and volume of farm dams. • Change in unit price of water transferred. 	<ul style="list-style-type: none"> • There are many factors affecting economic status of a region, for example commodity prices. • Measurement of the number of farm dams will attempt to identify the impact of the plan provisions.
(g) Extent to which native title rights requirements have been met.	11 (h)	<ul style="list-style-type: none"> • Assessment of cease to pump levels in relation to basic rights requirements. 	<ul style="list-style-type: none"> • The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(h) Extent of	11 (b)	<ul style="list-style-type: none"> • Assessment of 	<ul style="list-style-type: none"> • The collection of information on the

Water Sharing Plan for the Apsley River Water Source 2003

Performance indicators for the Apsley River Water Sharing Plan			
Performance indicator	Related objective	As measured by	Comments
recognition of spiritual, social and customary values of water to Aboriginal people.	11 (d) 11 (f) 11 (h)	amount and type of information collected to identify the range of values of water to Aboriginal people.	values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(i) Change in consultation on Aboriginal values in water licensing decisions.	11 (b) 11 (d) 11 (f) 11 (h)	<ul style="list-style-type: none"> The number of licence applications referred to the Amaroo Local Aboriginal Land Council. 	<ul style="list-style-type: none"> Consultation with the local Aboriginal community will seek to minimise effects on important social, customary, cultural, and spiritual values.
(j) Contribution to the achievement of water quality to support the environmental values of this water source.	11 (c)	<ul style="list-style-type: none"> Change in the baseline figures of identified water quality variables. 	<ul style="list-style-type: none"> Many factors may affect water quality that are not related directly to flow management.

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Appendix 4 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

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groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, **commitments to take water** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.

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- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11. Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or

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- (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
- (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
- (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.

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- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.

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- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction

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components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.

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- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:
 - (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
 - (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
 - (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

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19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or

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- (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.
- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.

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- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Water Sharing Plan for the Jilliby Jilliby Creek Water Source 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

 Water Sharing Plan for the Jilliby Jilliby Creek Water Source 2003

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Water Sharing Plan for the Jilliby Jilliby Creek Water Source 2003

Water Sharing Plan for the Jilliby Jilliby Creek Water Source 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Jilliby Jilliby Creek Water Source 2003* (hereafter *this Plan*).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter *the Act*).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Area to which this Plan applies

The area in respect of which this Plan is made is that area of land within the Central Coast Water Management Area known as the Jilliby Jilliby Creek Water Source (hereafter *this water source*) as shown on the map in Schedule 2.

Note. The Central Coast Water Management Area is shown in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

5 Waters to which this Plan applies

- (1) The waters of this water source include all water occurring on the land surface shown on the map in Schedule 2 including, but not limited to:
 - (a) all rivers in this water source including, but not limited to, those nominated in Schedule 3, and
 - (b) all lakes and wetlands in this water source.
- (2) The waters of this water source exclude all water contained within the aquifers underlying this water source.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

Water Sharing Plan for the Jilliby Jilliby Creek Water Source 2003

7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter *the SWMOP*).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

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

10 Vision

- (1) The vision for this Plan is the sustainable, equitable and efficient use, through integrated management, of water in the Jilliby Jilliby Creek Water Source to preserve, enhance or rehabilitate the environmental, social, cultural and economic uses of water for the present and future.
- (2) This Plan also recognises the following respect statement for Aboriginal values in this water source:
 - (a) life-giving water is of extreme significance to Aboriginal culture for its domestic, traditional and spiritual values, and
 - (b) whilst water supplied for the environment will provide protection for native flora and fauna, and also for fishing, food gathering and recreational activities, it is important that the community respects the spiritual significance of water to the Aboriginal people.

11 Objectives

The objectives of this Plan are to:

- (a) protect natural water levels in pools, rivers and wetlands during periods of no flows,
- (b) protect natural low flows,
- (c) protect or restore a proportion of moderate flows (freshes) and high flows,
- (d) maintain or restore the natural inundation patterns and distribution of floodwaters supporting natural wetland and floodplain ecosystems,
- (e) maintain or imitate natural low flow variability in all rivers,
- (f) minimise the impact of in-river structures,
- (g) maintain or rehabilitate downstream (including estuarine) processes and habitats,
- (h) maintain water supply to meet existing and potential basic landholder rights requirements (for domestic and stock, and native title rights), conditional on water availability,
- (i) provide an agreed level of water sharing for agricultural and industrial requirements, conditional on water availability,
- (j) maintain water supply to meet existing and potential domestic needs of urban communities, conditional on water availability,
- (k) maintain water supply to meet the existing and potential industrial and commercial needs of urban communities, conditional in water availability,

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- (l) protect and enhance water dependent species and sites of significance to the local Aboriginal communities in this water source, and
- (m) contribute to the achievement of water quality to support the environmental values of this water source.

Note. This objective refers to maintaining water quality. Although there are no specific strategies directly related to this objective in this Plan, the environmental water provisions in this Plan make a positive contribution to maintaining water quality.

12 Strategies

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,
- (c) limit the long-term average extraction of water,
- (d) clearly define access rules and conditions for extracting water from this water source,
- (e) establish rules for determining the water available from time to time under access licences,
- (f) establish water allocation accounting rules, and
- (g) specify access licence dealing rules that maximise flexibility for water users without adversely impacting on this water source.

13 Performance indicators

The following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in low flows,
- (b) change in moderate to high flows,
- (c) change in local water utilities and major water utilities access (where those utilities are involved in urban water provision),
- (d) change in ecological condition of this water source and dependent ecosystems,
- (e) extent to which basic landholder rights requirements have been met,
- (f) change in economic benefits derived from water extraction and use,
- (g) extent to which native title rights requirements have been met,
- (h) extent of recognition of spiritual, social and customary values of water to Aboriginal people, and
- (i) contribution to the achievement of water quality to support the environmental values of this water source.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow variability in this water source.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in this water source within the limits of water availability on a long-term average basis, and
 - (b) sharing of the flows that occur in this water source on a daily basis.

16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Tuggerah Lakes Extraction Management Unit, and is shown on the map in Schedule 5.

17 Flow classes

This Plan establishes the following flow classes as the basis for sharing of daily flows:

- (a) very low flow class at or less than:
 - (i) 0.5 megalitres per day (hereafter **ML/day**) in year 1 of this Plan,
Note. The 0.5 ML/day in subclause (a) (i) corresponds to the estimated 94th percentile of all days with flow, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (ii) 0.75 ML/day in year 2 of this Plan, and
Note. The 0.75 ML/day in subclause (a) (ii) corresponds to the estimated 92nd percentile of all days with flow, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (iii) 1 ML/day from year 3 of this Plan,
Note. The 1 ML/day in subclause (a) (iii) corresponds to the estimated 90th percentile of all days with flow, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.

Note. There is no A class in this water source.
- (b) B class flows:
 - (i) greater than 0.5 ML/day and at or less than 3.3 ML/day in year 1 of this Plan,
 - (ii) greater than 0.75 ML/day and at or less than 3.3 ML/day in year 2 of this Plan, and
 - (iii) greater than 1.0 ML/day and at or less than 3.3 ML/day from year 3 of this Plan,

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- (c) C class flows greater than 3.3 ML/day and at or less than 8 ML/day, and
- (d) D class flows greater than 8 ML/day.

Note. The flow classes have been determined based on flow information that inherently includes seasonal effects as well as evaporation and seepage losses.

18 Flow reference point

For the purpose of this Plan, all flows referred to relate to the estimated flows at the flow reference point at the downstream end of this water source, as shown on the map in Schedule 2.

19 Determination of flow class

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at a flow gauging station, correlated to the flow reference point established in clause 18.

Part 4 Environmental water provisions

20 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

21 Environmental health water

- (1) Environmental health water is identified and established as follows:
 - (a) In very low flows, the flow occurring in this water source minus 0.51 ML/day.
Note. This figure is the amount of water estimated at the commencement of this Plan for basic landholder rights.
 - (b) In B class flows, the flow occurring in this water source minus 1.51 ML/day.
Note. This figure is amount of water estimated at the commencement of this Plan for B class total daily extraction limit and basic landholder rights.
 - (c) In C class flows, the flow occurring in this water source minus 2.51 ML/day.
Note. This figure is amount of water estimated at the commencement of this Plan for C class total daily extraction limit and basic landholder rights.
 - (d) In D class flows, the flow occurring in this water source minus 3.51 ML/day.
Note. This figure is amount of water estimated at the commencement of this Plan for D class total daily extraction limit and basic landholder rights.
- (2) Environmental health water is maintained as follows:
 - (a) In very low flows:
 - (i) the holders of access licences are not permitted any access, and
 - (ii) persons exercising domestic and stock and native title rights may take a combined total of up to 0.51 ML/day.
Note. In times of severe water shortage the Minister may issue an Order under section 60 (2) of the Act which suspends the provisions of this Plan and the priorities it establishes.
Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment for reasons of public health, or to preserve basic landholder rights.
 - (b) In each of B class, C class and D class flows:
 - (i) the holders of access licences have restricted access to water as specified in clause 45,
 - (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 0.51 ML/day in this flow class the access to water for unregulated river access licences will be reduced in accordance with clause 50 to maintain the environmental water in this flow class.

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- (c) In all flow classes, limits are imposed on the availability of water in accordance with clauses 35 and 37, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

Note. These rules protect the water for the environment by limiting both the long-term extraction, and the rate of extraction of water in different flow ranges, thereby achieving the objectives of this Plan.

Note. This Plan recognises that the environmental health water provisions provide non-extractive benefits, including traditional Aboriginal spiritual, social and cultural benefits, and improved water quality.

22 Extraction by water supply work

Notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

23 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

24 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

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Part 5 Basic landholder rights

25 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

26 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 0.51 ML/day.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting rivers and lakes in this water source or as a result of an increase of the exercise of basic landholder rights by existing landholders.

27 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are estimated to be a total of 0 ML/day.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. Increase in use of native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

28 Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to the harvestable rights Order published in the NSW Government Gazette on 23 March 2001 under section 54 of the Act.

Part 6 Bulk access regime

29 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

Part 7 Requirements for water under access licences

30 Requirements for water under access licences

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

Note. The amount of water specified in this Part represents the total volumes specified on access licences in this water source. It is not a commitment to supply that water.

31 Estimate of water requirements

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within this water source will total approximately 1,016 megalitres per year (hereafter *ML/yr*).
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, there will be several runoff harvesting access licences in this water source, that will have their access licence share component expressed as the water that can be extracted from time to time from the approved works.
- (3) This Plan recognises that the total requirements for water for extraction within this water source may change during the term of this Plan as a result of:
 - (a) the granting, surrender, cancellation or non-renewal of access licences, or
 - (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act.

Part 8 Rules for granting access licences

32 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in this water source and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:
 - (a) local water utility access licences,
Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's share component at 5 year intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) domestic and stock access licences, or
 - (c) an access licence resulting from an application of a type listed in section 82 (1) of the Act.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction components sought will be the minimum required to meet that purpose and circumstance.
- (5) Subclause (4) does not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (6) Any individual daily extraction limit (hereafter **IDEL**) granted in accordance with this clause cannot exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 50.
- (7) In accordance with section 56 of the Act, all access licences in this water source shall have a share component expressed as a volume in ML/yr.
- (8) Notwithstanding subclause (7) runoff harvesting access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from specified works.

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

33 Limits to the availability of water

This Division is made in accordance with section 20 (2) (a) of the Act.

34 Extraction management unit

Management of the long-term extraction of water in this water source will be undertaken in the context of the Tuggerah Lakes Extraction Management Unit (hereafter *this Unit*) referred to in clause 16 (2).

35 Long-term average extraction limit

The long-term average extraction limit for this Unit will be the total of:

- (a) the quantity of water specified in conditions attached to or included in entitlements issued under Part 2 of the *Water Act 1912* in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit,
- (b) the share component of the Gosford City Council and Wyong Council Water Supply Authorities access licences, or equivalents under the *Water Act 1912*, and
- (c) an estimate of annual extraction of water under: domestic and stock, and native title rights in this Unit at the commencement of this Plan.

36 Variation of the long-term average extraction limit

The long-term average extraction limit of this Unit may be varied by the Minister if:

- (a) dealings under Part 11 of this Plan result in the issuing or cancellation of access licences in this Unit, or
- (b) the share components for the Gosford Council Water Supply Authority or the Wyong Council Water Supply Authority local water utility access licences vary.

Note. Studies may be undertaken by the Authorities, relating to water supply system analysis and supply security, that result in a change in the volume of the local water utility access licence share components assigned to either or both Authorities within this Unit. The Gazettal of a water sharing plan for Mangrove Creek, Mooney Mooney Creek, or Wyong River may result in supply access limitations relative to design assumptions for water supply to local water utilities from those water sources. The volume of the local water utility access licence share components granted to these Authorities within this Unit may also vary as part of the implementation of the next stage of the adopted 1985 Strategy for Gosford City Council and Wyong Council Water Supply Authorities' water supply, including the augmentation of pumping station capacity.

Division 2 Available water determinations

37 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 35, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,

Note. A water accounting year is defined in clause 42 (3).
 - (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,
 - (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
 - (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
 - (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be of such volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
 - (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
 - (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 35 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
 - (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 35, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,

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- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components,
- (j) a new available water determination for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

Part 10 Rules for managing access licences

Division 1 General

38 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b), 21 (a) and 21 (c) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

39 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

40 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in this water source.

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

Note. Water allocations may also be recredited to these accounts in accordance with section 76 of the Act, subject to the operation of a return flows scheme established under section 75 of the Act.

41 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 37.

42 Annual accounting for water extraction

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is as follows:
 - (a) 100% of the access licence share component from 2003/4 to 2004/5,
 - (b) 200% of the access licence share component from 2004/5 to 2005/6, and

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- (c) thereafter, the sum of the previous 2 available water determinations.
- (5) Notwithstanding subclause (4) total water in any water allocation account cannot exceed 3 times the share component of the access licence:
 - (a) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (b) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (c) minus any water allocations assigned to another licence by a water allocation assignment under section 71G of the Act in that year.
- (6) In any one water accounting year, water taken from this water source under an access licence may not exceed a volume consisting of:
 - (a) twice the water allocation accrued under the licence that year,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in that year.
- (7) A water allocation account shall remain at or above zero at all times.

43 Three year accounting for water extraction

- (1) Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
 - (a) the water allocations accrued under the licence in those years,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71 G of the Act in those years,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71 G of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
 - (a) 3 times the share component of the access licence,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in those years.

Division 3 Sharing flows on a daily basis

44 Sharing flows on a daily basis

This Division is made in accordance with sections 20 (2) (b) and 21 (a) of the Act.

45 Total daily extraction limits

- (1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:

- (a) 0 ML/day for the very low flow class,
- (b) 1 ML/day for B class,
- (c) 2 ML/day for C class, and
- (d) 3 ML/day for D class.

Note. These flows represent 45% of the top of B class flows, 31% of the top of C class flows and in D class flows 29% of the 30th percentile flows of all days of flow.

- (2) The TDEL for each flow class specified in subclause (1) applies to all rivers within this water source apart from those rivers identified as minor streams in a harvestable rights Order made under section 54 of the Act.

Note. The harvestable rights Order applying to this area at the commencement of this Plan is that gazetted on 23 March 2001 under section 54 of the Act. It identifies minor streams as non-permanent 1st and 2nd order streams as shown on topographic maps.

46 Initial assignment of the TDEL to categories of access licence

The TDEL for each flow class will initially be assigned to categories of access licences according to the following:

- (a) Local water utility access licences:
 - (i) 0.0 ML/day of B class,
 - (ii) 0.0 ML/day of C class, and
 - (iii) 0.0 ML/day of D class.
- (b) Domestic and stock access licences:
 - (i) 0.04 ML/day of B class,
 - (ii) 0.04 ML/day of C class, and
 - (iii) 0.04 ML/day of D class.
- (c) Unregulated river access licences:
 - (i) 0.96 ML/day of B class,
 - (ii) 1.96 ML/day of C class, and
 - (iii) 2.96 ML/day of D class.

47 Unassigned TDEL

At the commencement of this Plan, there is no unassigned TDEL.

Note. Unassigned TDEL may vary as a result of the surrender, cancellation or non-renewal of an access licence's IDELs, or the operation of Part 8 of this Plan.

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48 Daily extraction limits for individual access licence holders

- (1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 46 as its share component bears to all the share components of licences of that category.
- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

49 Granting of unassigned TDEL

- (1) The unassigned TDEL in clause 47 may be assigned to access licences in the following circumstances:
 - (a) where they are applied for as part of a new access licence application,
 - (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
 - (c) to existing access licences for the purpose of pumping into farm dams if:
 - (i) the purpose of the additional IDEL sought is established by the proponent,
 - (ii) the IDEL sought is the minimum required to satisfy that purpose, and
 - (iii) the extraction is consistent with the objectives and principles of this Plan.
- (2) Where additional IDELs are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 48, as amended by clause 50.

50 Adjustment to TDELS and IDELS

- (1) Where IDELs are assigned under clause 49 the unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category in clause 46 is increased accordingly.
- (2) Pursuant to section 42 (2) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan:
 - (a) first the unassigned TDEL specified in clause 47 then, if necessary, the TDEL for unregulated river access licences in clause 46 (c) shall be diminished to allow these additional basic landholder rights to be met, and
 - (b) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 42 (2) of the Act, if any unassigned TDEL cannot meet either:
 - (a) the IDEL requirements of applicants for new access licences for domestic and stock access and local water utility access, or
 - (b) a local water utility's IDEL requirements,then the TDEL for unregulated river access licences in clause 46 (c) will be diminished to such an extent as to allow those requirements to be met.

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- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (5) Any adjustment to unregulated river access licence IDELs arising from this clause will be done at intervals of no greater than 5 years.
- (6) If water that, pursuant to an access licence:
 - (a) is committed to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be reduced by the IDEL on the access licence so committed and clauses 45 and 46 adjusted accordingly, or
 - (b) is uncommitted to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be increased by the IDEL on the access licence so uncommitted and clauses 45 and 46 adjusted accordingly.

51 Administrative arrangements for managing access to daily flows

Notwithstanding the forgoing provisions of this Division, this Plan provides that access licences may be managed as a group with respect to the IDELs, subject to the following rules:

- (a) all access licences (excepting local water utility licences) with IDELs shall be made part of a group established and maintained by the Minister at the time when IDELs are first assigned under clause 48,
- (b) access licence holders have the right to have their access licence removed from the group, in which case they shall be permitted to extract under that access licence a maximum of the licensed IDEL,
- (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject access licence,
- (d) access licence holders may make a request to form a group for their access licences,
- (e) daily extraction under all access licences within a group will be assessed as a whole against the combined IDELs,
- (f) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,
- (g) where it has been assessed that a holder of a licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that licence from the group,
- (h) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,
- (i) should a holder of an access licence which is part of a group commit the IDELs of that access licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
- (j) an access licence may not be in more than one group, and

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- (k) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

52 Infrastructure failure

In the event of infrastructure failure, the Minister can elect to:

- (a) continue to announce the current flow class,
(b) announce another flow class based on climatic conditions and any other flow gauging information, or
(c) restrict access to water to the lowest flow class.

Note. Infrastructure is defined in the dictionary.

Note. If satisfied that it is necessary to do so in the public interest, the Minister may direct the holders of an access licence to cease using a water supply work in accordance with section 323 of the Act.

Part 11 Access licence dealing rules

53 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 4.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

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

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

54 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71D, 71F and 71J of the Act, and with respect to water allocation assignments within this water source under section 71G of the Act.
- (2) Dealings are prohibited under this clause if any of the access licences or water allocations involved are not within this water source, unless the dealing is permitted under clause 59.

Note. Clause 56 relates to any dealings that involve an access licence moving from one water source to another.

55 Rules for access licence dealings which alter the times, rates or circumstances specified in access licence extraction components

Notwithstanding clause 54, applications under section 71F of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited, unless the dealing is in accordance with clause 49 (c).

56 Rules for change of water source

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

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

- (2) Dealings under section 71E of the Act are prohibited in this water source, unless provided for in this clause.
- (3) An access licence with a share component specifying this water source may be cancelled and a new licence issued in another water source only if:

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- (a) the new access licence issued is within this Unit, and
 - (b) the access licence dealing rules in the other water source permit such a dealing.
- (4) An access licence with a share component specifying another water source may be cancelled and a new licence issued in this water source under this dealing only if:
- (a) the access licence cancelled is within this Unit, and
 - (b) the access licence dealing rules in the other water source permit such a dealing.
- (5) The volume of the share component on an access licence issued under a dealing provided for in this clause is to be the volume of the cancelled access licence share component.
- (6) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

57 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
- (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence,
 - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence, or
 - (c) the conversion is from domestic and stock access licence to an unregulated river access licence.
- Note.** Any access to very low flows previously possible under the domestic and stock access licence will not be carried over to the new unregulated river access licence.
- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.

58 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in the interstate transfer of an access licence into or out of this water source are prohibited.

59 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act, in relation to water allocation assignments between water sources.
- (2) Dealings under section 71G of the Act that result in water allocation assignments to or from access licences in this water source are prohibited unless provided for in this clause.

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- (3) Dealings that assign water allocations between access licences inside this water source and access licences outside this water source, but inside this Unit, are permitted only if the access licence dealing rules in the other water source permit such a dealing.
- (4) Dealings that assign water allocations between access licences inside this water source, are permitted.

Note. Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

60 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in interstate assignment of water allocations to or from this water source are prohibited.

Part 12 Mandatory conditions

61 Mandatory conditions on access licences

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.
- (2) All access licences shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
 - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
 - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
 - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
 - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
 - (g) any other conditions required to implement the provisions of this Plan.

62 Unregulated river access licences

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

63 Local water utility access licences

All local water utility access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of supplying water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component,

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- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) a local water utility must prepare a demand management strategy to the specifications and satisfaction of the Minister before commencing to pump under the local water utility access licence.

64 Domestic and stock access licences

All domestic and stock access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

65 Runoff harvesting access licences

All runoff harvesting access licences shall have a mandatory condition imposed on them specifying that water may be taken without restriction in rate, but only from the specified work.

66 Mandatory conditions on water supply works approvals

All approvals for water supply works in this water source shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:

- (a) flow measurement devices:
 - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,
- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work, and
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence.

Part 13 Granting and amending water supply works approvals

67 Granting and amending water supply works approvals

This Part is made in accordance with section 21 (b) of the Act.

68 Runoff harvesting dams

- (1) New or expanded runoff harvesting dams shall, in addition to other considerations, be subject to the dam capacity not exceeding that which is consistent with the access licence share component specifying the runoff harvesting dam as the nominated work.
- (2) When the water allocations that may be taken from a runoff harvesting dam are reduced either by the Minister, or on application of the approval holder, or by an assignment in accordance with Part 11 of this Plan, the Minister may impose an additional condition requiring the dam to be modified so as to reduce its capacity, or requiring the water taken and evaporated from the dam to be reduced, consistent with the reduction in water allocations available.

Note. Extraction of water from a runoff harvesting dam requires a runoff harvesting access licence, unless the runoff harvesting dam is within the maximum harvestable right dam capacity for the property on which it is located, in which case no licences or approvals are required. Runoff harvesting is a category of access licence to be established by regulation under section 57 (k) of the Act.

69 In-river dams

No new in-river dams shall be approved within this water source.

Note. Taking of water from an in-river dam requires an access licence unless it is taken in accordance with section 52 of the Act (domestic and stock rights). In either case, however, the dam requires a water management works approval unless exempted by regulation under the Act.

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Part 14 Monitoring and reporting

70 Monitoring and reporting of performance indicators

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

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

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

Note. Implementation Program

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

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

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

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Part 15 Amendment of this Plan

71 Amendment of this Plan

This Part is made in accordance with section 42 (2) of the Act.

72 Amendment of very low flow provisions

- (1) The Minister may, under section 42 (2) of the Act and by notice published in the NSW Government Gazette, vary the very low flow levels established in clause 17 and consequently the bottom of B class established in clause 17, following field verification.
- (2) Any variation made under subclause (1) should result in the very low flow level:
 - (a) being not less than the level that protects the lowest 5% of days with flow, or
 - (b) being a level that is lower than that at subclause (2) (a) provided that, in the opinion of the Minister, there is sufficient justification for adopting the lower level.
- (3) The Minister should cause the field verification in subclause (1) to be undertaken as soon as practical, but before the review of this Plan under section 43 (2) of the Act.
- (4) The field verification should assess the degree to which the objectives in clause 11 (a) and (b) are met.
- (5) In undertaking the field verification the Minister should:
 - (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture and the NSW National Parks and Wildlife Service, and other interest groups determined by the Minister, and
 - (b) prepare a report documenting:
 - (i) the methodology adopted,
 - (ii) the hypotheses tested,
 - (iii) the field results and conclusions in terms of the degree to which the objectives in clause 11 (a) and (b) are met,
 - (iv) the flow level recommended to meet the objectives, and
 - (v) the socio-economic impacts of recommended changes to the flow level.

73 Review of field verification

- (1) The Minister should seek advice from a review body on the field verification report specified in clause 72 (5) (b) before varying this Plan in accordance with clause 72 (1), if the field verification recommends a variation in the very low flow levels established in clause 17.
- (2) This review body may be:
 - (a) a water management committee with water sharing responsibilities for this water source, if one exists,

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- (b) an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a water management committee referenced at subclause (2) (a), or
 - (c) if there is no water management committee with water sharing responsibilities for this water source, then by a catchment management board with responsibilities for this water source or an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a catchment management board.
- (3) The review body should provide advice to the Minister on the field verification report, and advise on any changes to the recommendations contained in the report in relation to any variation of the very low flow levels.
- (4) The review body should respond to the Minister as soon as practical after receiving the report, or within 3 months of that date at the latest.

74 Other amendment of this Plan

This Plan can be amended in accordance with:

- (a) clause 36 in respect to a variation in the long-term average extraction limit, or
- (b) clause 50 in respect to adjustments to TDELs and IDELs.

Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

account water is the balance in an access licence water allocation account at a particular time.

Note. An access licence water allocation account records water allocations accrued under the licence as well as water allocations taken, assigned or re-credited. The operation of the account is also governed by rules for the carrying over of credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

conversion factor refers to the adjustment factor that is to be applied to share components when they are cancelled or reissued in a different water source and visa versa, or when the licence category is changed. It is designed to provide for the fact that the value of a unit of share component in terms of the average water allocations that result from it may vary from one water source to another, or from one category of licence to another.

endangered ecological communities means ecological communities listed in Schedule 1 of the *Threatened Species Conservation Act 1995* or Schedule 4 of the *Fisheries Management Act 1994*.

extraction limit is a limit on the amount of water that may be extracted from an extraction management unit.

extraction management unit is a group of water sources for the purpose of managing annual average extraction.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs. See also **in-river dam** and **runoff harvesting dam**.

flow classes are categorised by the size and duration of flow levels in unregulated rivers, for example:

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

flow gauging station is a device that is used to measure the height of a river, from which the flow in the river can be calculated.

individual daily extraction limit (IDEL) is the volume of water that may be extracted by an individual access licence from an unregulated river on a daily basis from a particular flow class.

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infrastructure includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within this water source.

in-river dam is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a “river” gazetted 23rd March 2001. See also **farm dam** and **runoff harvesting dam**.

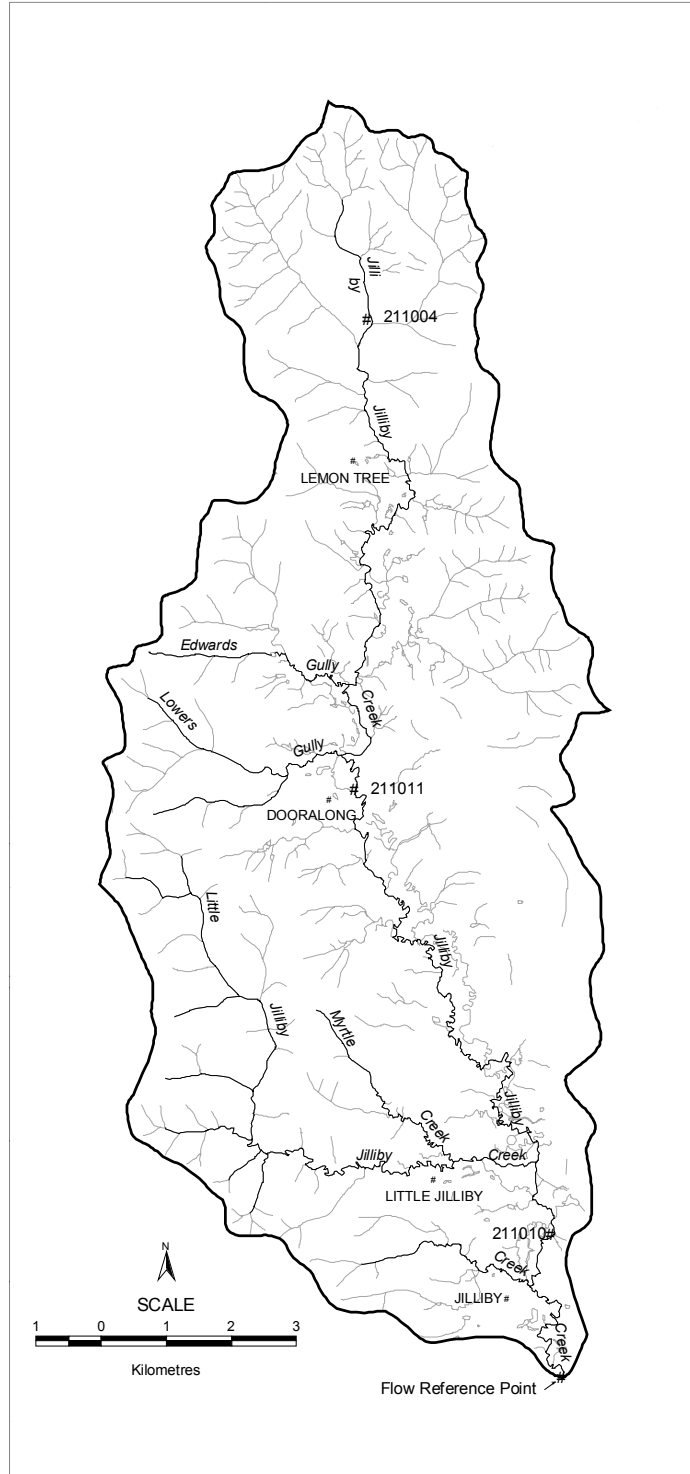
runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a river gazetted 23rd March 2001. See also **farm dam** and **in-river dam**.

Note. This Order refers to watercourses shown as blue lines on topographic maps. The lines which are uppermost in a catchment are 1st order streams, when two 1st order streams are joined they make a 2nd order stream, etc. For more information see the Farm Dams Assessment Guide available from the Department of Land and Water Conservation.

total daily extraction limit (TDEL) is the volume of water that may be extracted under access licences from an unregulated river on a daily basis from a particular flow class.

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Schedule 2 Jilliby Jilliby Creek Water Source



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Schedule 3 Rivers in the Jilliby Jilliby Creek Water Source

This water source includes, without limitation:

Armstrongs Creek

Calmans Gully

Edwards Gully

Jilliby Jilliby Creek

Little Jilliby Creek

Lowers Gully

Myrtle Creek

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Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL – contributes to target in full

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

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to target

Relevant Target	Level of contribution	Comments
Target 1c Long term average annual extraction limits which are ecologically sustainable, and which minimise downstream impacts, established in all coastal water sources	HIGH	<ul style="list-style-type: none"> Part 9 of this Plan clearly sets out the basis for the extraction limit for the Tuggerah Lakes Extraction Management Unit. Until the cumulative impact of this limit can be assessed for all of this Unit it is not possible to properly assess ecological sustainability and downstream impacts. Application of daily extraction limits should ensure adequate downstream flows.
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	<ul style="list-style-type: none"> Rules set out in Part 9 of this Plan.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	<ul style="list-style-type: none"> Part 10 of this Plan puts in place comprehensive TDELS to protect/restore environmental flows. This Plan has improved low to very low flow protection. This Plan is consistent with relevant Threatened Species Recovery Plans.
Target 4a Wherever the frequency of “end of system” daily flows would be less than 60 percent of the predevelopment level	FULL	<ul style="list-style-type: none"> Total daily extraction limits protect 69-75% of flows.

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without environmental water rules or extraction limits, the flows increased to 60 percent of predevelopment levels or increased by at least 10 percent of the predevelopment frequency		
Target 4b Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the predevelopment 95th percentile	FULL	<ul style="list-style-type: none"> • Cease to pump (CTP) levels from 0.5 ML/day in year 1, protect flows below 95th percentile of all days, 0.75 ML/day in year 2 protect flows below 95th percentile of all days, 1.0 ML/day in year 3 onwards protects below 90th percentile of all days with flow. • Field verification of CTPs is provided for.
Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components	FULL	<ul style="list-style-type: none"> • This Plan establishes total daily extraction limits for distribution to individual licence. • This Plan provides dealing principles for share components and IDELs.
Target 6b For surface water sources, a pathway for reducing the share components to 200 percent of the long term average annual extraction limit to be established not later than the end of the term of the SWMOP	FULL	<ul style="list-style-type: none"> • Total licensed share components for the Tuggerah Lakes Extraction Management Unit should not exceed 200% of the extraction limit for this Unit.
Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy	HIGH	<ul style="list-style-type: none"> • The Government has established alternative mechanisms to address this target. • This Plan provides market opportunities.
Target 8 Daily extraction components specified and tradeable, subject to	FULL	<ul style="list-style-type: none"> • To meet this target Statewide, the individual plans should as far as practicable, establish TDELs across the

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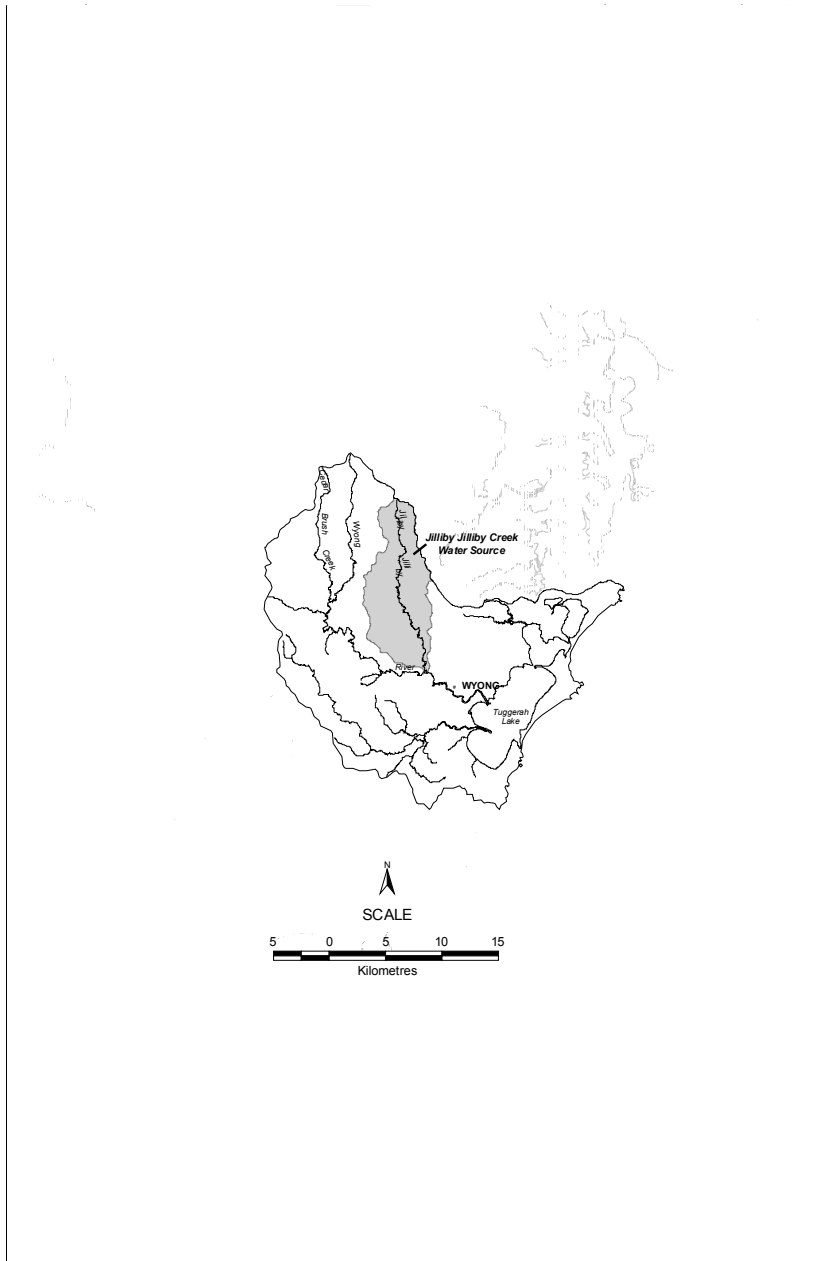
metering, reporting and compliance, for at least 50 percent of unregulated river access licences and for 80 percent of stressed unregulated rivers		whole water source, and this Plan does this.
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use	FULL	<ul style="list-style-type: none"> • Cease to pump level will protect flows for domestic and stock, and TDELs also explicitly provide for domestic and stock requirements.
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	PARTIAL	<ul style="list-style-type: none"> • A workshop was held with members of the Local Aboriginal Land Council to input ideas into the development of this Plan. • 2 representatives of the Aboriginal community were on the committee that prepared this Plan.
Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them	HIGH	<ul style="list-style-type: none"> • This Plan does not address specific Aboriginal cultural or traditional requirements and has not identified any sites of particular importance. • This Plan does provide high level of environmental protection which should assist in protecting Aboriginal values.
Target 16a All share components of access licences tradeable	FULL	<ul style="list-style-type: none"> • This Plan clarifies access licence share components and establishes daily extraction limits. • Part 11 of this Plan provides for trading of share components and IDELs.

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<p>Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water</p>	FULL	<ul style="list-style-type: none"> Part 11 of this Plan establishes an exchange rate of 1:1 for trading between water sources in the Tuggerah Lakes Extraction Management Unit.
<p>Target 16d Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery</p>	FULL	<ul style="list-style-type: none"> This Plan does not impose reduction factors.
<p>Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment</p>	FULL	<ul style="list-style-type: none"> This Plan has no unassigned TDEL. This Plan establishes management rules for future allocation.
<p>Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries</p>	HIGH	<ul style="list-style-type: none"> This Plan includes a generalised water quality objective. This Plan does provide reasonably high level of environmental protection which should assist in protecting water quality.

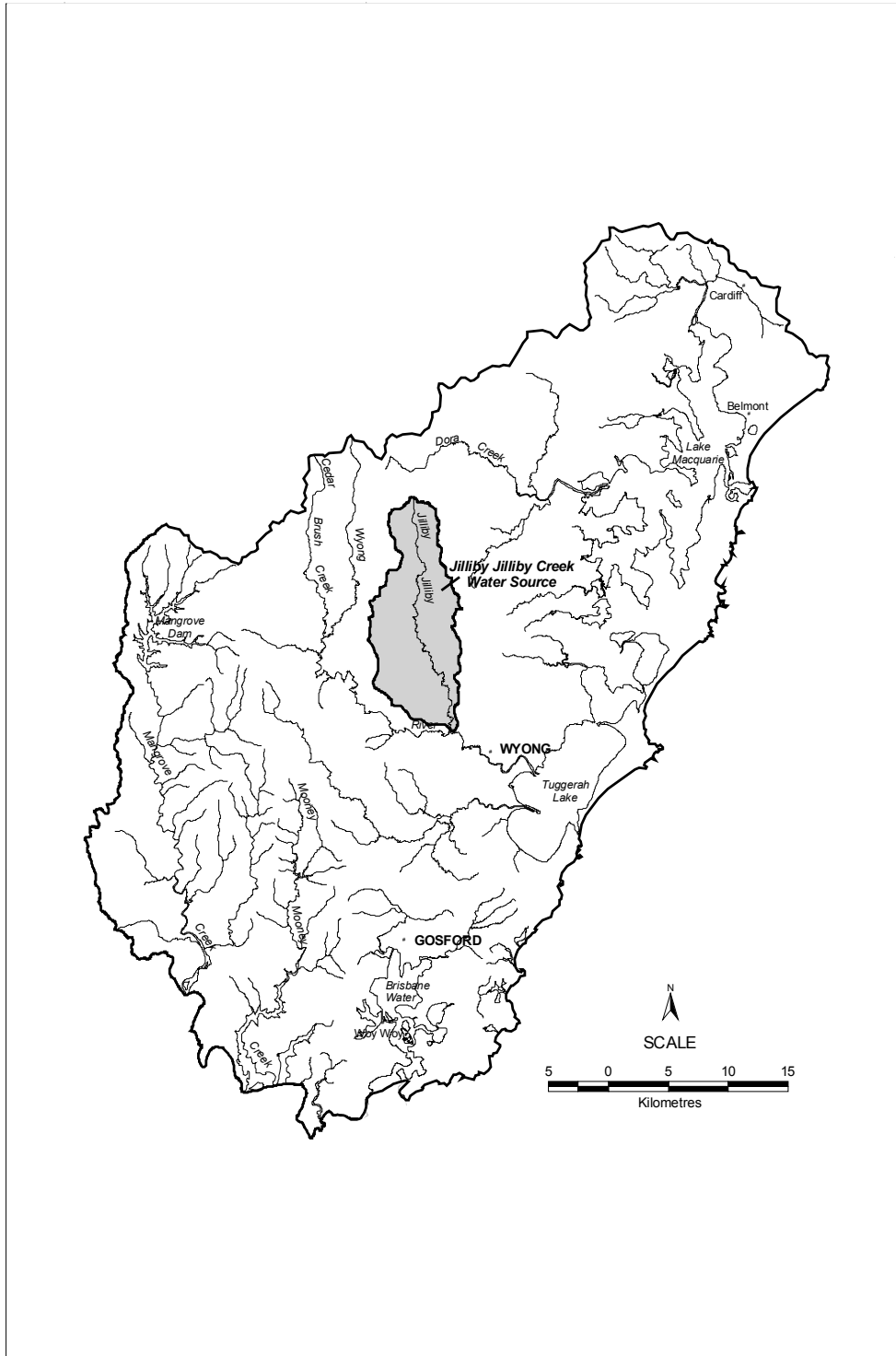
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Schedule 5 Tuggerah Lakes Extraction Management Unit



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Appendix 1 Central Coast Water Management Area



Water Sharing Plan for the Jilliby Jilliby Creek Water Source 2003

Appendix 2 Location of maps for public inspection

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

Regional Office
Department of Land and Water Conservation
Newcastle Office
464 King Street
NEWCASTLE NSW 2302

District Office
Department of Land & Water Conservation
40 Mann Street
GOSFORD NSW 2205

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Appendix 3 Performance indicators

Performance indicators for the Jilliby Jilliby Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(a) Change in low flows.	11 (a) 11 (b) 11 (e)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points. 	<ul style="list-style-type: none"> River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. Note. Not every objective is relevant to every river in NSW. Plan will contribute to a decrease in the frequency and duration of low flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(b) Change in moderate to high flows.	11(c) 11(d)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points. 	<ul style="list-style-type: none"> RFO 3. Plan will maintain or increase the frequency and duration of moderate to high flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers. Climatic variation should be observed.
(c) Change in local water utilities and major water utilities access (where those utilities are involved in urban water provision).	11(j) 11(k)	<ul style="list-style-type: none"> Change in safe yield (<i>safe yield</i> is the annual demand that can be supplied from the water supply headwork's and is based on the period of records used and an acceptable level 	<ul style="list-style-type: none"> Water sharing plans for unregulated water sources have the potential to impact on urban water supplies. Water use information should be assessed. Socio-economic measurement required.

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Performance indicators for the Jilliby Jilliby Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
		of restriction). <ul style="list-style-type: none"> • Water use per sector. • Water extraction against flow class. 	
(d) Change in ecological condition of this water source and dependent ecosystems.	11 (d) 11 (g) 11 (l)	<ul style="list-style-type: none"> • Periodic assessment of identified indicators for ecological condition. • Change in wetted perimeter over time. 	<ul style="list-style-type: none"> • Water sharing plans are limited to providing for changes in flow regime aimed at improving the conditions for the ecological condition of the river. • Ecological measurements are required. • Modelled data after an initial survey be collected. • There are many other factors that contribute to ecological objectives. • The focus of this performance indicator will be the effect of flow strategies. Therefore assessment of ecological condition should be based largely on hydrologic parameters (such as wetted area, depth in pools and velocity). This attempts to exclude external, non - water sharing plan related factors (such as climate and catchment landuse changes).
(e) Extent to which basic landholder rights requirements have been met.	11 (k)	<ul style="list-style-type: none"> • Assessment of cease to pump levels in relation to basic rights requirements. • Water use per sector. • Qualitative assessment through focus group. 	<ul style="list-style-type: none"> • Basic landholder rights usage figures in water sharing plans are estimated (not actual use).
(f) Change in economic benefits derived from water extraction and	11(i)	<ul style="list-style-type: none"> • Number of days access provided. • Percentage change in number and volume of farm dams. 	<ul style="list-style-type: none"> • There are many factors affecting economic status of a region, for example commodity prices. • Measurement of the number of farm dams will indicate the adjustment to the rules and ongoing access to

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Performance indicators for the Jiliby Jiliby Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
use.		farm dams. <ul style="list-style-type: none"> • Change in unit price of water transferred. • Water use per sector. • Qualitative assessment through structured interviews with water users. 	the rules and ongoing access to water. <ul style="list-style-type: none"> • Assessment undertaken as part of plan performance monitoring will make assumptions to attempt to identify the impact of the plan provisions.
(g) Extent to which native title rights requirements have been met.	11(h) 11(l)	<ul style="list-style-type: none"> • Assessment of cease to pump levels in relation to basic rights requirements. 	<ul style="list-style-type: none"> • The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(h) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.	11(h) 11(l)	<ul style="list-style-type: none"> • Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people. • Maintain increase in water supply works approval applications from native title basic rights. • Qualitative assessment through focus group semi-structured interviews. 	<ul style="list-style-type: none"> • The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(i) Contribution to the achievement of water	11 (m)	<ul style="list-style-type: none"> • Change in the baseline figures of identified water quality 	<ul style="list-style-type: none"> • Many factors may affect water quality that are not related directly to flow management.

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Performance indicators for the Jilliby Jilliby Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
quality to support the environmental values of this water source.		variables.	

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Appendix 4 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

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groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, **commitments to take water** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.

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- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11. Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or

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- (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
- (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
- (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.

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- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.

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- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction

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components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.

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- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:
 - (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
 - (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
 - (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

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19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or

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- (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.
- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.

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- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Water Sharing Plan for the Ourimbah Creek Water Source 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

 Water Sharing Plan for the Ourimbah Creek Water Source 2003

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Water Sharing Plan for the Ourimbah Creek Water Source 2003

Water Sharing Plan for the Ourimbah Creek Water Source 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Ourimbah Creek Water Source 2003* (hereafter *this Plan*).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter *the Act*).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Area to which this Plan applies

The area in respect of which this Plan is made is that area of land within the Central Coast Water Management Area known as the Ourimbah Creek Water Source (hereafter *this water source*) as shown on the map in Schedule 2.

Note. The Central Coast Water Management Area is shown on the map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

5 Waters to which this Plan applies

- (1) The waters of this water source include all water occurring on the land surface shown on the map in Schedule 2 including, but not limited to:
 - (a) all rivers in this water source including, but not limited to, those nominated in Schedule 3, and
 - (b) all lakes and wetlands in this water source.
- (2) The waters of this water source exclude all water contained within aquifers underlying this water source.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

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7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter *the SWMOP*).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

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

10 Vision

- (1) The vision for this Plan is to contribute to the sustainable, equitable and efficient use, through integrated management of water in the Ourimbah Creek Water Source to preserve, enhance or rehabilitate the environmental, social, cultural and economic uses of water for the present and future.
- (2) This Plan also recognises, the following respect statement for Aboriginal values in this water source:
 - (a) life-giving water is of extreme significance to Aboriginal culture for its domestic, traditional and spiritual values, and
 - (b) whilst water supplied for the environment will provide protection for native flora and fauna, and also for fishing, food gathering and recreational activities, it is important that the community respects the spiritual significance of water to the Aboriginal people.

11 Objectives

The objectives of this Plan are to:

- (a) protect natural water levels in pools, rivers and wetlands during periods of no flows,
- (b) protect natural low flows,
- (c) protect or restore a proportion of moderate flows (freshes) and high flows,
- (d) maintain or restore the natural inundation patterns and distribution of floodwaters supporting natural wetland and floodplain ecosystems,
- (e) maintain or imitate natural flow variability in all rivers,
- (f) minimise the impacts of in-river structures,
- (g) maintain or rehabilitate downstream (including estuarine) processes and habitats,
- (h) maintain water supply to meet existing and potential basic landholder rights requirements (for domestic and stock, and native title rights), conditional on water availability,
- (i) provide an agreed level of water sharing for agricultural and industrial requirements, conditional on water availability,
- (j) to protect and enhance water dependent species and sites of significance to the local Aboriginal Community in this water source,
- (k) maintain water supply to meet the existing and potential domestic needs of urban communities, conditional on water availability,

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- (l) maintain water supply to meet the existing and potential industrial and commercial needs of urban communities, conditional on water availability, and
- (m) improve water quality parameters as a result of improved flow conditions.

Note. This objective refers to maintaining water quality. Although there are no specific strategies directly related to this objective in this Plan, the environmental water provisions in this Plan make a positive contribution to maintaining water quality.

12 Strategies

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,
- (c) limit the long-term average extraction of water,
- (d) clearly define access rules and conditions for extracting water from this water source,
- (e) establish rules for determining the water available from time to time under access licences,
- (f) establish water allocation account management rules, and
- (g) specify access licence dealing rules that maximise flexibility for water users without adversely impacting on this water source.

13 Performance indicators

The following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in low flows,
- (b) change in moderate to high flows,
- (c) change in local water utilities and major water utilities access (where those utilities are involved in urban water provision),
- (d) change in ecological condition of this water source and dependent ecosystems,
- (e) extent to which basic landholder rights requirements have been met,
- (f) change in economic benefits derived from water extraction and use,
- (g) extent to which native title rights requirements have been met,
- (h) extent of recognition of spiritual, social and customary values of water to Aboriginal people, and
- (i) contribution to the achievement of water quality to support the environmental values of this water source.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow variability in this water source.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in this water source within the limits of water availability on a long-term average basis, and
 - (b) the sharing of the flows that occur in this water source on a daily basis.

16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Tuggerah Lakes Extraction Management Unit, and is shown on the map in Schedule 5.

17 Flow classes

This Plan establishes the following flow classes as the basis for sharing of daily flows:

- (a) very low flow class at or less than 4 megalitres per day (hereafter **ML/day**) on a falling river, and at or less than 6 ML/day on a rising river,

Note. The 4 ML/day corresponds to the estimated 97th percentile of all days of flow and is referred to as the cease to pump on a falling river and 6 ML/day corresponds to the estimated 95th percentile of all days of flow and is referred to as the commence to pump on a rising river.
- (b) A class flows greater than 4 ML/day and at or less than 7 ML/day on a falling river and greater than 6 ML/day and at or less than 7 ML/day on a rising river,

Note. The cease and commence to pumps in subclause (a) and the flow class in subclause (b) are subject to amendment resulting from the review in Part 14 of this Plan.
- (c) B class flows greater than 7 ML/day and at or less than 25 ML/day,
- (d) C class flows greater than 25 ML/day and at or less than 60 ML/day,
- (e) D class flows greater than 60 ML/day and at or less than 160 ML/day, and
- (f) E class flows greater than 160 ML/day.

Note. The flow classes have been determined based on flow information that inherently includes seasonal effects as well as evaporation and seepage losses.

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18 Flow reference point

For the purpose of this Plan, all flows referred to relate to the estimated flows at the flow reference point at the downstream end of this water source, as shown on the map in Schedule 2.

19 Determination of flow class

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at a flow gauging station, correlated to the flow reference point established in clause 18.

Part 4 Environmental water provisions

20 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

21 Environmental health water

(1) Environmental health water is identified and established as follows:

(a) In very low flows, the flow occurring in this water source minus 1.37 ML/day.

Note. 1.37 ML/day is the amount of water estimated at the commencement of this Plan for basic landholder rights.

(b) In A class flows, the flow occurring in this water source minus 3.37 ML/day.

Note. 3.37 ML/day is amount of water estimated at the commencement of this Plan for A class total daily extraction limit and basic landholder rights.

(c) In B class flows, the flow occurring in this water source minus 13.87 ML/day.

Note. 13.87 ML/day is amount of water estimated at the commencement of this Plan for B class total daily extraction limit and basic landholder rights.

(d) In C class flows, the flow occurring in this water source minus 28.37 ML/day.

Note. 28.37 ML/day is amount of water estimated at the commencement of this Plan for C class total daily extraction limit and basic landholder rights.

(e) In D class flows, the flow occurring in this water source minus 47.37 ML/day.

Note. 47.37 ML/day is amount of water estimated at the commencement of this Plan for D class total daily extraction limit and basic landholder rights.

(f) In E class flows, the flow occurring in this water source minus 47.37 ML/day.

Note. 47.37 ML/day is amount of water estimated at the commencement of this Plan for E class total daily extraction limit and basic landholder rights.

(2) Environmental health water is maintained as follows:

(a) In very low flows:

- (i) the holders of access licences are not permitted any access, and
- (ii) persons exercising domestic and stock and native title rights may take a combined total of up to 1.37 ML/day.

Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment, for reasons of public health, or to preserve basic landholder rights.

(b) In each of A class, B class, C class, D class, and E class flows:

- (i) the holders of access licences have restricted access to water as specified in clause 45,

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- (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 1.37 ML/day in this flow class the access to water for unregulated river access licences will be reduced in accordance with clause 50 to maintain the environmental water in this flow class.
- (c) In all flow classes, limits are imposed on the availability of water in accordance with clauses 35 and 37, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

Note. These rules protect the water for the environment by limiting both the water extracted on a long term average basis, and the rate of extraction of water in different flow ranges, thereby achieving the objectives of this Plan.

Note. This Plan recognises that the environmental health water provisions provide non-extractive benefits, including traditional Aboriginal spiritual, social and cultural benefits, and improved water quality.

22 Extraction by water supply work

Notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

23 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

24 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

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Part 5 Basic landholder rights

25 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

26 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 1.37 ML/day.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting rivers and lakes in this water source or as a result of an increase of the exercise of basic landholder rights by existing landholders.

27 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are a total of 0 ML/day.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. Increase in use of native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

28 Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to the harvestable rights Order published in the NSW Government Gazette on 23 March 2001 under section 54 of the Act.

Part 6 Bulk access regime

29 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

Part 7 Requirements for water under access licences

30 Requirements for water under access licences

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

Note. The amount of water specified in this Part represents the total volumes specified on access licences in this water source. It is not a commitment to supply that water.

31 Estimate of water requirements

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within this water source will total approximately 6,529 megalitres per year (hereafter *ML/yr*).
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, there will be several runoff harvesting access licences in this water source, that will have their access licence share component expressed as the water that can be extracted from time to time from the approved works.
- (3) This Plan recognises that the total requirements for water for extraction within this water source may change during the term of this Plan as a result of:
 - (a) the granting, surrender, cancellation or non-renewal of access licences, or
 - (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act.

Part 8 Rules for granting access licences

32 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in this water source and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:
 - (a) local water utility access licences,
Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's share component at 5 year intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) domestic and stock access licences, or
 - (c) an access licence resulting from an application of a type listed in section 82 (1) of the Act.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction components sought will be the minimum required to meet that purpose and circumstance.
- (5) Subclause (4) does not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (6) Any individual daily extraction limit (hereafter **IDEL**) granted in accordance with this clause cannot exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 50.
- (7) In accordance with section 56 of the Act, all access licences in this water source shall have a share component expressed as a volume in ML/yr.
- (8) Notwithstanding subclause (7) runoff harvesting access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from specified works.

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

33 Limits to the availability of water

This Division is made in accordance with section 20 (2) (a) of the Act.

34 Extraction management unit

Management of the long-term extraction of water in this water source will be undertaken in the context of the Tuggerah Lakes Extraction Management Unit (hereafter *this Unit*) referred to in clause 16 (2).

35 Long-term average extraction limit

The long-term average extraction limit for this Unit will be the total of:

- (a) the quantity of water specified in conditions attached to or included in entitlements issued under Part 2 of the *Water Act 1912* in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit, and
- (b) an estimate of annual extraction of under domestic and stock and native title rights in this Unit at the commencement of this Plan.

36 Variation of the long-term average extraction limit

The long-term average extraction limit of this Unit may be varied by the Minister if:

- (a) dealings under Part 11 of this Plan result in the issuing or cancellation of access licences in this Unit, or
- (b) the share components for the Gosford Council Water Supply Authority or the Wyong Council Water Supply Authority local water utility access licences vary.

Note. Studies may be undertaken by the Authorities, relating to water supply system analysis and supply security, that result in a change in the volume of the local water utility access licence share components assigned to either or both Authorities within this Unit. The Gazettal of a water sharing plan for Mangrove Creek, Mooney Mooney Creek, or Wyong River may result in supply access limitations relative to design assumptions for water supply to local water utilities from those water sources. The volume of the local water utility access licence share components granted to these Authorities within this Unit may also vary as part of the implementation of the next stage of the adopted 1985 Strategy for Gosford City Council and Wyong Council Water Supply Authorities' water supply, including the augmentation of pumping station capacity.

Division 2 Available water determinations

37 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:

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- (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 35, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,
- Note.** A water accounting year is defined in clause 42 (3).
- (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,
- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
- (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be of such volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 35 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 35, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components,
- (j) a new available water determination for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or

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the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

Part 10 Rules for managing access licences

Division 1 General

38 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b), 21 (a) and 21 (c) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

39 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

40 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in this water source.

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

Note. Water allocations may also be recredited to these accounts in accordance with section 76 of the Act, subject to the operation of a return flows scheme established under section 75 of the Act.

41 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 37.

42 Annual accounting for water extraction

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is as follows:
 - (a) 100% of the access licence share component from 2003/4 to 2004/5,
 - (b) 200% of the access licence share component from 2004/5 to 2005/6, and

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- (c) thereafter, the sum of the previous 2 available water determinations.
- (5) Notwithstanding subclause (4) total water in any water allocation account cannot exceed 3 times the share component of the access licence:
 - (a) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (b) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (c) minus any water allocations assigned to another licence by a water allocation assignment under section 71G of the Act in that year.
- (6) In any one water accounting year, water taken from this water source under an access licence may not exceed a volume consisting of:
 - (a) twice the water allocation accrued under the licence that year,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in that year.
- (7) A water allocation account shall remain at or above zero at all times.

43 Three year accounting for water extraction

- (1) Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
 - (a) the water allocations accrued under the licence in those years,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71 G of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71 G of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
 - (a) 3 times the share component of the access licence,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in those years.

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Division 3 Sharing flows on a daily basis

44 Sharing flows on a daily basis

This Division is made in accordance with sections 20 (2) (b) and 21 (a) of the Act.

45 Total daily extraction limits

(1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:

- (a) 0 ML/day for the very low flow class,
- (b) 2 ML/day for A class,
- (c) 12.5 ML/day for B class,
- (d) 27 ML/day for C class,
- (e) 46 ML/day for D class, and
- (f) 46 ML/day for E class.

Note. These flows represent 29% of the top of A class flows, 50% of the top of B class flows, in C class flows 45% of the 30th percentile flows in the critical month, in D class flows 30% of the 95th percentile flows for all days of flow and in E class flows 14% of the 75th percentile flows for all days of flow.

(2) The TDEL for each flow class specified in subclause (1) applies to all rivers within this water source apart from those rivers identified as minor streams in a harvestable rights Order made under section 54 of the Act.

Note. The harvestable rights Order applying to this area at the commencement of this Plan is that gazetted on 23 March 2001 under section 54 of the Act. It identifies minor streams as non-permanent 1st and 2nd order streams as shown on topographic maps.

46 Initial assignment of the TDEL to categories of access licence

The TDEL for each flow class will initially be assigned to categories of access licences according to the following:

- (a) Domestic and stock access licences:
 - (i) 0.14 ML/day of A class,
 - (ii) 0.14 ML/day of B class,
 - (iii) 0.14 ML/day of C class,
 - (iv) 0.14 ML/day of D class, and
 - (v) 0.14 ML/day of E class.
- (b) Local water utility access licences:
 - (i) 0 ML/day of A class,
 - (ii) 8.5 ML/day of B class,
 - (iii) 22 ML/day of C class,
 - (iv) 41 ML/day of D class, and
 - (v) 41 ML/day of E class.
- (c) Unregulated river access licences:

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- (i) 1.86 ML/day of A class,
- (ii) 3.86 ML/day of B class,
- (iii) 4.86 ML/day of C class,
- (iv) 4.86 ML/day of D class, and
- (v) 4.86 ML/day of E class.

47 Unassigned TDEL

At the commencement of this Plan there is no unassigned TDEL.

Note. Unassigned TDEL may vary as a result of the surrender, cancellation or non-renewal of an access licence's IDELS, or the operation of Part 8 of this Plan.

48 Daily extraction limits for individual access licence holders

- (1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 46 as its share component bears to all the share components of licences of that category.
- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

49 Granting of unassigned TDEL

- (1) The unassigned TDEL in clause 47 may be assigned to access licences in the following circumstances:
 - (a) where they are applied for as part of a new access licence application,
 - (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
 - (c) to existing access licences for the purpose of pumping into farm dams if:
 - (i) the purpose of the additional IDEL sought is established by the proponent,
 - (ii) the IDEL sought is the minimum required to satisfy that purpose, and
 - (iii) the extraction is consistent with the objectives and principles of this Plan.
- (2) Where additional IDELS are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 48, as varied by clause 50.

50 Adjustment to TDELs and IDELS

- (1) Where IDELS are assigned under clause 49 the unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category in clause 46 is increased accordingly.

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- (2) Pursuant to section 42 (2) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan:
 - (a) first the unassigned TDEL specified in clause 47 then, if necessary, the TDEL for unregulated river access licences in clause 46 (c) shall be diminished to allow these additional basic landholder rights to be met, and
 - (b) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 42 (2) of the Act, if any unassigned TDEL cannot meet either:
 - (a) the IDEL requirements of applicants for new domestic and stock access licences, or
 - (b) a local water utility's IDEL requirements,then the TDEL for unregulated river access licences in clause 46 (c) will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (5) Any adjustment to unregulated river access licence IDELs arising from this clause will be done at intervals of no greater than 5 years.
- (6) In accordance with subclause (3) and clause 36 (b), if the combined IDEL requirements for the local water utilities cannot be met, the Minister may, under section 42 (2) of the Act, and by notice published in the NSW Government Gazette, amend the TDEL for local water utilities after year 2 of this Plan, and the amended TDEL for local water utilities shall be determined by the Minister and may range from:
 - (a) 7.5 to 15 ML/day inclusive within B class,
 - (b) 18 to 36 ML/day inclusive within C class,
 - (c) 41 to 43 ML/day inclusive within D class, and
 - (d) 46 ML/day up to 32% of the flow on any day within E class.
- (7) Any new IDELs granted to Gosford City Council Water Authority and Wyong City Council Water Authority access licences will be consistent with the ratios of share components to IDELs initially granted.
- (8) If the TDEL for local water utilities established in clause 46 (b) is varied in any flow class as a result of subclause (6) then the TDEL established in clause 45 (1) will be adjusted by an equal amount.
- (9) If water that, pursuant to an access licence:
 - (a) is committed to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be reduced by the IDEL on the access licence so committed and clauses 45 and 46 adjusted accordingly, or
 - (b) is uncommitted to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be increased by the IDEL on the access licence so uncommitted and clauses 45 and 46 adjusted accordingly.

51 Administrative arrangements for managing access to daily flows

Notwithstanding the forgoing provisions of this Division, this Plan provides that access licences may be managed as a group with respect to the IDELs, subject to the following rules:

- (a) all access licences with IDELs shall be made part of a group established and maintained by the Minister at the time when IDELs are first assigned under clause 48,
- (b) access licence holders have the right to have their access licence removed from the group, in which case they shall be permitted to extract under that access licence a maximum of the licensed IDEL,
- (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject access licence,
- (d) access licence holders may make a request to form a group for their access licences,
- (e) daily extraction under all access licences within a group will be assessed as a whole against the combined IDELs,
- (f) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,
- (g) where it has been assessed that a holder of a licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that licence from the group,
- (h) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,
- (i) should a holder of an access licence which is part of a group commit the IDELs of that access licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
- (j) an access licence may not be in more than one group, and
- (k) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

Note. Local water utilities will participate in this group to ensure the local water utility storages recover to 35% of Mangrove Dam and 75% of Mardi Dam and reasonable access is provided to other users.

52 Infrastructure failure

In the event of infrastructure failure, the Minister can elect to:

- (a) continue to announce the current flow class,
- (b) announce another flow class based on climatic conditions and any other flow gauging information, or
- (c) restrict access to water to the lowest flow class.

Note. Infrastructure is defined in the dictionary.

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Note. If satisfied that it is necessary to do so in the public interest, the Minister may direct the holders of an access licence to cease using a water supply work in accordance with section 323 of the Act.

Part 11 Access licence dealing rules

53 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 4.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

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

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

54 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71D, 71F and 71J of the Act, and with respect to water allocation assignments within this water source under section 71G of the Act.
- (2) Dealings are prohibited under this clause if any of the access licences or water allocations involved are not within this water source, unless the dealing is permitted under clause 59.

Note. Clause 56 relates to any dealings that involve an access licence moving from one water source to another.

55 Rules for access licence dealings which alter the times, rates or circumstances specified in access licence extraction components

Notwithstanding clause 54, applications under section 71F of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited, unless the application is in accordance with clause 49 (1) (c).

56 Rules for change of water source

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

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

- (2) Dealings under section 71E of the Act are prohibited in this water source, unless provided for in this clause.
- (3) An access licence with a share component specifying this water source may be cancelled and a new licence issued in another water source only if:

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- (a) the new access licence issued is within this Unit, and
 - (b) the access licence dealing rules in the other water source permit such a dealing.
- (4) An access licence with a share component specifying another water source may be cancelled and a new licence issued in this water source under this dealing only if:
- (a) the access licence cancelled is within this Unit, and
 - (b) the access licence dealing rules in the other water source permit such a dealing.
- (5) The volume of the share component on an access licence issued under a dealing provided for in this clause is to be the volume of the cancelled access licence share component.
- (6) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

57 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
- (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence,
 - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence, or
 - (c) the conversion is from domestic and stock access licence to an unregulated river access licence.

Note. Any access to very low flows previously possible under the domestic and stock access licence will not be carried over to the new unregulated river access licence.

- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.

58 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in the interstate transfer of an access licence into or out of this water source are prohibited.

59 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act, in relation to water allocation assignments between water sources.
- (2) Dealings under section 71G of the Act that result in water allocation assignments to or from access licences in this water source are prohibited unless provided for in this clause.

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- (3) Dealings that assign water allocations between access licences inside this water source and access licences outside this water source, but inside this Unit, are permitted only if the access licence dealing rules in the other water source permit such a dealing.
- (4) Dealings that assign water allocations between access licences inside this water source, are permitted.

Note. Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

60 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in interstate assignment of water allocations to or from this water source are prohibited.

Part 12 Mandatory conditions

61 Mandatory conditions on access licences

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.
- (2) All access licences shall have mandatory conditions in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
 - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
 - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
 - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
 - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
 - (g) any other conditions required to implement the provisions of this Plan.

62 Unregulated river access licences

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

63 Local water utility access licences

All local water utility access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of supplying water for the exercise of a water supply function of the local water utility or for other such purposes provided for under the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component,

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- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) a local water utility must prepare a demand management strategy to the specifications and satisfaction of the Minister before commencing to pump under the local water utility access licence.

64 Domestic and stock access licences

All domestic and stock access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

65 Runoff harvesting access licences

All runoff harvesting access licences shall have a mandatory condition imposed on them specifying that water may be taken without restriction in rate, but only from the specified work.

66 Mandatory conditions on water supply works approvals

All approvals for water supply works in this water source shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:

- (a) flow measurement devices:
 - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,
- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work not permitted if there is no visible flow in the river in the vicinity of the work, and
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence.

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Part 13 Granting and amending water supply works approvals

67 Granting and amending water supply works approvals

This Part is made in accordance with section 21 (b) of the Act.

68 Runoff harvesting dams

- (1) New or expanded runoff harvesting dams shall, in addition to other considerations, be subject to the dam capacity not exceeding that which is consistent with the access licence share component specifying the runoff harvesting dam as the nominated work.
- (2) When the water allocations that may be taken from a runoff harvesting dam are reduced either by the Minister, or on application of the approval holder, or by an assignment in accordance with Part 11 of this Plan, the Minister may impose an additional condition requiring the dam to be modified so as to reduce its capacity, or requiring the water taken and evaporated from the dam to be reduced, consistent with the reduction in water allocations available.

Note. Extraction of water from a runoff harvesting dam requires a runoff harvesting access licence, unless the runoff harvesting dam is within the maximum harvestable right dam capacity for the property on which it is located, in which case no licences or approvals are required. Runoff harvesting is a category of access licence to be established by regulation under section 57 (k) of the Act.

69 In-river dams

No new in-river dams shall be approved within this water source.

Note. Taking of water from an in-river dam requires an access licence unless it is taken in accordance with section 52 of the Act (domestic and stock rights). In either case, however, the dam requires a water management works approval unless exempted by regulation under the Act.

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Part 14 Monitoring and reporting

70 Monitoring and reporting of performance indicators

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

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

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

Note. Implementation Program

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

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

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

Part 15 Amendment of this Plan

71 Amendment of this Plan

This Part is made in accordance with section 42 (2) of the Act.

72 Amendment of very low flow provisions

- (1) The Minister may, under section 42 (2) of the Act and by notice published in the NSW Government Gazette, vary the very low flow levels established in clause 17 and consequently the bottom of A class established in clause 17, following field verification.
- (2) Any variation made under subclause (1) should not result in the very low flow level being less than 4 ML/day or greater than 7 ML/day:
- (3) The Minister should cause the field verification in subclause (1) to be undertaken as soon as practical, but before the review of this Plan under section 43 (2) of the Act.
- (4) The field verification should assess the degree to which the objectives in clause 11 (a) and (b) are met:
- (5) In undertaking the field verification the Minister should:
 - (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture and the NSW National Parks and Wildlife Service, and representatives of interest groups as required, and
 - (b) prepare a documenting:
 - (i) the methodology adopted,
 - (ii) the hypotheses tested,
 - (iii) the field results and conclusions in terms of the degree to which the objectives in clause 11 (a) and 11 (b) are met,
 - (iv) the flow level recommended to meet the objectives, and
 - (v) the socio-economic impacts of recommended changes to the flow level.

73 Review of field verification

- (1) The Minister should seek advice from a review body on the field verification report specified in clause 72 (5) (b) before varying this Plan in accordance with clause 72 (1), if the field verification recommends a variation in the very low flow levels established in clause 17.
- (2) This review body may be:
 - (a) a water management committee with water sharing responsibilities for this water source, if one exists,
 - (b) an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a water management committee referenced at subclause (2) (a), or

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- (c) if there is no water management committee with water sharing responsibilities for this water source, then by a catchment management board with responsibilities for this water source or an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a catchment management board.
- (3) The review body should provide advice to the Minister on the field verification report, and advise on any changes to the recommendations contained in the report in relation to any variation of the very low flow levels.
- (4) The review body should respond to the Minister as soon as practical after receiving the report, or within 3 months of that date at the latest.

74 Other amendment of this Plan

This Plan can be amended in accordance with:

- (a) clause 36 in respect to a variation in the long-term average extraction limit,
or
- (b) clause 50 in respect to adjustments to TDELS and IDELS.

Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

account water is the balance in an access licence water allocation account at a particular time.

Note. An access licence water allocation account records water allocations accrued under the licence as well as water allocations taken, assigned or re-credited. The operation of the account is also governed by rules for the carrying over of credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

conversion factor refers to the adjustment factor that is to be applied to share components when they are cancelled or reissued in a different water source and visa versa, or when the licence category is changed. It is designed to provide for the fact that the value of a unit of share component in terms of the average water allocations that result from it may vary from one water source to another, or from one category of licence to another.

endangered ecological communities means ecological communities listed in Schedule 1 of the *Threatened Species Conservation Act 1995* or Schedule 4 of the *Fisheries Management Act 1994*.

extraction limit is a limit on the amount of water that may be extracted from an extraction management unit.

extraction management unit is a group of water sources for the purpose of managing annual average extraction.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs. See also **in-river dam** and **runoff harvesting dam**.

flow classes are categorised by the size and duration of flow levels in unregulated rivers, for example:

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

flow gauging station is a device that is used to measure the height of a river, from which the flow in the river can be calculated.

individual daily extraction limit (IDEL) is the volume of water that may be extracted by an individual access licence from an unregulated river on a daily basis from a particular flow class.

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infrastructure includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within this water source.

in-river dam is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a “river” gazetted 23rd March 2001. See also *farm dam* and *runoff harvesting dam*.

runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a river gazetted 23rd March 2001. See also *farm dam* and *in-river dam*.

Note. This Order refers to watercourses shown as blue lines on topographic maps. The lines which are uppermost in a catchment are 1st order streams, when two 1st order streams are joined they make a 2nd order stream, etc. For more information see the Farm Dams Assessment Guide available from the Department of Land and Water Conservation.

total daily extraction limit (TDEL) is the volume of water that may be extracted under access licences from an unregulated river on a daily basis from a particular flow class.

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Schedule 2 Ourimbah Creek Water Source



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Schedule 3 Rivers in the Ourimbah Creek Water Source

This water source includes, without limitation:

Bangalow Creek
Bumbles Creek
Canada Drop Down Creek
Chittaway Creek
Cunninghams Creek
Cut Rock Creek
Dead Horse Creek
Dillions Creek
Dog Trap Creek
Elliot's Creek
Footes Creek
Hallards Creek
Kangy Angy Creek
Lowe's Gully
Milligans Gully
Ourimbah Creek
Toobys Creek
Windy Drop Down Creek

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Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL – contributes to target in full

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

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to target

Relevant Target	Level of contribution	Comments
Target 1c Long term average annual extraction limits which are ecologically sustainable, and which minimise downstream impacts, established in all coastal water sources	HIGH	<ul style="list-style-type: none"> Part 9 of this Plan clearly sets out the basis for the extraction limit for the Tuggerah Lakes Extraction Management Unit. Until the cumulative impact of this limit can be assessed for all of this Unit it is not possible to properly assess ecological sustainability and downstream impacts. However application of TDELs should ensure adequate downstream flows.
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	<ul style="list-style-type: none"> Rules set out in Part 9 of this Plan.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	<ul style="list-style-type: none"> Part 10 of this Plan puts in place comprehensive TDELs to protect/restore environmental flows. This Plan has improved low-very low flow protection. This Plan is consistent with relevant Threatened Species Recovery Plans.
Target 4a Wherever the frequency of “end of system” daily flows would be less than 60% of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60% of	FULL	<ul style="list-style-type: none"> At the commencement of this Plan flows in B and C classes were assessed as less than 60% of predevelopment (28% and 43%) and this Plan improves them by 22% and 12% respectively.

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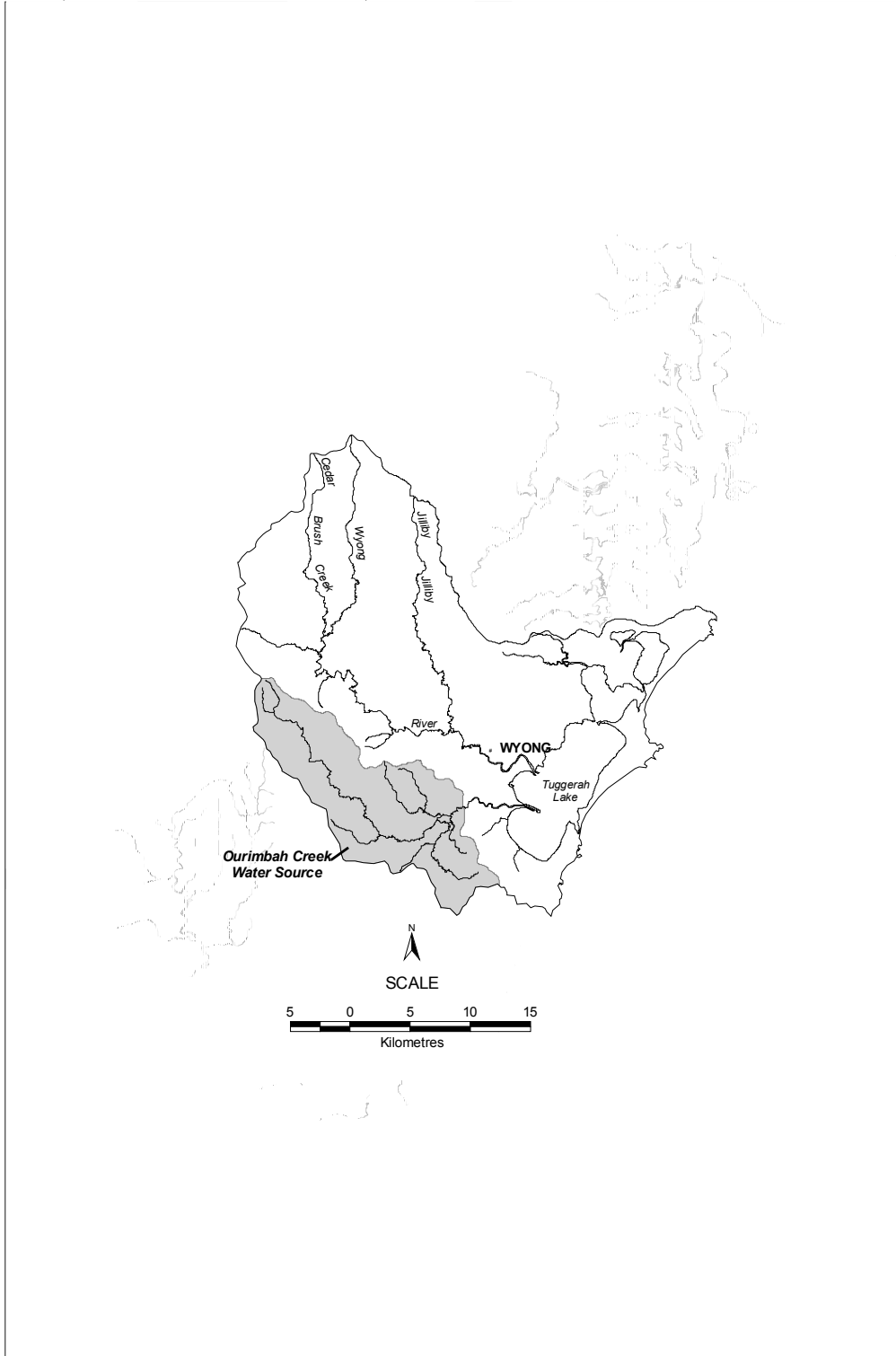
predevelopment levels or increased by at least 10% of the predevelopment frequency		<p>respectively.</p> <ul style="list-style-type: none"> 70%-86% of flows in D and E classes are protected.
Target 4b Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the predevelopment 95th percentile	HIGH	<ul style="list-style-type: none"> The cease to pump (CTP) level protects flows below the 97th percentile (all days) (4 ML/day), and the commence to pump level is 6 ML/day which is the 95th percentile (all days). Field verification of CTP is provided for in Part 4 of this Plan with the option to move the CTP towards 7 ML/day.
Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components	FULL	<ul style="list-style-type: none"> This Plan establishes TDELs for distribution to individual licensees.
Target 6b A pathway for reducing the share components to 200 percent of the long term average annual extraction limit to be established not later than the end of the term of the SWMOP	FULL	<ul style="list-style-type: none"> Total licensed share components for the Tuggerah Lakes Extraction Management Unit should not exceed 200% of the extraction limit for this Unit.
Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy	HIGH	<ul style="list-style-type: none"> The Government has established other mechanisms to address this target, but this Plan does provide water market opportunity.
Target 8 Daily extraction components specified and tradeable, subject to metering, reporting and compliance, for at least 50 percent of unregulated river access licences and for 80 percent of stressed unregulated rivers	FULL	<ul style="list-style-type: none"> This Plan establishes TDELs across the whole water source.
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use	FULL	<ul style="list-style-type: none"> The cease to pump level will protect flows for domestic and stock, and the TDELs also explicitly provide for domestic and stock requirements.
Target 13 The knowledge sharing, training and resources necessary to	HIGH	<ul style="list-style-type: none"> Aboriginal community representatives have been

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ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed		actively involved in development of this Plan and their advice has been incorporated into this Plan.
Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them	HIGH	<ul style="list-style-type: none"> • This Plan does not address specific Aboriginal cultural or traditional requirements or sites of significance but has identified dependent ecosystems of particular importance. • This Plan does provide a level of environmental protection which should assist in protecting Aboriginal values.
Target 16a All share components of access licences tradeable	FULL	<ul style="list-style-type: none"> • Part 11 of this Plan provides for dealings of share components or IDELS.
Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water	FULL	<ul style="list-style-type: none"> • Part 11 of this Plan establishes an exchange rate of 1:1 for trading between water sources in the Tuggerah Lakes Extraction Management Unit.
Target 16d Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery	FULL	<ul style="list-style-type: none"> • This Plan does not impose reduction factors.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	HIGH	<ul style="list-style-type: none"> • This Plan includes a generalised water quality objective. • This Plan does provide a reasonable level of environmental protection which would assist in protecting water quality.

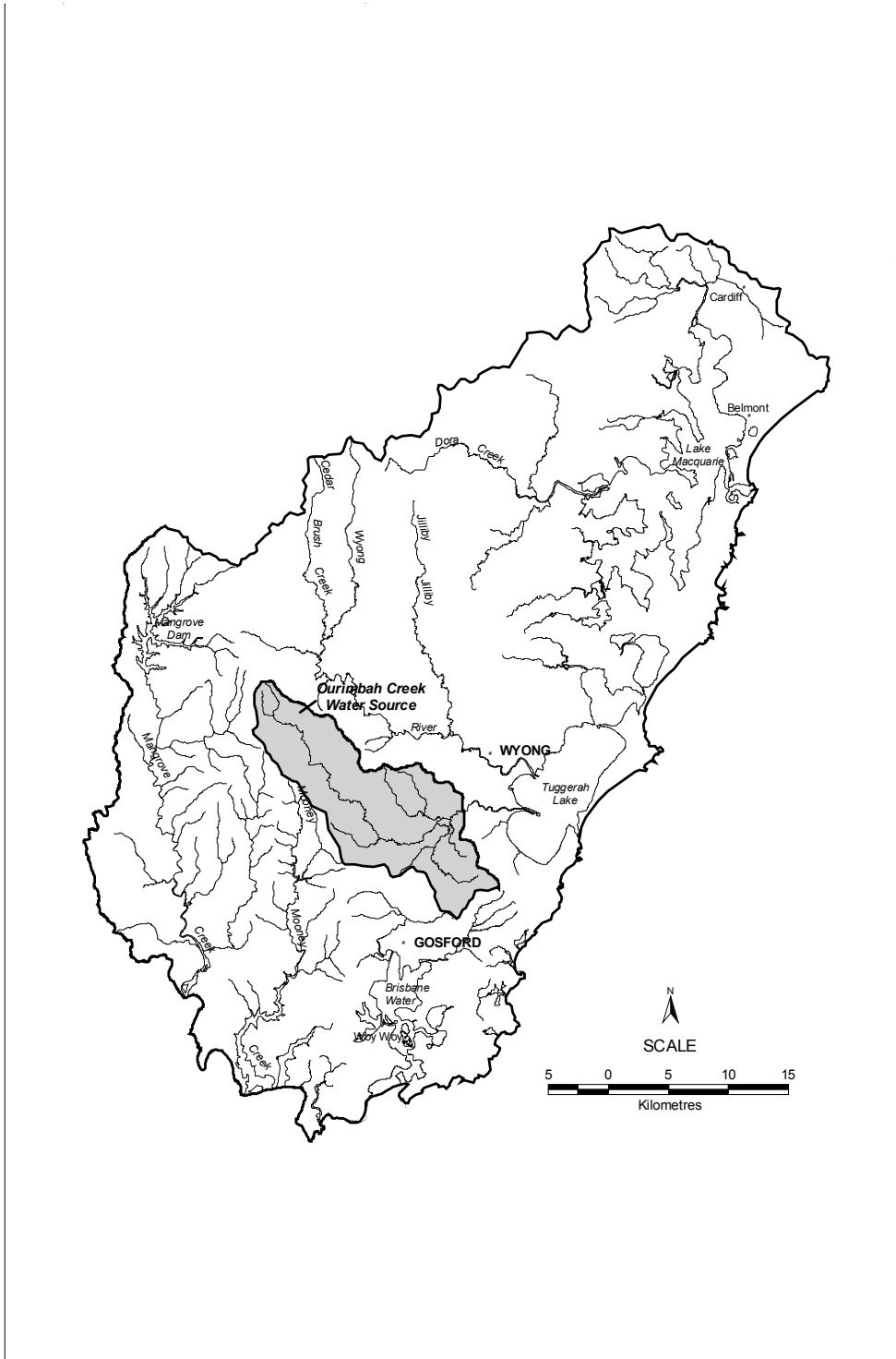
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Schedule 5 Tuggerah Lakes Extraction Management Unit



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Appendix 1 Central Coast Water Management Area



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Appendix 2 Location of maps for public inspection

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

Regional Office
Department of Land and Water Conservation
464 King Street
NEWCASTLE NSW 2302

District Office
Department of Land and Water Conservation
40 Mann Street
GOSFORD NSW 2250

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Appendix 3 Performance indicators

Performance indicators for the Ourimbah Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(a) Change in low flows.	11 (a) 11 (b) 11 (e)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points. 	<ul style="list-style-type: none"> River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. Note. Not every objective is relevant to every river in NSW. Plan will contribute to a decrease in the frequency and duration of low flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(b) Change in moderate to high flows.	11 (c)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points. 	<ul style="list-style-type: none"> RFO 3. Plan will maintain or increase the frequency and duration of moderate to high flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(c) Change in local water utilities and major water utilities access (where those utilities are involved in urban water provision).	11 (j) 11 (k)	<ul style="list-style-type: none"> Change in safe yield (<i>safe yield</i> is the annual demand that can be supplied from the water supply headworks and is based on the period of records used and an acceptable level of restriction). Water use per sector. 	<ul style="list-style-type: none"> Water sharing plans for unregulated water sources have the potential to impact on urban water supplies.

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Performance indicators for the Ourimbah Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
		<ul style="list-style-type: none"> • Water extraction against flow class. 	
(d) Change in ecological condition of this water source and dependent ecosystems.	11(d) 11 (f) 11 (g)	<ul style="list-style-type: none"> • Periodic assessment of identified indicators for ecological condition. • Change in wetted perimeter over time. 	<ul style="list-style-type: none"> • Water sharing plans are limited to providing for changes in flow regime aimed at improving the ecological condition of the river. • There are many other factors that contribute to ecological objectives. • The focus of this performance indicator will be the effect of flow strategies. Therefore assessment of ecological condition should be based largely on hydrologic parameters (such as wetted area, depth in pools and velocity). This attempts to exclude external, non - water sharing plan related factors (such as climate and landuse changes).
(e) Extent to which basic landholder rights requirements have been met.	11 (h)	<ul style="list-style-type: none"> • Assessment of cease to pump levels in relation to basic rights requirements. • Water use per sector. • Qualitative assessment through focus group. 	<ul style="list-style-type: none"> • Basic landholder rights usage figures in water sharing plans are estimated (not actual use).
(f) Change in economic benefits derived from water extraction and use.	11 (i)	<ul style="list-style-type: none"> • Number of days access provided. • Percentage change in number and volume of farm dams. • Change in unit price of water transferred. • Water use per sector. • Qualitative assessment through structured interviews with water user groups. 	<ul style="list-style-type: none"> • There are many factors affecting economic status of a region, for example commodity prices. • Measurement of the number of farm dams will attempt to identify the impact of the plan provisions.
(g) Extent to	11 (h)	<ul style="list-style-type: none"> • Assessment of cease 	<ul style="list-style-type: none"> • The collection of information on

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Performance indicators for the Ourimbah Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
which native title rights requirements have been met.		<p>to pump levels in relation to basic rights requirements.</p> <ul style="list-style-type: none"> • Monitor increase in water supply works approvals applications for Native Title basic rights. • Qualitative assessment through focus groups semi-structured interviews. 	<p>the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.</p>
(h) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.	11 (h) 11 (m)	<ul style="list-style-type: none"> • Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people. • Qualitative assessment through focus groups semi-structured interviews. 	<ul style="list-style-type: none"> • The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(i) Contribution to the achievement of water quality to support the environmental values of this water source.	11 (l)	<ul style="list-style-type: none"> • Change in the baseline figures of identified water quality variables. 	<ul style="list-style-type: none"> • Many factors may affect water quality that is not related directly to flow management.

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Appendix 4 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

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groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, **commitments to take water** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.

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- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11. Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or

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- (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
- (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
- (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.

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- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.

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- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction

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components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.

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- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:
 - (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

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18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
 - (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
 - (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

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19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or

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- (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.
- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.

Water Sharing Plan for the Ourimbah Creek Water Source 2003

- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

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Water Conservation — *continued*

Water Sharing Plan for the Kulnura Mangrove Mountain Groundwater Sources 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

 Water Sharing Plan for the Kulnura Mangrove Mountain Groundwater Sources 2003

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Water Sharing Plan for the Kulnura Mangrove Mountain Groundwater Sources 2003

Water Sharing Plan for the Kulnura Mangrove Mountain Groundwater Sources 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Kulnura Mangrove Mountain Groundwater Sources 2003* (hereafter **this Plan**).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter **the Act**).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Central Coast Water Management Area known as the Kulnura Mangrove Mountain Groundwater Sources (hereafter **these groundwater sources**) as shown on the map in Schedule 2.

Note. The Central Coast Water Management Area is shown on the map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

- (2) The following groundwater sources referred to in this Plan are shown on the map in Schedule 2:
 - (a) National Park, State Forest and Drinking Water Catchment Groundwater Source (hereafter **Zone 1**),
 - (b) Wollombi Brook Groundwater Source (hereafter **Zone 2**),
 - (c) Brisbane Water Groundwater Source (hereafter **Zone 3**),
 - (d) Ourimbah Creek Groundwater Source (hereafter **Zone 4**),
 - (e) Wyong River Groundwater Source (hereafter **Zone 5**),
 - (f) Upper Mangrove Groundwater Source (hereafter **Zone 6**),
 - (g) Lower Mangrove and Popran Creeks Groundwater Source (hereafter **Zone 7**), and
 - (h) Mooney Mooney and Mullet Creeks Groundwater Source (hereafter **Zone 8**).

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5 Waters to which this Plan applies

The water in these groundwater sources includes all water contained in the Hawkesbury sandstone aquifers within the groundwater sources listed in clause 4.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from the date of commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) This Plan is consistent with the State Water Management Outcomes Plan (hereafter the ***SWMOP***) in accordance with section 16 (1) (a) of the Act.
- (2) Schedule 3 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

Note. The SWMOP applying at the commencement of this Plan is that gazetted on 20 December 2002 under section 6 of the Act.

Water Sharing Plan for the Kulnura Mangrove Mountain Groundwater Sources 2003

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

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

10 Vision

- (1) The vision for this Plan is the sustainable, equitable and efficient use, through integrated management, of groundwater in the Kulnura Mangrove Mountain Groundwater Sources to preserve, enhance and rehabilitate the environmental, social, cultural and economic uses of groundwater for the present and the future.
- (2) This Plan also recognises the following respect statement for Aboriginal values associated with these groundwater sources:
 - (a) life-giving water is of extreme significance to Aboriginal culture for its domestic, traditional and spiritual values, and
 - (b) whilst water supplied for the environment will provide protection for native flora and fauna, and opportunities for fishing, food gathering and recreational activities, it is important that the community respects the spiritual significance of water to Aboriginal people.

11 Objectives

The objectives of this Plan are to:

- (a) manage groundwater extractions to protect and enhance ecological processes and the diversity of terrestrial groundwater dependent ecosystems in these groundwater sources,
- (b) manage groundwater extractions in these groundwater sources to protect baseflows to rivers and related ecosystems,
- (c) manage groundwater extractions to protect and enhance ecological processes and the diversity of subsurface groundwater dependent ecosystems in these groundwater sources,
- (d) manage groundwater extractions to provide domestic and stock and native title water requirements within these groundwater sources,
- (e) manage groundwater extractions to maximise the economic benefit of groundwater use within these groundwater sources,
- (f) manage groundwater extractions to provide opportunities for new and existing users within these groundwater sources,
- (g) establish rules for priority of access to groundwater consistent with the priority requirements of the Act, and rules for the management of extraction in these groundwater sources,
- (h) recognise the high quality and beneficial use (raw drinking water) of water of these groundwater sources, and encourage its use where appropriate, and

Water Sharing Plan for the Kulnura Mangrove Mountain Groundwater Sources 2003

- (i) manage groundwater extractions to protect and enhance groundwater dependant species and sites of significance to the local Aboriginal communities in these groundwater sources.

12 Strategies

The strategies of this Plan are to:

- (a) establish environmental water rules and manage access to groundwater consistent with those rules,
- (b) establish rules for the protection of basic landholder rights,
- (c) establish an extraction limit for each groundwater source, taking into account the requirements of the environment,
- (d) establish rules for the granting of access licences,
- (e) establish rules for determining the groundwater available from time to time under access licences,
- (f) establish water allocation account management rules,
- (g) establish rules for minimising the local impacts of groundwater extraction on the environment, the aquifer itself, and between users,
- (h) establish the access licence dealing rules, and
- (i) establish the conditions that will apply to all access licences and water supply work (bore) approvals.

13 Performance indicators

For the purpose of section 35 (1) (b) of the Act, the following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in groundwater extraction relative to the extraction limits,
- (b) change in climate adjusted groundwater levels,
- (c) change in water levels adjacent to identified groundwater dependent ecosystems,
- (d) change in groundwater quality,
- (e) change in economic benefits derived from groundwater extraction and use,
- (f) extent to which domestic and stock rights requirements have been met,
- (g) extent to which local water utility requirements have been met,
- (h) extent to which native title rights requirements have been met, and
- (i) extent of recognition of spiritual, social and customary values of groundwater to Aboriginal people.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

Water Sharing Plan for the Kulnura Mangrove Mountain Groundwater Sources 2003

Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore that the level of natural recharge to these groundwater sources will vary.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in these groundwater sources within the limits of water availability on a long-term average basis, and
 - (b) water extractions to enable the protection of groundwater dependent ecosystems, aquifer integrity and water quality of these groundwater sources.

16 Recharge

- (1) The overall basis for water sharing in this Plan is the average annual recharge to each groundwater source as follows:
 - (a) unquantified in Zone 1,
Note. Almost half of the area to which this Plan applies is in State Forests, National Parks and Drinking Water Catchment (Zone 1) and therefore a recharge figure for this groundwater source was not identified. This decision was made in recognition that extractions would not occur in this groundwater source, and continues the precedent set in the development of the previous groundwater licensing policy for Kulnura Mangrove Mountain.
 - (b) 1,128 megalitres per year (hereafter *ML/yr*) in Zone 2,
 - (c) 2,616 ML/yr in Zone 3,
 - (d) 3,602 ML/yr in Zone 4,
 - (e) 3,023 ML/yr in Zone 5,
 - (f) 2,765 ML/yr in Zone 6,
 - (g) 8,231 ML/yr in Zone 7, and
 - (h) 9,007 ML/yr in Zone 8.
- (2) Pursuant to section 42 (2) of the Act, the average annual recharge to each groundwater source established in subclause (1) may be varied by the Minister after year 5 of this Plan, following further recharge studies undertaken by the Minister.

Note. The extent of impact of this change on access by licence holders is limited by the provisions in clause 28.

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Part 4 Environmental water provisions

17 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

18 Environmental health water

Note. It is anticipated that the environmental health water provisions in this Part, and management of local impacts provisions in Part 10 of this Plan, will also protect the cultural and spiritual values of groundwater (see clause 11(i)).

- (1) This Plan establishes the following environmental health water rules:
 - (a) the long-term average storage component of each groundwater source is reserved for the environment,
 - (b) 100% of the average annual recharge to Zone 1 will be reserved for the environment,
 - (c) 807 ML/yr will be reserved for the environment in Zone 2,
 - (d) 1,873 ML/yr will be reserved for the environment in Zone 3,
 - (e) 3,210 ML/yr will be reserved for the environment in Zone 4,
 - (f) 2,164 ML/yr will be reserved for the environment in Zone 5,
 - (g) 1,979 ML/yr will be reserved for the environment in Zone 6,
 - (h) 5,892 ML/yr will be reserved for the environment in Zone 7, and
 - (i) 6,447 ML/yr will be reserved for the environment in Zone 8.

Note. For the first 5 years of this Plan, the above represents approximately 72% of recharge reserved for the environment in Zones 2, 3, 5, 6, 7, and 8, and 89% in Zone 4. The environmental water in Zone 4 is greater than in other groundwater sources in order to protect the connectivity of base flows to Ourimbah Creek.

- (2) Pursuant to section 42 (2) of the Act, the Minister may vary the proportion of recharge reserved as the environmental health water in subclause (1) after year 5 of this Plan, based on further studies of groundwater ecosystem dependency undertaken by the Minister.

Note. The extent of impact of this change on access by licence holders is limited by the provisions in clause 28 (2).

- (3) The Minister should consult with the Minister for the Environment before varying the environmental health water in accordance with subclause (2).

19 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

20 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.

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- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the access licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

Water Sharing Plan for the Kulnura Mangrove Mountain Groundwater Sources 2003

Part 5 Basic landholder rights

21 Basic landholder rights

- (1) This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.
- (2) If a landholder is unable to exercise their basic landholder rights due to interference to their supply caused by extraction authorised by access licences:
 - (a) the landholder's affected water supply work (bore) may be replaced or deepened to ensure continuing access to water for basic landholder rights, or
 - (b) basic rights water may be supplied by alternative means during critical times.
- (3) The Minister may impose a charge on access licence holders in these groundwater sources under section 114 of the Act, as a contribution to the costs of activities or works associated with subclause (2).

Note. The Minister may issue an order under section 328 of the Act to restrict the exercise of basic landholder rights from these groundwater sources to protect the environment, for reasons of public health, or to preserve existing basic landholder rights.

22 Domestic and stock rights

Note. It is not recommended that the water from these groundwater sources be consumed without prior treatment. Land use and other activities may have polluted the groundwater in some areas. *A study of groundwater quality in rural areas on the NSW Central Coast* by the Central Coast Public Health Unit (Murray J *et al*, 2000) found that 33% of the domestic raw groundwater samples were deemed unsuitable for drinking. The samples failed one or more of the following health related criteria: coliforms, thermotolerant coliforms, *E. coli*, copper, flouride, manganese, nitrate, nitrite and sulphate. All users are advised to contact Central Coast Health for advice on the risks associated with consuming the water from the Kulnura Mangrove Mountain Groundwater Sources.

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 1,500 ML/yr, comprising:
 - (a) 0 ML/yr in Zone 1,
 - (b) 56 ML/yr in Zone 2,
 - (c) 129 ML/yr in Zone 3,
 - (d) 178 ML/yr in Zone 4,
 - (e) 149 ML/yr in Zone 5,
 - (f) 137 ML/yr in Zone 6,
 - (g) 406 ML/yr in Zone 7, and
 - (h) 445 ML/yr in Zone 8.

Note. The volumes of water identified in subclause (1) are the total volumes of water estimated for domestic and stock rights in these groundwater sources. These volumes are based on a figure of 1 ML/yr for domestic purposes and 2 ML/yr for stock purposes, for each freehold property.

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- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings overlying these groundwater sources, or as a result of the increase in the exercise of basic landholder rights by existing landholders.

23 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are estimated to be a total of 0 ML/yr.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. An increase in native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

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Part 6 Bulk access regime

24 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in these groundwater sources having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

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Part 7 Requirements for water for extraction under access licences

25 Estimate of water requirements

- (1) This Part is made in accordance with section 20 (1) (c) of the Act.
- (2) At the commencement of this Plan, the requirements identified for water for extraction under access licences within these groundwater sources are estimated to be as follows:
 - (a) 0 ML/yr in Zone 1,
 - (b) 39 ML/yr in Zone 2,
 - (c) 13 ML/yr in Zone 3,
 - (d) 214 ML/yr in Zone 4,
 - (e) 14 ML/yr in Zone 5,
 - (f) 344 ML/yr in Zone 6,
 - (g) 938 ML/yr in Zone 7, and
 - (h) 694 ML/yr in Zone 8.

Note. Subclause (2) represents the total volumes specified on access licences in these groundwater sources. It is not a commitment to supply that water.
- (3) This Plan recognises that the total requirements for water for extraction under access licences within these groundwater sources may change during the term of this Plan as a result of:
 - (a) the granting, surrender, non-renewal, or cancellation of access licences,
 - (b) the variation of local water utility access licences under section 66 of the Act, or
 - (c) the volumetric quantification of the share components of existing access licences that are currently non-volumetric.

Part 8 Rules for granting access licences

26 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in these groundwater sources and the need to protect groundwater dependent ecosystems and groundwater quality.
- (2) Access licences may be granted in these groundwater sources subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in any of these groundwater sources, once the total access licence share components in the groundwater source equals the extraction limit established in clause 27.
- (4) The embargo referred to in subclause (3) should apply to applications for all access licences, other than access licences of the following kinds:
 - (a) local water utility access licences, or
Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may vary a local water utility's licence at 5 yearly intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) an access licence resulting from an application of a type listed in section 82 (1) of the Act.
- (5) A new local water utility access licence should not be granted pursuant to subclause (4) (a), or the share component of an existing access licence increased under section 66 (3) and 66 (4) of the Act, unless the water utility demonstrates that demand management measures are in place.
- (6) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share and extraction component sought will be the minimum required to meet that purpose and circumstance.
- (7) Access licences granted under this Part cannot be used to extract water through a water supply work (bore) located in areas where the extraction authorised by the licence, plus the full extraction authorised by existing access licences through water supply works (bores) located in the area and the exercise of basic landholder rights, are likely to cause an adverse local impact, as outlined in Part 10 Division 3 of this Plan.
- (8) If an access licence share component applied for is significant, as determined by the Minister on the basis of particular aquifer characteristics, the application will not be granted until a water supply work (bore) approval has been granted and the work constructed.
- (9) Once the water supply work (bore) is constructed and the results of a pumping test or its equivalent are supplied by the applicant, in the required form and to the specification of the Minister, the access licence may be granted.

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- (10) The share component of the access licence granted under subclause (9) will be the proportion of the share component sought that the water supply work (bore) is capable of extracting without adverse local impact as outlined in Part 10 Division 3 of this Plan.
- (11) Subclauses (6), (8) (9) and (10) do not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (12) In accordance with section 56 of the Act, all access licences in these groundwater sources shall have a share component expressed as a volume in megalitres per year.

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limits

27 Long-term average extraction limits

- (1) This Division is made in accordance with section 20 (2) (a) of the Act.
- (2) The long-term average extraction limit for each groundwater source each year of this Plan is the recharge established in clause 16, minus the proportion of recharge reserved as environmental health water established in clause 18, and is as follows:
 - (a) 0 ML/yr in Zone 1,
 - (b) 321 ML/yr in Zone 2,
 - (c) 743 ML/yr in Zone 3,
 - (d) 392 ML/yr in Zone 4,
 - (e) 859 ML/yr in Zone 5,
 - (f) 786 ML/yr in Zone 6,
 - (g) 2,339 ML/yr in Zone 7, and
 - (h) 2,560 ML/yr in Zone 8.

28 Variation of the long-term average extraction limits

- (1) Pursuant to section 42 (2) of the Act, the Minister may vary the long-term average extraction limits established under clause 27 (2) after year 5 of this Plan as a result of:
 - (a) any change to the average annual recharge arising from clause 16 (2),
 - (b) any change to the environmental health water arising from clause 18 (2), and
 - (c) a socio-economic impact analysis of any change to the extraction limit.

Note. Any socio-economic analysis should, as a minimum, consider inter-generational issues, future timeframes and development forgone.
- (2) If there is any change to the long-term average extraction limits arising from subclause (1) then:
 - (a) the extraction limit in any groundwater source will not increase by more than 300%, and
 - (b) the extraction limit in any groundwater source will not decrease by more than 37%.

Division 2 Available water determinations

29 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.

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- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
- (a) water extraction in each groundwater source, including extraction authorised by an access licence and extraction resulting from the exercise of basic landholder rights, will be monitored in each water accounting year to determine if any growth in volumes extracted is occurring above the extraction limit in clause 27, based on comparison of the extraction limit against the average extraction within the groundwater source over that year and the preceding 2 years,
Note. A water accounting year is defined in clause 34 (3).
 - (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in the aquifer for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,
 - (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work (bore),
 - (d) if the 3 year average of extraction in a groundwater source exceeds the long-term average extraction limit established in clause 27 by 5% or greater, the available water determination for the following water accounting year for aquifer access licences in that groundwater source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
 - (e) if the 3 year average of extraction in a groundwater source is less than 95% of the long-term average extraction limit established in clause 27, then the available water determination for aquifer access licences in that groundwater source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
 - (f) notwithstanding subclause (e), the available water determination shall not exceed 100% of total access licence share components,
 - (g) the available water determination calculated in accordance with this clause will apply to all access licences excepting local water utility and domestic and stock access licences and will be the same percentage for all access licences to which it applies, and
 - (h) separate available water determinations will be made for both local water utility and domestic and stock access licences, and subject to section 60 of the Act, this shall be 100% of these access licence share components.

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Part 10 Rules for managing access licences

Division 1 General

30 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b), 21 (a) and 21 (c) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

31 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

32 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in these groundwater sources.

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

33 Accrual of water allocations

Water allocations will be accrued into water allocation accounts each water accounting year in accordance with the Minister's available water determinations as specified in clause 29.

34 Annual accounting for water extraction

- (1) Water taken from these groundwater sources will be accounted for at least annually.
- (2) Water taken by an approved water supply work (bore) nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) In any one water accounting year, subject to local impact management restrictions arising from Part 10, Division 3 of this Plan, water taken from any of these groundwater sources under an aquifer access licence may not exceed a volume consisting of:
 - (a) 120% of the access licence share component,

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- (b) plus any water allocations assigned from another licence under section 71G of the Act in that year, and
 - (c) minus any water allocations assigned to another licence under section 71G of the Act in that year.
- (5) Total water in any account at any time may not exceed a volume consisting of:
- (a) 120% of the aquifer access licence share component,
 - (b) plus any water allocations assigned from another licence under section 71G of the Act in that year, and
 - (c) minus any water allocations assigned to another licence under section 71G of the Act in that year.
- (6) A maximum of 20% of any aquifer access licence share component may be carried forward in a water allocation account from one water allocation accounting year to the next.
- (7) Subclauses (4), (5) and (6) do not apply to domestic and stock and local water utility access licences.
- (8) For domestic and stock and local water utility access licences in any one water accounting year, subject to local impact management restrictions arising from Part 10, Division 3 of this Plan, water taken from any of these groundwater sources, and total water in any water allocation account at any time may not exceed a volume consisting of:
- (a) 100% of the access licence share component,
 - (b) plus any water allocations assigned from another licence under section 71G of the Act in that year,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence under section 71G of the Act in that year.
- (9) Allocations in a local water utility or domestic and stock water allocation account cannot be carried over from one water accounting year to the next.
- (10) A water allocation account shall remain at or above zero at all times.

Division 3 Management of local impacts

35 Management of local impacts

This Division is made in accordance with section 21 (a) of the Act.

36 Extraction interference between neighbouring bores

- (1) To minimise interference between extraction under different access licences in each groundwater source, the following rules will apply to extraction authorised by an access licence:

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- (a) extraction from a new or replacement water supply work (bore) for the extraction of basic landholder rights will not be permitted within:
 - (i) 50 metres of the property boundary, or
 - (ii) 100 metres of an approved water supply work (bore) from which basic landholder rights water may be extracted,
 - (b) extraction from a new or replacement water supply work (bore) nominated by an access licence will not be permitted within:
 - (i) 400 metres of an approved water supply work (bore) nominated by another access licence,
 - (ii) 200 metres of an approved water supply work (bore) from which basic landholder rights water may be extracted, or
 - (iii) 50 metres of the property boundary.
- (2) Notwithstanding the provisions of subclause (1), the Minister may, upon application by an access licence holder, vary the distance restrictions specified in subclause (1) if:
- (a) an hydrogeological study undertaken by the licence holder, and assessed as adequate by the Minister, demonstrates minimal potential for adverse impact on existing licensed extraction,
 - (b) the applicant has sought written comment from the potentially affected licence holders, and submits these comments to the Minister for consideration, and
 - (c) there is a process for remediation in the event that any local impact occurs in the future, specified as conditions on the licence.
- Note.** The intention of this clause is to minimise the impact of extraction under new access licences on extraction under existing access licences. It is intended to develop models to support hydrogeological assessment of the adverse impact of new groundwater extractions on existing licensed extraction.
- (3) Subclause (1) does not apply to extraction under existing access licences until such time the relevant water supply work (bore) is replaced.
- Note.** The intention of this clause is to minimise the impact of extraction by new access licences on extraction under existing licences.
- (4) The maximum authorised extraction resulting from extraction authorised by a new access licence nominating a water supply work (bore) at a particular location, or the operation of Part 11 of this Plan, is not to exceed 200 ML/yr per square kilometre.
- (5) Pursuant to section 42 (2) of the Act, the Minister may amend the maximum extraction density established in subclause (4) if change is required as a result of further studies undertaken by the Minister.
- (6) Any change to the maximum extraction density resulting from subclause (5) is to be within the range of 12 ML/yr per square kilometre to 200 ML/yr per square kilometre.

37 Water level management

- (1) The Minister may declare that, in order to protect water levels within these groundwater sources, local access rules are to apply in a defined area known as a local impact area.
- (2) The following extraction restrictions shall apply to extraction from all water supply works (bores) within a local impact area declared under subclause (1) nominated by an access licence, and will be based on monitoring bores or predictive models where monitoring bores are not installed:
 - (a) when groundwater levels in an area remain above, or recover to, the 80th percentile exceedance level, extraction from water supply works (bores) nominated by an access licence in the area will be in accordance with the water supply work approval and access licence conditions, and annual available water determinations,
 - (b) when groundwater levels are between the 80th and 90th percentile exceedance levels, quarterly volumes extracted from water supply works (bores) nominated by an access licence in the affected area shall not exceed one sixth of the access licence annual available water determination,
 - (c) when groundwater levels are between the 90th and 95th percentile exceedance levels, quarterly volumes extracted from water supply works (bores) nominated by an access licence in the affected area shall not exceed one twelfth of the access licence annual available water determination,
 - (d) when groundwater levels are at or below the 95th percentile exceedance level, extraction shall cease from water supply works (bores) in the affected area nominated by an access licence,
 - (e) subclauses (a) to (c) do not apply to extraction under local water utility access licences,
 - (f) when groundwater levels in an area remain above, or recover to, the 90th percentile exceedance level, extraction from water supply works (bores) nominated by a local water utility access licence in the area will be in accordance with the water supply work approval and access licence conditions, and annual available water determinations,
 - (g) when groundwater levels are between the 90th and the 95th percentile exceedance level, quarterly volumes extracted from water supply works (bores) nominated by a local water utility access licence in the affected area shall not exceed one sixth of the access licence share component, and
 - (h) when groundwater levels are at or below the 95th percentile exceedance level, quarterly volumes extracted from water supply works (bores) nominated by a local water utility access licence in the affected area shall not exceed one twelfth of the access licence share component.

Note. Water supply work approval and access licence holders will be advised as soon as possible if extraction restrictions are going to apply in accordance with this clause.

Note. This provision recognises that in some locations, at certain periods of high groundwater demand, critical water level declines may occur, and that additional extraction limitations may be required. The Department of Land and Water Conservation will identify monitoring bores, and determine the method for specifying an affected area.

38 Water quality management

- (1) The beneficial uses of these groundwater sources are raw water for drinking, and ecosystem protection, based on the Australian and New Zealand Environment and Conservation Council *Water Quality Guidelines 2001*, and the National Health and Medical Research Council *Raw Water for Drinking Purposes Guidelines 1996*.

Note. It is not recommended that the water from these groundwater sources be consumed without prior treatment. Land use and other activities may have polluted the groundwater in some areas. A *study of groundwater quality in rural areas on the NSW Central Coast* by the Central Coast Public Health Unit (Murray J *et al*, 2000) found that 33% of the domestic raw groundwater samples were deemed unsuitable for drinking. The samples failed one or more of the following health related criteria: coliforms, thermotolerant coliforms, *E. coli*, copper, fluoride, manganese, nitrate, nitrite and sulphate. All users are advised to contact Central Coast Health for advice on the risks associated with consuming the water from the Kulnura Mangrove Mountain Groundwater Sources.
- (2) Water quality decline will be deemed unacceptable if extraction is likely to cause water quality to decline to a lower beneficial use class, and such a determination will be based on:
 - (a) a site inspection by the Minister, and
 - (b) water analysis from bores within the groundwater source, undertaken at the expense of the relevant access licence holder.
- (3) The Minister may declare that, in order to protect water quality within these groundwater sources, local access rules are to apply in a defined area known as a local impact area.
- (4) If water quality declines are resulting from extraction, extraction from all water supply works (bores) within a local impact area declared under subclause (3) nominated by an access licence will be restricted to such an extent, and for such time, as required to halt that decline, or restore the beneficial use of these groundwater sources.
- (5) An access licence holder may apply to the Minister for an exemption to the restrictions arising from subclause (4) to allow short term (seasonal) contracts to be honoured.
- (6) An exemption under subclause (5) may only be granted if the Minister is satisfied that such an exemption will not result in further water quality decline.
- (7) Construction of a new water supply work (bore) will not be permitted:
 - (a) within 100 metres of a contamination source, unless the proponent can demonstrate to the Minister's satisfaction that a lesser distance will result in no more than minimal harm to these groundwater sources, and that extraction will not impact on the environment or cause a threat to public health as advised by the Minister for Health, or
 - (b) within a greater distance than in subclause (a) nominated by the Minister in order to ensure that no more than minimal harm will occur to these groundwater sources, and that extraction will not impact on the environment or cause a threat to public health as advised by the Minister for Health.
- (8) An existing water supply work (bore) within 100 metres of a contamination source will be able to continue extraction of groundwater at levels equivalent to 2002/03 access licence share components nominating that work, subject to any restrictions arising from subclause (4).

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- (9) Extraction of groundwater from a new water supply work (bore) for any purpose except basic landholder rights, between 100 metres and 500 metres of a contamination source, will require:
- (a) an application to the Minister by the licence holder providing evidence that no drawdown of the watertable within 100 metres of the contamination source will occur,
 - (b) the Minister to assess the application as adequate, and
 - (c) the Minister to approve the application.
- (10) Schedule 4 lists contamination sources in these groundwater sources.
- (11) Subclauses (7), (8) and (9) may be applied by the Minister in relation to contamination sources not on Schedule 4, based on the results of a site inspection or other relevant information provided to the Minister.
- (12) Pursuant to section 42 (2) of the Act, the Minister may vary Schedule 4 by inclusion or deletion of a contamination source based on the results of a site inspection or other relevant information provided to the Minister.
- Note.** Schedule 4 is only to be used in relation to the granting of access licences and water supply work (bore) approvals under the *Water Management Act 2000*.

39 Protection of groundwater dependent ecosystems

- (1) Extraction of groundwater from a new or replacement water supply work (bore) for any purpose, is excluded within 100 metres of:
- (a) high priority groundwater dependent ecosystems listed in Schedule 5 and shown in Appendix 4,
 - (b) culturally significant sites, being areas of high conservation value for cultural reasons, as contained in the National Parks and Wildlife Service's Cultural Sites Register, or
 - (c) any river.
- Note.** Subclause (1) will not apply to current authorised extraction from an existing water supply work (bore) until such times as the work is replaced.
- (2) Where an applicant can demonstrate to the Minister that the distance conditions in subclause (1) cannot be met, the Minister may consider the application providing the following construction criteria can be met:
- (a) the water supply work (bore) must only draw water from an aquifer at depths greater than 40 metres from the land surface,
 - (b) the water supply work (bore) must have an impermeable seal, as specified by the Minister, constructed within the bore to isolate aquifers above 40 metres depth and to prevent water ingress, and
 - (c) the water supply work (bore) must comply with any access licence and water supply work approval conditions established to mitigate any risk to groundwater dependent ecosystems.
- Note.** Water supply work (bore) approval conditions may include bore construction requirements, establishment of monitoring bores between extraction bores and ecosystems, and pumping limits.

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- (3) Pursuant to section 42 (2) of the Act, the Minister may amend the exclusion distances in subclauses (1) and (2), based on further studies of groundwater ecosystems dependency undertaken by the Minister.
- (4) Pursuant to section 42 (2) of the Act, the Minister may identify further high priority groundwater dependent ecosystems and include them in Schedule 5 and Appendix 4 after year 5 of this Plan, based on further studies of groundwater ecosystem dependency undertaken by the Minister.
- (5) The Minister should consult with the Minister for the Environment before adding further high priority groundwater dependent ecosystems to Schedule 5.

40 Protection of aquifer integrity

- (1) The Minister may declare that, in order to protect the integrity of the aquifers within these groundwater sources, local access restrictions are to apply in a defined area known as a local impact area.
- (2) The Minister may, on presentation of evidence of land subsidence or aquifer compaction, restrict extraction from all water supply works (bores) within a local impact area declared under subclause (1) nominated by an access licence, to such an extent and for such time as to stabilise that subsidence or compaction.

41 Extraction restrictions

The Minister may, in the event of local impact restrictions arising from this Division, impose by Order a reduction in annual, quarterly, monthly, weekly or daily extraction rates from water supply works (bores) in the affected area.

42 Group registration

This Plan allows for the formation of a group of access licences with respect to the sharing of local impact restrictions arising from this Division, subject to the following rules:

- (a) the group register will be maintained by the Minister,
- (b) holders of access licences must make a request to the Minister to form a group,
- (c) total extraction by all access licences within a group will be assessed as a whole against their combined restricted extraction and must not exceed that amount,
- (d) no access licence holder within the group may extract more than is permitted by Division 2 of this Part, in any one water accounting year as a result of participation in a group,
- (e) an access licence holder may apply to be removed by the Minister from the group and the extraction by the group will be reduced by the extraction restriction of that access licence,
- (f) an access licence holder may apply to be added by the Minister to the group and the combined restricted extraction of the group will be increased by the extraction restriction of that access licence, and

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- (g) the Minister reserves the right to remove a licence holder from a group where that individual causes the group extraction limit to be exceeded, or to dissolve a group where its members exceed their combined extraction restriction.

43 Infrastructure failure

- (1) The operational rules relating to local impact management may rely on water levels at specified monitoring bores.
- (2) In the event of a monitoring bore failure the Minister may:
 - (a) continue with the current access rules until the monitoring bore is reinstated,
 - (b) adjust the current access rules based on climatic conditions and any other monitoring bore information, until the monitoring bore is reinstated, or
 - (c) rely on another monitoring bore in the area to provide information.

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Part 11 Access licence dealing rules

44 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 5.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

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

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

45 Rules relating to constraints within a groundwater source

- (1) This clause applies to any relevant dealings under sections 71D, 71F, and 71J of the Act, and section 71G of the Act with respect to water allocation assignments within a groundwater source.
- (2) Dealings are prohibited under this clause if:
- any of the access licences or water allocations involved are not within these groundwater sources, unless provided for in clause 49,
 - the dealing results in the total access licence share components or credited water allocations authorised to be extracted through nominated works at a location exceeding 200 ML/yr per square kilometre subject to clause 36 (5) and (6),
 - the dealing would result in the total extraction under access licences through nominated works in the area, plus basic landholder rights extraction, causing adverse local impact in accordance with Part 10 Division 3 of this Plan, or
 - the applicant has not notified property owners adjoining the location to which the share component or water allocation is assigned.

46 Rules for change of water source

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

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

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- (2) Dealings under section 71E of the Act that change the water source to which an access licence applies are prohibited in these groundwater sources, except as provided for in this clause.
- (3) An access licence with a share component specifying one of these groundwater sources may be cancelled and a new licence issued specifying another of these groundwater sources only if the total share components of all access licences in the groundwater source in which the access licence is issued remains below the extraction limit for that groundwater source established in clause 27.
- (4) The volume of the share component on a licence issued under a dealing provided for in subclause (3) is to be the volume of the cancelled access licence share component.

47 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Dealings that result in conversion of an access licence of one category to an access licence of another category are prohibited in these groundwater sources.

48 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in an interstate access licence transfer into or out of these groundwater sources are prohibited.

49 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act for assignment of water allocations between water sources.
- (2) Dealings that assign water allocations between access licences in other water sources and access licences in these groundwater sources are prohibited.
- (3) Dealings that assign water allocations between an access licence in one of these groundwater sources and an access licence in another of these groundwater sources may be permitted only if:
 - (a) the total water allocations credited to all access licence water allocation accounts in the groundwater source to which the water allocation is assigned remains below the extraction limit of that groundwater source established in clause 27,
 - (b) the assignment would not result in the total extraction of credited water allocations through nominated works in the area, plus basic landholder rights extraction, causing an adverse local impact in accordance with Part 10 Division 3 of this Plan, and
 - (c) the applicant has notified property owners adjoining the location to which the water allocation is assigned.

Note. Each water allocation assignment must be applied for. Access licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

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50 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in an interstate assignment of water allocations to or from these groundwater sources are prohibited.

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Part 12 Mandatory conditions

51 Mandatory conditions on access licences

This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.

52 Access licences

- (1) All access licences shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence,
 - (c) the requirement that water taken under the access licence will be subject to the available water determinations,
 - (d) the requirement that all water taken under the access licence will be subject to any local impact management restrictions established in this Plan,
 - (e) the requirement that all water taken under the access licence will be subject to the account management rules established in this Plan,
 - (f) the requirement that water may only be taken under the access licence by the water supply work (bore) nominated by the access licence,
 - (g) the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account, and
 - (h) any other conditions required to implement the provisions of this Plan.
- (2) All domestic and stock access licences shall have mandatory conditions that only allow the taking of water for the purpose of domestic consumption or stock watering as defined in section 52 of the Act.
- (3) All local water utility access licences shall have mandatory conditions that only allow the taking of water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act.
- (4) A local water utility must prepare a demand management strategy to the specifications and satisfaction of the Minister before commencing to pump under the local water utility access licence.

53 Mandatory conditions on water supply work (bore) approvals

All approvals for a water supply work (bore) to which this Plan applies shall have mandatory conditions in relation to the following:

- (a) the water supply work (bore) is only to be constructed by a driller licensed under section 349 of the Act,
- (b) the water supply work (bore) must comply with drilling standards as specified by the Minister,

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- (c) construction of a water supply work (bore) must prevent contamination between aquifers through proper bore construction,
- (d) a water supply work (bore) approval holder must ensure decommissioning procedures comply with applicable standards as specified by the Minister,
- (e) a new or replacement water supply work (bore) to access water for basic rights will be required, as a condition of approval, to be constructed to sufficient depth to maintain access to the water source for the life of the work,
- (f) the water supply work (bore) approval holder is, within 2 months of completion of the work, or after the issue of the approval if the water supply work (bore) is existing, to provide the Minister with:
 - (i) details of the work on the prescribed form,
 - (ii) a plan showing accurately the location of the work in relation to portion and property boundaries, and
 - (iii) details of any water analysis and/or pumping tests required by the Minister,
- (g) if during the construction of the water supply work (bore), saline or contaminated water is encountered above the producing aquifer, such water is to be sealed off by:
 - (i) inserting the appropriate length(s) of casing to a depth sufficient to exclude the saline or contaminated water from the work, and
 - (ii) placing an impermeable seal between the casing(s) and the walls of the bore hole from the bottom of the casing to ground level, as specified by the Minister,
- (h) if a water supply work (bore) is abandoned, the water supply work (bore) approval holder is to:
 - (i) notify the Minister that the work has been abandoned, and
 - (ii) seal off the aquifer by backfilling the work to ground level after withdrawing the casing (lining), as specified by the Minister,
- (i) an extraction measurement device shall be installed and maintained on each water supply work (bore) used for extraction of water under an access licence and for basic landholder rights extraction, and such devices shall be of a type, and shall be maintained in a manner, which is acceptable to the Minister,
- (j) a water supply work (bore) must comply with the relevant local impact management rules in Part 10 of this Plan,
- (k) notwithstanding the available water determination, it is the responsibility of the water supply work (bore) approval holder to ascertain from the Minister whether or not there are in place any local impact restrictions before commencing to take water from these groundwater sources,
- (l) extraction under an access licence through an approved water supply work (bore) is only authorised with respect to the access licences specified on the water supply work (bore) approval,

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- (m) a water supply work (bore) approval holder must supply to the Minister on request, and to the required standards, a report pertaining to the quality of the water obtained from the water supply work (bore), and
- (n) any other conditions required to implement the provisions of this Plan.

Note. It is recommended that the Minister also apply conditions to water use approvals requiring the supply of information on an annual basis on types and areas of irrigated crops.

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Part 13 Monitoring and reporting

54 Monitoring

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

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

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

Note. The Implementation Program

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

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

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

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Part 14 Amendment of this Plan

55 Amendment of this Plan

- (1) This Part is made in accordance with section 42 (2) of the Act.
- (2) This Plan can be amended in accordance with the following clauses of this Plan:
 - (a) clause 16 in respect to average annual recharge,
 - (b) clause 18 in respect to environmental health water,
 - (c) clause 28 in respect to long-term average extraction limits,
 - (d) clause 36 in respect to extraction densities,
 - (e) clause 38 in respect to contamination sources, or
 - (f) clause 39 in respect to exclusion distances and high priority groundwater dependent ecosystems.

Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

abandoned (work) refers to a water supply work (bore) that is no longer being used.

aquifer compaction refers to the reduction in the porosity (pore spaces) of an aquifer, and may result from over pumping the aquifer.

available water in relation to a water management area or water source, is the water that is available in that area or water source in accordance with an available water determination that is in force in respect of that area or water source.

available water determination is a written Order by the Minister as to the availability of water for the various categories of access licence in relation to a specified water management area or water source.

Note. An available water determination gives rise to a water allocation that is credited to a water allocation account for each access licence.

contamination sources, relates to activities that have resulted in the presence of a substance in the groundwater source at a concentration above that at which the substance is normally present, and at a level that presents a risk of harm to human health or reduces the beneficial use of a groundwater source.

Note. Contamination sources can arise from a range of industrial and other land based activities. The impact of some activities will be temporary, while others pose a risk over a much longer timeframe. In some instances, particularly when the land use has involved hazardous substances, the source may be threatening to humans, or may affect the current or future beneficial uses of the groundwater source. Determining in any particular case whether or not contamination presents a significant risk of harm can be complex and difficult. It involves considerations such as the type, nature, quantity and concentration of contaminants, how they manifest themselves and the nature of their impact in the particular groundwater source. It also involves broader questions such as the current use of the groundwater source, who might be exposed to the contamination under that use, and whether they would be exposed.

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

exceedance level means the level that, under natural conditions, the water level at a monitoring point would have been higher than for a specified percentage of the time. Natural in this context means the levels established by monitoring bores not appreciably impacted by extraction.

extraction limit is the amount of the long-term average annual recharge and storage that can be extracted, on average, each water accounting year.

groundwater is water that occurs beneath the ground surface in the saturated zone.

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

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monitoring bore refers to a bore constructed for the purpose of measuring water levels and/or taking samples for water quality analysis.

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

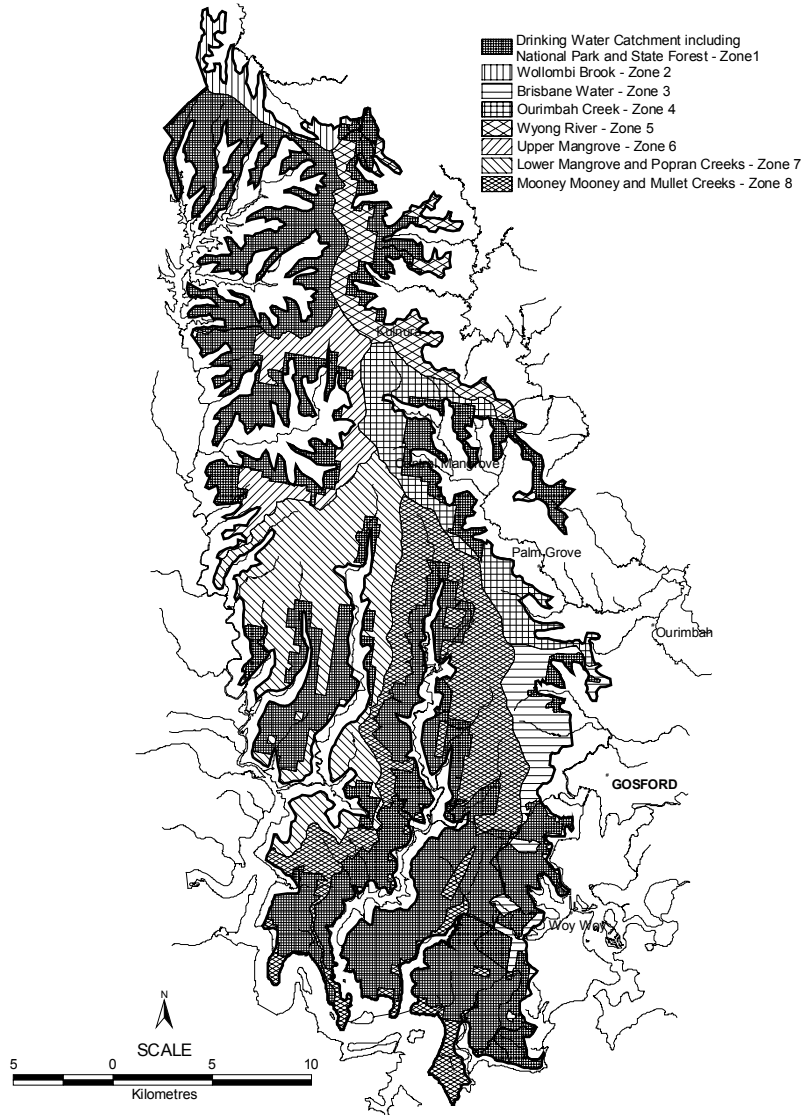
share component is the share component of an access licence.

sandstone is sedimentary rock formed by the consolidation of sand grains, the sand component is often predominantly quartz and cemented by a fine grained matrix.

watertable is the upper surface of an unconfined aquifer.

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Schedule 2 Kulnura Mangrove Mountain Groundwater Sources



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

Levels of assessed contribution:

FULL – contributes to target in full

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

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to target

Relevant target	Level of contribution	Comments
<p>Target 1e The long term average annual extractions for groundwater limited (or being phased down) to an ecologically sustainable level (the Sustainable Yield) as determined by detailed assessment of each groundwater source and consultation with the relevant management committee. In the absence of such an assessment, the following to apply: 100 percent of average annual recharge for a groundwater source where there is no significant ecosystem dependency; 70 percent of average annual recharge where there is significant ecosystem dependency</p>	FULL	<ul style="list-style-type: none"> • This Plan clearly sets out the Sustainable Yield (SY) as a percentage of estimated recharge in each groundwater source. • This Plan provides for a review of SY by year 6 and allows for the extraction limit to be varied accordingly.
<p>Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon</p>	FULL	<ul style="list-style-type: none"> • Rules set out in Part 9 of this Plan.
<p>Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes</p>	HIGH	<ul style="list-style-type: none"> • This Plan sets out environmental health water as a percentage of estimated recharge distributed in each groundwater source. • This Plan sets out extraction rules/distances to limit the local environmental impact of extraction. • Part 10 of this Plan identifies high priority groundwater dependent ecosystems with rules to protect them.

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		<ul style="list-style-type: none"> This Plan provides for variation in environmental health water/local extraction rules in years 6 – 10, based on studies relating to environmental requirements.
Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components	HIGH	<ul style="list-style-type: none"> This Plan establishes transparent extraction limits and allocation rules. This Plan provides for new entitlements to be granted only where entitlements within any of these groundwater sources are less than the extraction limit for the particular groundwater source and therefore will not impact on the value of existing access licences. The nature of the local extraction rules set out in Part 10 of this Plan, means that future access rights will not be exclusive but affected by location of other works, and licences with existing bores will have priority over licences requiring new bores.
Target 6a For groundwater sources, the total volume of water specified on access licences reduced over the term of a water sharing plan to no more than 125 percent of the Sustainable Yield	FULL	<ul style="list-style-type: none"> The total access licence share components for each groundwater source is less than 125% of SY.
Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy	HIGH	<ul style="list-style-type: none"> This Plan makes no special provision for access to water for Aboriginal communities. This Plan provides general market opportunity. This Plan allows for applications for new access licences but gives no priority of access. The Government has established alternative mechanisms to address this target.
Target 10 Degree of connectivity between aquifers and rivers assessed, and zones of high	HIGH	<ul style="list-style-type: none"> Baseflows to surface rivers (eg Ourimbah Creek) are recognised through extraction limits (Part 9

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connectivity mapped to enable baseflows to the river to be maintained or improved		<p>of this Plan).</p> <ul style="list-style-type: none"> • This Plan provides for review of the extraction limit in year 6.
Target 11 Groundwater dependent ecosystems identified and mapped for all priority aquifers, and the ecological water requirements assessed to enable local groundwater extraction rates and/or Sustainable Yields to be reviewed	HIGH	<ul style="list-style-type: none"> • Types of dependent ecosystems have been mapped, but ecological water requirements are not known. • Part 10 of this Plan sets out extraction rules/distances to limit local environmental impact of extraction on ecosystems. • This Plan identifies high priority groundwater dependent ecosystems with rules to protect them. • This Plan provides for variation in environmental health water/local extraction rules in years 6 – 10, based on studies relating to environmental requirements.
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use	FULL	<ul style="list-style-type: none"> • This Plan identifies the volumes necessary to meet basic domestic and stock requirements. • Part 5 of this Plan sets aside volumes for basic domestic and stock requirements in each groundwater source. • Local management rules protect basic rights extractions (Part 10 of this Plan).
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	HIGH	<ul style="list-style-type: none"> • Aboriginal community representatives have been involved in developing this Plan. • A workshop was held with members of the Local Aboriginal Land Council to input ideas into development of this Plan.
Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them	HIGH	<ul style="list-style-type: none"> • This Plan does not address specific Aboriginal cultural or traditional requirements but has identified a specific Aboriginal objective at Part 2 and dependent ecosystems of particular importance.

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		<ul style="list-style-type: none"> • This Plan does provide extraction limits and buffers to protect high priority dependent ecosystems that should assist in protecting Aboriginal values. • Part 10 of this Plan provides local management rules that should assist in protecting Aboriginal values.
Target 16a All share components of access licences tradeable	FULL	<ul style="list-style-type: none"> • Part 11 of this Plan provides for dealings with access licences.
Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water	HIGH	<ul style="list-style-type: none"> • This Plan does not allow trading out of these groundwater sources, but allows trading between the groundwater sources within the Plan area, subject to extraction limits.
Target 16d Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery	FULL	<ul style="list-style-type: none"> • This Plan does not impose any reduction factors.
Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment	FULL	<ul style="list-style-type: none"> • Part 9 of this Plan provides for the granting of new access licences up to the extraction limit within each groundwater source. • The rules for granting of new access licences are set out in Part 9 of this Plan.
Target 16f Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit	FULL	<ul style="list-style-type: none"> • This Plan establishes 8 individual groundwater sources and the constraints to trading between them is based on access licence share component levels versus extraction limits for each groundwater source.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines	HIGH	<ul style="list-style-type: none"> • This Plan includes a general water quality objective. • This Plan recognises the beneficial uses as raw water for drinking and ecosystem protection. • Local management rules under Part 10 of this Plan specifically

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and the recommendations of relevant Healthy Rivers Commission Inquiries		address water quality.
Target 38 Aquifer water quality vulnerability zones mapped and extraction limits reviewed to reduce the risk of lateral intrusion of poor quality water	HIGH	<ul style="list-style-type: none"> • Vulnerability mapping of some of the area (Hawkesbury) is available and extraction limits in this Plan recognise these risks.. • Local impact management rules in Part 10 provide mechanisms to manage the lateral movement of poor quality water.

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Schedule 4 List of contamination sources

Contamination sources in the Kulnura Mangrove Mountain Groundwater Sources are:

- (a) NSW Agriculture Chicken Disposal Pits (related to Newcastle Disease) located at Waratah Road, Bloodtree Road and Hymix Quarry site,
- (b) waste/landfill sites including Woy Woy landfill and Mangrove Mountain landfill,
- (c) Somersby industrial area,
- (d) septic tanks, and
- (e) on-farm disposal pits.

Note. The contamination sources listed in this Schedule may change during the period of this Plan. The District Office of the Department of Land and Water Conservation, shown in Appendix 2, should be contacted for a current list.

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Schedule 5 List of high priority groundwater dependent ecosystems

High priority groundwater dependent ecosystems in the Kulnura Mangrove Mountain Groundwater Sources are:

- (a) Sheltered Rough Barked Apple Forest,
- (b) Hawkesbury Coastal Banksia Woodland,
- (c) Sandstone Hanging Swamps and Heaths,
- (d) Coastal Sand Wallum Woodland – Heath,
- (e) Popran Creek Wetland,
- (f) Mangrove Creek Wetland, and
- (g) Mooney Mooney Creek Wetland.

Note. The high priority groundwater dependant ecosystems listed in this Schedule may change during the period of this Plan. The District Office of the Department of Land and Water Conservation, shown in Appendix 2, should be contacted for a current list.

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Appendix 1 Central Coast Water Management Area



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Appendix 2 Location of maps

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

Regional Office
Department of Land and Water Conservation
464 King Street
NEWCASTLE NSW 2302

District Office
Department of Land and Water Conservation
40 Mann Street
GOSFORD NSW 2280

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Appendix 3 Performance indicators

Performance indicators for the Kulnura Mangrove Mountain Groundwater Sources Water Sharing Plan			
Performance indicator	Related objective	As measured by	Comments
(a) Change in groundwater extraction relative to the extraction limit.	All	<ul style="list-style-type: none"> Average annual extraction volume for the groundwater source as a percentage of the extraction limit (commonly known as the sustainable yield). 	<ul style="list-style-type: none"> Plan provisions set the mechanism to remain within the extraction limits of each groundwater source over the long-term.
(b) Change in climate adjusted groundwater levels.	11 (a) 11 (b) 11 (c) 11 (d)	<ul style="list-style-type: none"> Average annual frequency and duration (in days) of water level drawdown below pre-plan baseline. Density of extraction in critical areas. 	<ul style="list-style-type: none"> Water levels will fluctuate with climate and resultant variable recharge. Some level declines will be expected during dry times, just as level rises are expected during wetter periods.
(c) Change in water levels adjacent to identified groundwater dependent ecosystems.	11 (a) 11 (b) 11 (c) 11 (i)	<ul style="list-style-type: none"> Identification of groundwater dependent ecosystems (GDEs). Assessment of the relationship between selected GDEs and local groundwater levels in terms of the water requirements of the GDEs. Assessment of the adequacy of local impact restrictions by comparison of water levels near or in GDEs compared to baseline. Frequency and duration of water level drawdown below critical levels. 	<ul style="list-style-type: none"> Groundwater dependent ecosystems are identified in this Plan.

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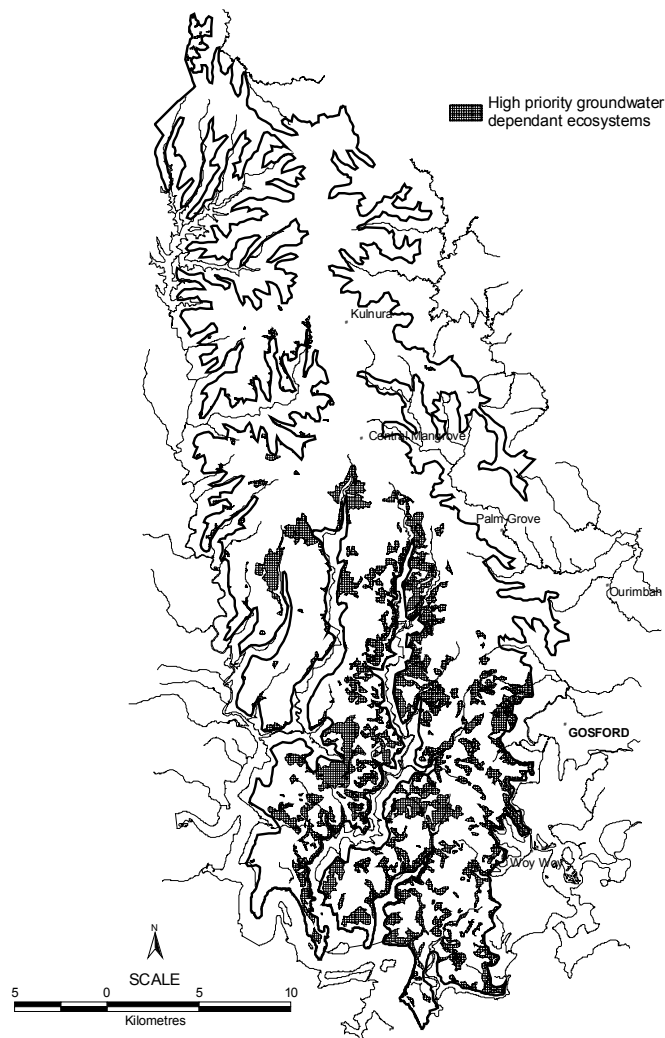
Performance indicators for the Kulnura Mangrove Mountain Groundwater Sources Water Sharing Plan			
Performance indicator	Related objective	As measured by	Comments
(d) Change in groundwater quality.	11 (e) 11 (h)	<ul style="list-style-type: none"> Trends in selected water quality parameters at selected monitoring bores that are likely to be affected by groundwater extraction. 	<ul style="list-style-type: none"> Many water quality issues are a function of contamination by land based activities, rather than extraction.
(e) Change in economic benefits derived from groundwater extraction and use.	11 (d) 11 (e) 11 (f) 11 (g)	<ul style="list-style-type: none"> Change in regional gross margins. Change in unit price of water transferred. 	<ul style="list-style-type: none"> There are many factors affecting economic status of a region, for example commodity prices, other sources of water (ie surface water) etc. Assessment undertaken as part of plan performance monitoring will make assumptions to attempt to identify the impact of this Plan's provisions.
(f) Extent to which domestic and stock rights requirements have been met.	11 (e) 11 (h)	<ul style="list-style-type: none"> Monitor increase in applications for water supply work (bore) approvals. Number of reports of interference between high yield extraction and basic rights, or number of domestic and stock bores deepened. Assess frequency and duration of water level drawdown below critical thresholds. 	<ul style="list-style-type: none"> Basic rights usage figures in this Plan are estimated (not actual use).
(g) Extent to which local water utility requirements	11 (e)	<ul style="list-style-type: none"> Monitor increase in access by local water utilities. Monitor impact of 	

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Performance indicators for the Kulnura Mangrove Mountain Groundwater Sources Water Sharing Plan			
Performance indicator	Related objective	As measured by	Comments
have been met.		interference between high yield extraction and local water utility extraction.	
(h) Extent to which native title rights requirements have been met.	11 (i)	<ul style="list-style-type: none"> • Monitor increase in applications for water supply work (bore) approvals for native title basic rights. • Number of reports of interference between high yield extraction and native title rights holders, or number of bores deepened. • Assess frequency and duration of water level drawdown below critical thresholds. 	
(i) Extent of recognition of spiritual, social and customary values of groundwater to Aboriginal people.	11 (i)	<ul style="list-style-type: none"> • Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people. 	<ul style="list-style-type: none"> • The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. • It would be expected that at the end of 5 years there should be relevant information collected for these groundwater sources, as a minimum requirement.

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Appendix 4 Map of high priority groundwater dependant ecosystems



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Appendix 5 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

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groundwater source means a water source specified in a groundwater management plan.
hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, **commitments to take water** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.

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- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11. Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or

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- (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
- (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
- (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.

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- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

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13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.
- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.

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- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
- (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
- (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
- (a) protect environmental water from being affected by such dealings, and

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- (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
 - (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
 - (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
 - (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
 - (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
 - (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:
 - (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.

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- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
- (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
- (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
- (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and

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- (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or

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- (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or
 - (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
- (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
- (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.
- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or

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- (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

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Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003* (hereafter **this Plan**).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter **the Act**).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Lower North Coast and Hunter Water Management Areas known as the Tomago Tomaree Stockton Groundwater Sources (hereafter **these groundwater sources**) as shown on the map in Schedule 2.

Note. The Lower North Coast and Hunter Water Management Areas are shown on the map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

- (2) The following groundwater sources referred to in this Plan are shown on the map in Schedule 2:
 - (a) Tomago Groundwater Source (hereafter **Tomago**),
 - (b) Tomaree Groundwater Source (hereafter **Tomaree**), and
 - (c) Stockton Groundwater Source (hereafter **Stockton**),

5 Waters to which this Plan applies

These groundwater sources include all water contained in the Tomago, Tomaree and Stockton sand aquifers.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.

Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from the date of commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) This Plan is consistent with the State Water Management Outcomes Plan (hereafter the *SWMOP*) in accordance with section 16 (1) (a) of the Act.
- (2) Schedule 3 identifies the relevant SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

Note. The SWMOP applying at the commencement of this Plan is that gazetted on 20 December 2002 under section 6 of the Act.

Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

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

10 Vision

The vision for this Plan is to manage the Tomago Tomaree Stockton Groundwater Sources to sustain their environmental, social and economic uses for the present population and future generations.

11 Objectives

The objectives of this Plan are to:

- (a) manage groundwater extractions from these groundwater sources within the extraction limit of each groundwater source to preserve and enhance terrestrial vegetation dependent on groundwater and ecosystems dependent on that vegetation,
- (b) manage groundwater extractions from these groundwater sources within the extraction limit of each groundwater source to preserve and enhance wetlands,
- (c) manage groundwater extractions from these groundwater sources within the extraction limit of each groundwater source to preserve the groundwater-related features of the coastal dune environment and associated ecosystems,
- (d) manage groundwater extractions from these groundwater sources within the extraction limit of each groundwater source to preserve hypogean ecosystems,
- (e) manage groundwater extractions from these groundwater sources within the extraction limit of each groundwater source to preserve hyporheic ecosystems,
- (f) within the extraction limit of each groundwater source, and where there is no reticulated water supply, maintain water supply priority for basic rights for existing and potential domestic and stock use,
- (g) within the extraction limit of each groundwater source, manage groundwater extractions to ensure that reliability of supply to Hunter Water Corporation is maintained,
- (h) within the extraction limit of each groundwater source, provide an agreed level of water sharing for mining, industrial, agricultural and aquaculture, commercial and recreation requirements,
- (i) within the extraction limit of each groundwater source, and where reticulated water supply is available from Hunter Water Corporation, maintain water supply for basic rights for existing and potential domestic and stock use, but at a lower priority than objective (f),
- (j) manage groundwater extraction to ensure that sites of significance to Aboriginal communities are protected, and

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- (k) manage groundwater extractions to ensure that such extractions do not cause any reduction in the beneficial use of these groundwater sources, or any local impacts on groundwater quality, including salt water intrusion or lateral movement of contamination.

12 Strategies

The strategies of this Plan are to:

- (a) establish environmental water rules and manage access to groundwater consistent with those rules,
- (b) establish rules for the protection of basic landholder rights,
- (c) establish an extraction limit for each groundwater source, taking into account the requirements of the environment,
- (d) establish rules for granting of access licences,
- (e) establish rules for determining the groundwater available from time to time under access licences,
- (f) establish water allocation account management rules,
- (g) establish rules for minimising local impacts of groundwater extraction on the water quality, groundwater dependent ecosystems, and between users,
- (h) establish the access licence dealing rules, and
- (i) establish the conditions that will apply to all access licences and water supply work (bore) approvals.

13 Performance indicators

For the purpose of section 35(1)(b) of the Act, the following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in groundwater extraction relative to the extraction limit,
- (b) change in climate adjusted groundwater levels,
- (c) condition and extent of targeted groundwater dependent ecosystems, including vegetation and wetlands,
- (d) change in groundwater quality,
- (e) change in the economic benefits derived from groundwater extraction and use,
- (f) extent to which domestic and stock rights requirements have been met,
- (g) extent to which major utility requirements (where major utilities are involved in urban water provision) have been met,
- (h) extent to which native title rights requirements have been met, and
- (i) extent of recognition of spiritual, social and customary values of groundwater to Aboriginal people.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore that the level of natural recharge to these groundwater sources will vary.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in these groundwater sources within the limits of water availability on a long-term average basis, and
 - (b) water extraction to enable the protection of groundwater dependent ecosystems and water quality of these groundwater sources.

16 Recharge

- (1) The overall basis for water sharing in this Plan is the average annual recharge to each of these groundwater sources, estimated to be as follows:
 - (a) 35,700 megalitres per year (hereafter *ML/yr*) in Tomago,
 - (b) 8,600 ML/yr in Tomaree, and
 - (c) 20,000 ML/yr in Stockton.
- (2) Pursuant to section 42 (2) of the Act, the average annual recharge for each groundwater source established in subclause (1) may be varied by the Minister after June 30 2008, following further recharge studies undertaken by the Minister.

Note: The extent of the impact of this change on access by licence holders is limited by the provisions in clause 28.

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Part 4 Environmental water provisions

17 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

18 Environmental health water

Note. It is anticipated that the environmental health water provisions in this Part and management of local impact provisions in Part 10 of this Plan will also ensure that sites of significance to Aboriginal communities are protected (see clause 11(j)).

- (1) This Plan establishes the following environmental health water rules:
 - (a) the long-term average storage component of each groundwater source, minus basic landholder rights is reserved for the environment, and
 - (b) 30% of the average annual recharge to each groundwater source will be reserved for the environment, as follows:
 - (i) 10,700 ML/yr in Tomago,
 - (ii) 2,600 ML/yr in Tomaree, and
 - (iii) 6,000 ML/yr in Stockton.
- (2) Pursuant to section 42 (2) of the Act, the Minister may vary the proportion of recharge reserved as the environmental health water in subclause (1) after June 30 2008, based on further studies of groundwater ecosystem dependency undertaken by the Minister.

Note. The extent of the impact of this change on access by licence holders is limited by the provisions in clause 28.
- (3) The Minister should consult with the Minister for the Environment before varying environmental health water in accordance with subclause (2).

19 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

20 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the access licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

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Part 5 Basic landholder rights

21 Basic landholder rights

- (1) This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.
- (2) Should the 3 year average of extractions exceed the extraction limit specified in clause 26 by 5% or more, the Minister may consider placing restrictions on basic landholder rights extractions in conjunction with any determination of a reduction in the water allocation for access licences, and such consideration could include a differential restriction on basic rights users who also have access to reticulated water from Hunter Water Corporation.

Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock basic rights from these groundwater sources to protect the environment, for reasons of public health, or to preserve existing basic landholder rights.

22 Domestic and stock and native title rights

Note. It is not recommended that the water from these groundwater sources be consumed directly without prior treatment. Land use activities may have polluted the groundwater in some areas.

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 6,000 ML/yr, comprising:
 - (a) 1,000 ML/yr in Tomago,
 - (b) 3,000 ML/yr in Tomaree, and
 - (c) 2,000 ML/yr in Stockton.

Note. These volumes are based on a figure of 0.5 ML per property for domestic and stock rights usage.

- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings overlying these groundwater sources, or as a result of the increase in the exercise of domestic and stock rights by existing landholders.

- (3) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are estimated to be a total of 0 ML/yr.
- (4) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. An increase in native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

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Part 6 Bulk access regime

23 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in these groundwater sources having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

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Part 7 Requirements for water for extraction under access licences

24 Estimate of water requirements

(1) At the time of commencement of Part 2 of Chapter 3 of the Act, the requirements identified for water for extraction under access licences within these groundwater sources are estimated to be as follows:

- (a) 1,300 ML/yr, plus 25,300 ML/yr averaged over 3 years for Hunter Water Corporation, in Tomago,
- (b) 800 ML/yr, plus 3,700 ML/yr averaged over 3 years for Hunter Water Corporation, in Tomaree, and
- (c) 3,100 ML/yr in Stockton.

Note. The amount of water specified in this Part is an estimate of the water that licence holders desire to take under access licences. It is not a commitment to supply that water.

(2) This Plan recognises that the total requirements for water for extraction under access licences within these groundwater sources may change during the term of this Plan as a result of:

- (a) the granting, surrender, non-renewal or cancellation of access licences, or
- (b) the volumetric quantification of the share components of existing access licences that are currently non-volumetric.

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Part 8 Rules for granting access licences

25 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in these groundwater sources and the need to protect groundwater dependent ecosystems and groundwater quality.
- (2) Access licences may be granted in these groundwater sources, subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in these groundwater sources, other than access licences of the following kinds:
 - (a) major utility access licences in Stockton,
Note. Hunter Water Corporation's augmentation strategy for the life of this Plan is focused on further development of the Grahamstown surface water source supplies. Hunter Water Corporation has advised that it is unlikely to seek any increase in its component from the Tomago and Tomaree Groundwater Sources during the life of this Plan.
 - (b) domestic and stock access licences,
 - (c) access licences where the individual share component does not exceed 5 ML/yr, and total share components granted under this subclause remain below 100 ML/yr for each groundwater source, or
 - (d) an access licence resulting from an application of a type listed in section 82 (1) of the Act.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share or extraction component sought will be the minimum required to meet that purpose and circumstance.
- (5) Access licences granted under this Part cannot be extracted through a water supply work (bore) located in areas where the extraction authorised by the licence, plus the full extraction authorised by existing access licences through water supply works (bores) located in the area, and the exercise of basic landholder rights, are likely to cause an adverse local impact, as outlined in Part 10 Division 3 of this Plan.
- (6) If an access licence share component applied for is significant, as determined by the Minister on the basis of the particular aquifer characteristics, the application will not be granted until a water supply work (bore) approval has been granted and the work constructed.
- (7) Once the water supply work (bore) is constructed and the results of a pumping test or its equivalent are supplied by the applicant, in the required form and to the specification of the Minister, the access licence may be granted.
- (8) The share component of the access licence granted under subclause (7) will be the proportion of the share component sought that the water supply work (bore) is capable of extracting without any adverse local impact as outlined in Part 10 Division 3 of this Plan.

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- (9) Subclauses (4), (6), (7) and (8) do not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (10) In accordance with section 56 of the Act, all access licences in these groundwater sources shall have a share component expressed as a volume in megalitres per year.
- (11) Notwithstanding subclause (10), major utility access licences may have the share component expressed as a volume in megalitres over any 3 year period.

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limits

26 Long-term average extraction limits

- (1) This Division is made in accordance with section 20 (2) (a) of the Act.
- (2) The long-term average extraction limit for each groundwater source each year of this Plan is the recharge established in clause 16, minus the proportion of recharge reserved as environmental health water in clause 18, and is as follows:
 - (a) 25,000 ML/yr for Tomago,
 - (b) 6,000 ML/yr for Tomaree, and
 - (c) 14,000 ML/yr for Stockton.

27 Variation of the long-term average extraction limits

- (1) Pursuant to section 42 (2) of the Act, the Minister may vary the long-term average extraction limits under clause 26 after 30 June 2008, as a result of:
 - (a) any change to the average annual recharge arising from clause 16, or
 - (b) any change to the environmental health water arising from clause 18.
- (2) If there is any change to the long-term average extraction limits arising from subclause (1) then:
 - (a) the extraction limit in any of these groundwater sources will not increase by more than 10%, and
 - (b) the extraction limit in any of these groundwater sources will not decrease by more than 5%.

Division 2 Available water determinations

28 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in each groundwater source will be monitored in each water accounting year to determine if any growth in volumes extracted is occurring above the extraction limit established in clause 26, based on a comparison of the extraction limit against the average extraction within each groundwater source over that year and the preceding 2 years,
Note. A water accounting year is defined in clause 33 (3).
 - (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in the aquifer for environmental purposes, then for the purpose of subclause (a), the extraction should be assumed to be 100% of the available water determination,

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- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for an environmental purpose, then for the purpose of subclause (a), the extraction should be that measured through the approved water supply work (bore),
- (d) for the major utility access licences, an initial available water determination of 76,000 ML in Tomago, and 11,000 ML in Tomaree, should be made on 1 July 2003, and such determination should apply for a period of 3 water accounting years and thereafter,
- (e) available water determinations for the major utility access licences should be no more than 25,300 ML/yr in Tomago, and 3,700ML/yr in Tomaree, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) on 1 July 2003, an available water determination should be made for all aquifer access licences of 100% of the aquifer access licence share component, and such a determination should remain in place for 1 water accounting year,
- (g) in years 2 to 10 of this Plan, if the 3 year average of extraction in a groundwater source exceeds the long-term average extraction limit established in clause 26 by 5% or greater, the available water determination for the following water accounting year for aquifer access licences in that groundwater source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in a groundwater source is less than 95% of the long-term average extraction limit established in clause 26, then the available water determination for aquifer access licences in that groundwater source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components, and
- (j) the available water determination calculated in accordance with subclauses (g) and (h) will apply to all aquifer access licences in a groundwater source, and shall be the same percentage for all access licences to which it applies.

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Part 10 Rules for managing access licences

Division 1 General

29 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b), 21 (a) and 20 (c) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

30 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

31 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in these groundwater sources.

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

32 Accrual of water allocations

Water allocations will be accrued into water allocation accounts each year in accordance with the Minister's available water determinations as specified in clause 28.

33 Annual accounting for water extraction

- (1) Water taken from these groundwater sources will be accounted for at least annually.
- (2) Water taken by an approved water supply work (bore) nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) In any one water accounting year, subject to local impact management restrictions arising from Part 10, Division 3 of this Plan, water taken from any one of these groundwater sources under an aquifer access licence may not exceed a volume consisting of:
 - (a) 120% of the access licence share component,

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- (b) plus any water allocations assigned from another licence under section 71G of the Act in that year, and
 - (c) minus any water allocations assigned to another licence under section 71G of the Act in that year.
- (5) Total water in any aquifer access licence account at any time may not exceed a volume consisting of:
 - (a) 120% of the access licence share component,
 - (b) plus any water allocations assigned from another licence under section 71G of the Act in that year, and
 - (c) minus any water allocations assigned to another licence under section 71G of the Act in that year.
- (6) A maximum of 20% of any aquifer access licence share component may be carried forward in a water allocation account from one water allocation accounting year to the next.
- (7) A water allocation account shall remain at or above zero at all times.
- (8) Subclauses (4), (5) and (6) do not apply to major utility access licences.
- (9) The preceding subclauses do not apply to major utility access licences.
- (10) The water allocation account management rules for major utility access licences are set out in Schedule 6.

Division 3 Management of local impacts

34 Management of local impacts

This Division is made in accordance with section 21 (a) of the Act.

35 Extraction interference between neighbouring bores

- (1) To minimise interference between extraction under different access licences in each groundwater source, extraction authorised by an access licence will not be permitted from a water supply work (bore) within:
 - (a) 400 metres of an approved water supply work (bore) nominated by another access licence, or
 - (b) 200 metres of an approved water supply work (bore) from which basic landholder rights water is being extracted.
- (2) Notwithstanding the provisions of subclause (1), the Minister may, upon application by an access licence holder, vary the distance restrictions specified in subclause (1) if:
 - (a) an hydrogeological study undertaken by the licence holder, and assessed as adequate by the Minister, demonstrates minimal potential for adverse impacts on existing licensed extraction,
 - (b) all potentially affected access licence holders have been notified by the proponent, and

Note. Potentially affected access licence holders are typically neighbouring access licence holders and those in the near vicinity.

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- (c) there is a process for remediation in the event that any adverse impact occurs in the future, specified as conditions on the licence.
- (3) Subclause (1) does not apply to extraction under existing access licences until such time as the relevant water supply work (bore) is replaced.

Note. The intention of this clause is to minimise the impact of extraction under new access licences on extraction under existing access licences. It is intended to develop models to support hydrogeological assessment of the adverse impacts of new groundwater extractions on existing licensed extraction.

36 Water level management

- (1) The Minister may declare that, in order to protect water levels within these groundwater sources, local access rules are to apply in a defined area known as a local impact area.
- (2) In any local impact area identified under subclause (1), extraction from a water supply work (bore) nominated by an access licence, not being extraction authorised by a water supply work approval granted to the holder of a major utility access licence, shall be restricted, based on evaluations from monitoring bores or other predictive models where monitoring bores are not installed, as follows:
 - (a) when groundwater levels remain above, or recover to, the 80% exceedance level, extraction from water supply works (bores) nominated by an access licence in the area will be in accordance with the water supply work approval and access licence conditions, and annual available water determinations,
 - (b) when groundwater levels are between the 80% and the 90% exceedance levels, quarterly volumes extracted from water supply works (bores) nominated by an access licence in the affected area shall not exceed the access licence share component times 0.2 megalitres,
 - (c) when groundwater levels are between the 90% and the 95% exceedance level, quarterly volumes extracted from water supply works (bores) nominated by an access licence in the affected area shall not exceed the access licence share component times 0.125 megalitres, and
 - (d) when groundwater levels are at or below the 95% exceedance level, extraction shall cease from water supply works (bores) in the affected area nominated by an access licence.
- (3) Notwithstanding the provisions of subclause (2), the Minister may, upon application by an access licence holder, vary the particular extraction restrictions for such period as may be required for the irrigation of permanent plantings or in cases where the extraction of groundwater is essential for continuation of any industrial or commercial operations and where a cease to pump direction would result in significant social or economic consequences.
- (4) Any variation approved by the Minister in accordance with subclause (3) must ensure that the integrity of any associated groundwater dependent ecosystem is not compromised, that water quality is not threatened, and that other authorised water users are not adversely impacted.
- (5) The preceding subclauses do not apply to major utility access licences.

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- (6) The water level management rules for the major utility access licences are set out in Schedule 6.

Note. Water supply work (bore) approval and access licence holders will be advised as soon as possible if extraction restrictions are going to apply in accordance with this subclause.

Note. This clause recognises that in some locations, at certain periods of high groundwater demand, critical water level declines may occur, and that additional extraction limitations may be required. The Department of Land and Water Conservation will identify monitoring bores, and determine the method for specifying an affected area.

37 Water quality management

- (1) The beneficial use of these groundwater sources is raw water for drinking and ecosystem protection.

Note. There are localised areas within these groundwater sources where the beneficial use is of a lower class because of the impacts of surface activities. It is not recommended that water direct from these groundwater sources be consumed by humans without prior treatment. Land use activities may have resulted in pollution of the groundwater in some areas.

- (2) Water quality decline will be deemed unacceptable if extraction causes, or is likely to cause, water quality to decline to a lower beneficial use class, as prescribed within the framework described in the NH&MRC/ARMCANZ *Australian Drinking Water Guidelines* (1996), and the ANZECC/ARMCANZ *Guidelines for Fresh and Marine Water Quality* (2000).

- (3) The Minister may declare that, in order to protect water quality within these groundwater sources, local access rules are to apply in a defined area known as a local impact area, and an unacceptable decline in water quality will be based on:

- (a) a site inspection, and
- (b) water analysis from bores within the local impact area.

- (4) If water quality decline is resulting from extraction, extraction from all water supply works (bores) within a local impact area declared under subclause (3) nominated by an access licence will be restricted to such an extent and for such time as required to halt that decline, or restore the beneficial use of the groundwater source.

- (5) In the case of subclause (4), the Minister may:

- (a) impose by Order a reduction in yearly, quarterly, or weekly extraction on holders of access licences in the affected areas, and
- (b) undertake to monitor for changes using monitoring bores and assess if further extraction limitations are necessary.

- (6) Additional water quality management rules for the major utility access licences are set out in Schedule 6.

- (7) Construction of a new water supply work (bore) will not be permitted:

- (a) within 100 metres of a contamination source, unless the proponent can demonstrate to the Minister's satisfaction that a lesser distance will result in no more than minimal harm to the groundwater source, and that extraction will not impact on the environment or cause a threat to public health as advised by the Minister for Health, or

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- (b) within a greater distance than in subclause (a) that the Minister nominates in order to ensure that no more than minimal harm will occur to the groundwater source, and that extraction will not impact on the environment or cause a threat to public health as advised by the Minister for Health.
- (8) An existing water supply work (bore) within 100 metres of a contamination source will be able to continue extraction of groundwater at levels equivalent to 2002/03 access licence share components nominating that work, subject to any restrictions arising from subclause (4).
- (9) Extraction of groundwater from a new water supply work (bore) for any purpose except basic landholder rights between 100 metres and 500 metres of a contamination source, will require:
 - (a) an application to the Minister by the licence holder providing evidence that no drawdown of the groundwater within 100 metres of the contamination source will occur,
 - (b) the Minister to assess the application as adequate, and
 - (c) the Minister to approve the application.
- (10) Schedule 4 lists contamination sources in these groundwater sources.
- (11) Subclauses (7), (8) and (9) may be applied by the Minister in relation to contamination sources not on Schedule 4, based on the results of a site inspection or other relevant information provided to the Minister.
- (12) Pursuant to section 42 (2) of the Act, the Minister may vary Schedule 4 by inclusion or deletion of a contamination source based on the results of a site inspection or other relevant information provided to the Minister.

Note. Schedule 4 is only to be used in relation to the granting of access licences and water supply work (bore) approvals under the *Water Management Act 2000*.

38 Protection of groundwater dependent ecosystems

- (1) Extraction of groundwater from a new or replacement water supply work (bore), except for a replacement water supply work (bore) that is part of a bore network, is excluded within 40 metres of high priority groundwater dependent ecosystems, or any river.
- (2) The location and rate of extraction from a new or replacement water supply work (bore) outside of high priority groundwater dependent ecosystems, except for a replacement water supply work (bore) that is part of a bore network, shall be such that there is negligible drawdown at the outside edge of the 40 metre buffer zone as determined by the Minister.
- (3) High priority groundwater dependent ecosystems include the following, as shown in Schedule 5:
 - (a) swamp forest,
 - (b) swamp heath - woodland, and
 - (c) wetlands, including those that provide habitat for threatened species, such as *Litoria aurea*.

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- (4) Pursuant to section 42 (2) of the Act, the Minister may identify further high priority groundwater dependent ecosystems and include them in Schedule 5 after July 1 2008 based on further studies of groundwater ecosystem dependency undertaken by the Minister.
- (5) The Minister should consult with the Minister for the Environment before adding further high priority groundwater dependent ecosystems to Schedule 5.

39 Extraction Restrictions

The Minister may, in the event of local impact restrictions arising from this Division, impose by Order a reduction in yearly, quarterly, weekly or daily extraction rates from water supply works (bores) in the affected area.

40 Infrastructure failure

- (1) The operational rules relating to local impact management may rely on water levels at specified monitoring bores.
- (2) In the event of a monitoring bore failure the Minister may:
 - (a) continue with the current access rules until the monitoring bore is reinstated,
 - (b) adjust the current access rules based on climatic conditions and any other monitoring bore information, until the monitoring bore is reinstated, or
 - (c) rely on another monitoring bore in the area to provide information.

Part 11 Access licence dealing rules

41 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 4.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

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

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

42 Rules relating to constraints within a groundwater source

- (1) This clause applies to any relevant dealings under sections 71D, 71F, and 71J of the Act, and section 71G of the Act with respect to allocation assignments within a groundwater source.
- (2) Dealings are prohibited under this clause if:
 - (a) any of the access licences or water allocations involved are not within these groundwater sources, unless provided for in clause 46, or
 - (b) the dealing would result in the total extraction under access licences through nominated water supply works in the area, plus basic landholder rights extraction, causing any adverse local impact in accordance with Part 10 Division 3 of this Plan.

43 Rules for change of water source

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

Note. Section 71E dealings are the mechanism by which access licences can move from one water source to another. Once the change in water source has been effected, if permitted, the new licence will have to nominate a water supply work (by a dealing under section 71J of the Act) in the receiving water source before extraction can commence.
- (2) Dealings under section 71E of the Act that change the water source to which an access licence applies are prohibited in these groundwater sources, except as provided for in this clause.
- (3) An access licence with a share component specifying one of these groundwater sources may be cancelled and a new licence issued specifying another of these groundwater sources only if the total share components of all access licences in the groundwater source in which the access licence is issued remains below the extraction limit for that groundwater source established in clause 26.

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- (4) The volume of the share component on a licence issued under a dealing provided for in subclause (3) is to be the volume of the cancelled access licence share component.

44 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Dealings that result in conversion of an access licence of one category to an access licence of another category are prohibited in these groundwater sources, except as provided for in this clause.
- (3) A major utility access licence in one of these groundwater sources may be cancelled, and an aquifer access licence issued in that same groundwater source.
- (4) An aquifer access licence in one of these groundwater sources may be cancelled and a major utility access licence issued in that same groundwater source.
- (5) The volume of the share component on a licence issued under this clause is to be the volume of the cancelled access licence share component.

45 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in an interstate access licence transfer into or out of these groundwater sources are prohibited.

46 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act for assignment of water allocations between water sources.
- (2) Dealings that assign water allocations between access licences in other water sources and access licences in these groundwater sources are prohibited.
- (3) Dealings that assign water allocations between an access licence in one of these groundwater sources and an access licence in another of these groundwater sources may be permitted only if:
 - (a) the total water allocations credited to all access licences in the groundwater source to which the water allocation is assigned remains below the extraction limit of that groundwater source established in clause 26, and
 - (b) the assignment would not result in the total extraction of credited water allocations through nominated water supply works in the area, plus basic landholder rights extraction, causing adverse local impact in accordance with Part 10 Division 3 of this Plan.

Note. Each water allocation assignment must be applied for. Access licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

47 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in an interstate assignment of water allocations to or from these groundwater sources are prohibited.

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Part 12 Mandatory conditions

48 Mandatory conditions on access licences

This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.

49 Access licence conditions

- (1) All access licences shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence,
 - (c) the requirement that all taking of water under the access licence will be subject to the available water determinations,
 - (d) the requirement that all taking of water under the access licence will be subject to any local impact management restrictions established in this Plan,
 - (e) the requirement that all taking of water under the access licence will be subject to the account management rules established in this Plan,
 - (f) the requirement that water may only be taken under the access licence by the water supply work (bore) nominated by the access licence,
 - (g) the taking of water in accordance with the access licence may only occur if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account, and
 - (h) any other conditions required to implement the provisions of this Plan.
- (2) The major utility access licences shall have additional conditions to give effect to Schedule 6.
- (3) Pursuant to section 42(2) of the Act, the Minister may amend the requirements in Schedule 6 following the review of the major utility access licences at 5 year intervals.

50 Mandatory conditions on water supply work (bore) approvals

Note. In accordance with the Act, actual extraction of groundwater can only be undertaken through an approved water supply work. Standards and conditions relating to the construction, maintenance, operation and decommissioning of these works are particularly important. If not properly adhered to, the works themselves can be a conduit for contamination of the groundwater source.

- (1) All approvals for a water supply work (bore) to which this Plan applies shall have mandatory conditions in relation to the following:
 - (a) the water supply work (bore) is only to be constructed by a driller licensed under section 349 of the Act,
 - (b) the water supply work (bore) must comply with drilling standards as specified by the Minister,
 - (c) construction of a water supply work (bore) must prevent contamination between aquifers through proper bore construction,

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- (d) a water supply work (bore) approval holder must ensure decommissioning procedures comply with applicable standards as specified by the Minister,
- (e) a new or replacement water supply work (bore) to access water for basic rights will be required, as a condition of approval, to be constructed to sufficient depth to ensure that access to the resource is not unacceptably impacted by other authorised extractions,
- (f) the water supply work (bore) approval holder is, within 2 months of completion, or after the issue of the approval if the water supply work (bore) is existing, to provide the Minister with:
 - (i) details of the work on the prescribed form,
 - (ii) a plan showing accurately the location of the work in relation to portion and property boundaries, and
 - (iii) details of any water analysis and/or pumping tests required by the Minister,
- (g) if during the construction of the water supply work (bore), saline or contaminated water is encountered above the producing aquifer, such water is to be sealed off by:
 - (i) inserting the appropriate length of casing to a depth sufficient to exclude the saline or contaminated water from the work, and
 - (ii) placing an impermeable seal between the casing and the walls of the bore hole from the bottom of the casing to ground level, as specified by the Minister,
- (h) if a water supply work (bore) is abandoned, the water supply work (bore) approval holder is to:
 - (i) notify the Minister that the work has been abandoned, and
 - (ii) seal off the aquifer by backfilling the work to ground level after withdrawing the casing (lining), as specified by the Minister,
- (i) an extraction measurement device shall be installed and maintained on each water supply work (bore) used for extraction of water under an access licence, and such devices shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (j) a water supply work (bore) must comply with the relevant local impact management rules in Part 10 of this Plan,
- (k) notwithstanding the available water determination, it is the responsibility of the water supply work (bore) approval holder to ascertain from the Minister whether or not there are in place any local impact restrictions before commencing to take water from the groundwater source,
- (l) extraction under an access licence through the approved water supply work (bore) is only authorised with respect to the access licences specified on the water supply work (bore) approval,
- (m) a water supply work (bore) approval holder must supply to the Minister on request, and to the required standards, a report pertaining to the quality of the water obtained from the water supply work (bore), and

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(n) any other conditions required to implement the provisions of this Plan.

Note. It is recommended that the Minister also apply conditions to water use approvals requiring the supply of information on an annual basis on types and areas of irrigated crops.

- (2) Additional mandatory conditions on water supply works for the Hunter Water Corporation major utility access licences are specified in Schedule 6.

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Part 13 Monitoring and reporting

51 Monitoring and reporting of performance indicators

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

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

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

Note. The Implementation Program

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

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

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

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Part 14 Amendment of this Plan

52 Amendment of this Plan

- (1) This Part is made in accordance with section 42 (2) of the Act.
- (2) This Plan can be amended in accordance with the following clauses of this Plan:
 - (a) clause 16 in respect to recharge,
 - (b) clause 18 in respect to environmental health water,
 - (c) clause 27 in respect to long-term average extraction limits,
 - (d) clause 37 in respect to contaminated sources,
 - (e) clause 38 in respect to high priority groundwater dependent ecosystems, or
 - (f) clause 49 in respect to major utility access rules set out in Schedule 6.

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Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

abandoned (work) refers to a water supply work (bore) that is no longer being used.

AHD is the Australian Height Datum, a height measurement.

ANZECC is the Australian and New Zealand Environment and Conservation Council.

ARMCANZ is the Agricultural and Resource Management Council of Australia and New Zealand.

available water in relation to a water management area or water source, is the water that is available in that area or water source in accordance with an available water determination that is in force in respect of that area or water source.

available water determination is a written Order by the Minister as to the availability of water for the various categories of access licence in relation to a specified water management area or water source.

Note. An available water determination gives rise to a water allocation that is credited to a water allocation account for each licensed holder.

buffer zone is an area surrounding a groundwater dependent ecosystem or other feature (such as an area of low quality) within which extraction, or the impact of extraction, is restricted.

contamination sources, relates to activities that have resulted in the presence of a substance in the groundwater source at a concentration above that at which the substance is normally present, and at a level that presents a risk of harm to human health or reduces the beneficial use of a groundwater source.

Note. Contamination sources can arise from a range of industrial and other land based activities. The impact of some activities will be temporary, while others pose a risk over a much longer timeframe. In some instances, particularly when the land use has involved hazardous substances, the source may be threatening to humans, or may affect the current or future beneficial uses of the groundwater source. Determining in any particular case whether or not contamination presents a significant risk of harm can be complex and difficult. It involves considerations such as the type, nature, quantity and concentration of contaminants, how they manifest themselves and the nature of their impact in the particular groundwater source. It also involves broader questions such as the current use of the groundwater source, who might be exposed to the contamination under that use, and whether they would be exposed.

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

exceedance level means the level that, under natural conditions, the water level at a monitoring point would have been higher than for a specified percentage of the time. Natural in this context means the levels established by monitoring bores not appreciably impacted by extraction.

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extraction limit is the amount of the long-term average annual recharge and storage that can be extracted, on average, each water accounting year.

groundwater is water that occurs beneath the ground surface in the saturated zone.

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

hypogean means located or operating beneath the earth's surface.

hyporheic zone is the fluctuating zone of water exchange between the river and the groundwater.

major utilities are entities that are listed in Schedule 2 of the Act.

monitoring bore refers to a bore constructed for the purpose of measuring water levels and/or taking samples for water quality analysis.

NH&MRC is the National Health and Medical Research Council.

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

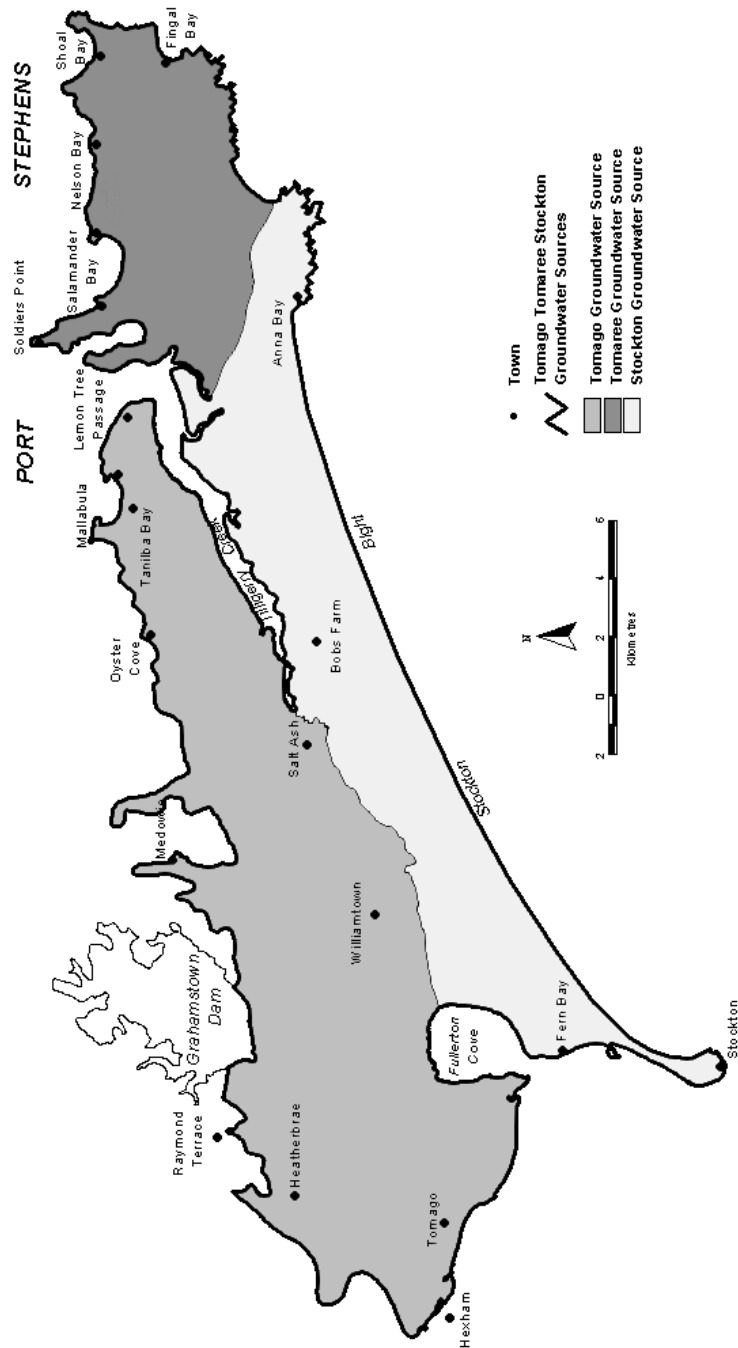
RL is reduced level.

share component is the share component of an access licence.

watertable is the upper surface of an unconfined aquifer.

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Schedule 2 Tomago Tomaree Stockton Groundwater Sources



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

Levels of assessed contribution:

FULL – contributes to target in full

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

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to target

Relevant Target	Level of contribution	Comments
Target 1e The long term average annual extractions for groundwater limited (or being phased down) to an ecologically sustainable level (the sustainable yield) as determined by detailed assessment of each groundwater source and consultation with the relevant management committee. In the absence of such an assessment, the following to apply: 100% of average annual recharge for a groundwater source where there is no significant ecosystem dependency; 70% of average annual recharge where there is significant ecosystem dependency	FULL	<ul style="list-style-type: none"> This Plan clearly sets out the sustainable yield (SY) or extraction limit as 70% of estimated recharge in each groundwater source.
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	<ul style="list-style-type: none"> Rules set out in Part 9 of this Plan.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	<ul style="list-style-type: none"> This Plan clearly sets out the environmental health water as 30% of estimated recharge in each groundwater source. This Plan sets out extraction rules/buffer zones to limit local environmental impacts of extraction (Part 10). Part 10 also identifies high priority groundwater dependent ecosystems.

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Relevant Target	Level of contribution	Comments
		<ul style="list-style-type: none"> This Plan provides for variation in environmental health water rules in Year 6 based on studies of groundwater ecosystem dependency.
<p>Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components</p>	HIGH	<ul style="list-style-type: none"> This Plan establishes transparent extraction limits and access rules. This Plan embargos new access licence applications excepting those less than 5ML, up to a total of 100ML per groundwater source. These could have a minor impact on the value of existing access licences in Tomago and Tomaree where current licence volumes already exceed the extraction limits. The local extraction rules (Part 10) means that future rights will not be exclusive but affected by the location of other water supply works. Access licences with existing bores will have priority over licences requiring new bores.
<p>Target 6a For groundwater sources, the total volume of water specified on access licences reduced over the term of a water sharing plan to no more than 125 of the Sustainable Yield</p>	FULL	<ul style="list-style-type: none"> The total licensed volumes for each groundwater source are not more than 125% of SY (extraction limit).
<p>Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy</p>	HIGH	<ul style="list-style-type: none"> This Plan makes no special provision for access to water for Aboriginal communities. This Plan provides general market opportunity. This Plan allows for applications for new access licences of up to 5ML/yr, but gives no priority of access. The Government has established alternative mechanisms to address this target

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Relevant Target	Level of contribution	Comments
Target 10 Degree of connectivity between aquifers and rivers assessed, and zones of high connectivity mapped to enable baseflows to the river to be maintained or improved	HIGH	<ul style="list-style-type: none"> • Baseflows to surface rivers and tidal rivers (eg Tilligerry Creek) are recognised as groundwater dependent ecosystems and therefore subject to a 40 metre buffer zone. • Adequacy of this is not known but this Plan provides for this to be reviewed in Year 6.
Target 11 Groundwater dependent ecosystems identified and mapped for all priority aquifers, and the ecological water requirements assessed to enable local groundwater extraction rates and/or Sustainable Yields to be reviewed	HIGH	<ul style="list-style-type: none"> • Types of dependent ecosystem have been mapped, but ecological water requirements are not known. • This Plan sets out extraction rules/buffer zones to limit local environmental impacts of extraction on ecosystems (Part 10). • Part 10 identifies high priority groundwater dependent ecosystems. • This Plan provides for variation in environmental health water rules in Year 6 based on further studies of groundwater ecosystem dependency.
Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use	PARTIAL	<ul style="list-style-type: none"> • This Plan has identified the volumes necessary to meet basic domestic and stock requirements.
Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed	HIGH	<ul style="list-style-type: none"> • Aboriginal community representatives have been involved in development of this Plan. • A workshop was held with broader members of Aboriginal community to input ideas into development of this Plan.

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Relevant Target	Level of contribution	Comments
Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them	HIGH	<ul style="list-style-type: none"> This Plan does not address specific Aboriginal cultural or traditional requirements but has identified dependent ecosystems of particular importance. This Plan does provide extraction rules to protect these dependent ecosystems which should assist in protecting Aboriginal values.
Target 15 At least 90 percent of approved water management works for the extraction of surface or ground waters (excepting domestic and stock bores) metered and reported in each water source that is subject to a gazetted water sharing plan	HIGH	<ul style="list-style-type: none"> All major utility extraction metered, and most other licensed extraction.
Target 16a All share components of access licences tradeable	FULL	<ul style="list-style-type: none"> This Plan provides for trading of access licences and water allocations.
Target 16f Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit	FULL	<ul style="list-style-type: none"> This Plan establishes three groundwater sources and the constraints to trading between these is based on share component levels versus the extraction limit in each groundwater source.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	HIGH	<ul style="list-style-type: none"> This Plan includes a water quality objective and recognises the beneficial use as raw water for drinking purposes. Part 10 specifically addresses water quality.
Target 38 Aquifer water quality vulnerability zones mapped and extraction limits reviewed to reduce the risk of lateral intrusion of poor quality water	PARTIAL	<ul style="list-style-type: none"> No vulnerability mapping of area to date although this Plan provides for a schedule of contamination sources, and rules to manage the movement of poor quality water.

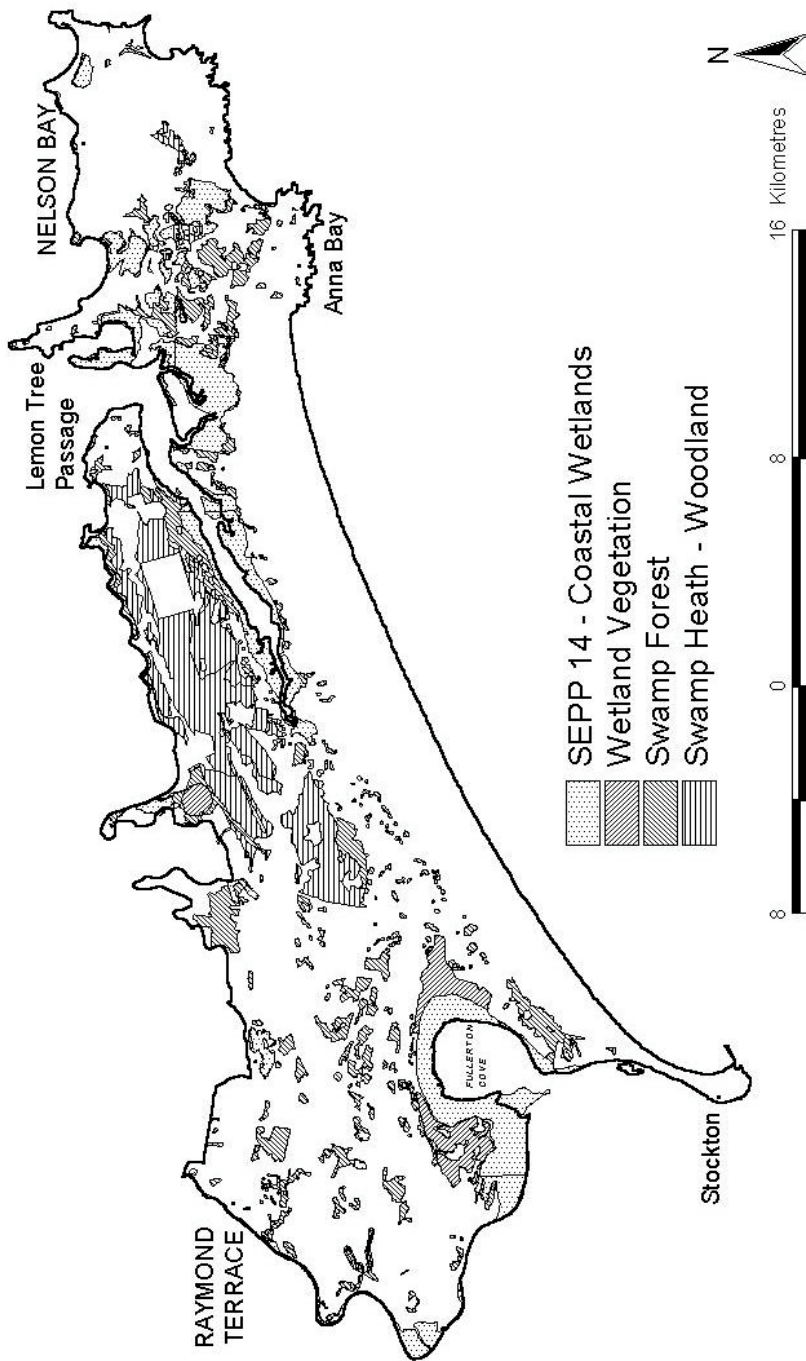
Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

Schedule 4 Contamination sources in the Tomago Tomaree Stockton Groundwater Sources

Note. The contamination sources listed in this Schedule may change during the period of this Plan. The offices of the Department of Land and Water Conservation, shown in Appendix 2, should be contacted for a current list.

Schedule 5 High priority groundwater dependent ecosystems

Note. The high priority groundwater dependant ecosystems listed in this Schedule may change during the period of this Plan. The offices of the Department of Land and Water Conservation, shown in Appendix 2, should be contacted for a current list.



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Schedule 6 Rules and additional mandatory conditions for Hunter Water Corporation major utility

1 Water allocation account management rules for Hunter Water Corporation major utility access licences

- (1) In any 3 water accounting years, subject to local impact management restrictions arising from this Schedule, water taken from a groundwater source under major utility access licences may not exceed a volume consisting of:
 - (a) 76,000ML in Tomago (and only from within the Tomago Special Area), and
 - (b) 11,000ML in Tomaree (and only from within the Anna Bay Special Area),
Note. The Tomago and Anna Bay Special Areas are shown on the maps attached to this Schedule.
 - (c) plus any water allocations assigned from another licence under section 71G of the Act in that year,
 - (d) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (e) minus any water allocations assigned to another licence under section 71G of the Act in that year.
- (2) Total water in any major utility access licence account at any time may not exceed a volume consisting of:
 - (a) 76,000ML in Tomago (and only from within the Tomago Special Area),
 - (b) 11,000ML in Tomaree (and only from within the Anna Bay Special Area),
 - (c) plus any water allocations assigned from another licence under section 71G of the Act in that year,
 - (d) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (e) minus any water allocations assigned to another licence under section 71G of the Act in that year.
- (3) A water allocation account shall remain at or above zero at all times.

2 Water level and water quality management rules for Hunter water Corporation major utility access licences

- (1) The rate of extraction of groundwater from Tomago (and only from within the Tomago Special Area) must not exceed 200 megalitres per day.
- (2) The major utility (Hunter Water Corporation) must undertake the following operational monitoring in the Tomago (within the Tomago Special Area):
 - (a) approximately weekly, that is at intervals of no more than 10 days, measure the groundwater level at monitoring bore IP109 (nominated level RL 5.2 metres AHD, hereafter *m ADH*), and

Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

- (b) once every month, measure the groundwater levels at the following 4 monitoring bores:
 - (i) bore number 40A (nominated level RL 0.9m AHD),
 - (ii) bore number SK3534 (nominated level RL 2.5m AHD),
 - (iii) bore number SK3491 (nominated level RL 4.0m AHD), and
 - (iv) bore number 284 (nominated level RL 6.0m AHD).
 - (c) maintain hydrographs showing the trends in groundwater levels since 1990 at monitoring bore IP109 and at the 4 observation bores monitored in accordance with subclause (b),
 - (d) once every 3 months, measure the groundwater levels at the following 32 monitoring bores: SK5266, 295, SK3505, SK4932, SK3514, SK3530, SK4934, SK4939, SK5387, 230, SK3499, SK5819, SK5992, F8, 9-SE-4000, SK3524, 287, SK5389, SK3525, SK1709, SK3516, SK3493, SK3523, SK4936, SK4935, SK3492, SK4933, SK3487, SK3481, SK3500, P2, and P5,
 - (e) once every 3 months, measure the groundwater level and salinity profile at the following 7 monitoring bores: BL84, SK3542, SK3515, BL69, 230A, SK6438, and SK6348, and
 - (f) measure the salinity (electrical conductivity (EC)) in subclause (e) at each of the nominated monitoring bores at 2 metre intervals measured from the top of the bore casing to the base of the bore.
- (3) If the groundwater level in any 2 or more of the monitoring bores in Tomago (within the Tomago Special Area), monitored in accordance with subclauses 2 (a) and 2 (b) falls below the levels nominated in those subclauses, the major utility must:
- (a) advise the Regional Director of the Department of Land and Water Conservation of the situation in writing within 7 days of the reading, or readings, being taken,
 - (b) increase the frequency of the monitoring in subclause 2 (b) to once every 2 weeks,
 - (c) once every month, measure the groundwater level at the following 9 monitoring bores: SK5266, SK1709, SK3505, SK4932, SK3514, SK3530, SK4934, SK4939, and SK5387, and
 - (d) maintain monitoring in accordance with this subclause until groundwater levels are higher than the nominated levels in subclauses 2 (a) and 2 (b), and the Regional Director of the Department of Land and Water Conservation approves a return to the monitoring regime prescribed subclause 2.
- (4) If, within Tomago (within the Tomago Special Area), a spatially weighted mean groundwater level of the bores listed below, measured once every month, falls to RL 1.0 metre AHD or below, the major utility (Hunter Water Corporation) must:
- (a) inform the Regional Director of the Department of Land and Water Conservation as soon as practicable, and

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- (b) calculate the mean groundwater level once each month and must use the weighting factors listed below.

Observation Well	Weighting factor
SK3534	6.21
SK5226	4.21
SK1709	8.09
SK3505	4.15
BL84	6.35
SK4932	4.48
SK3514	6.37
SK3491	5.90
284	5.98
SK3530	3.75
SK3542	4.51
SK3515	5.25
BL69	2.83
230A	1.20
SK4934	4.34
SK4939	8.79
SK5387	2.74
SK6438	1.66
IP109	8.67
40A	4.51
TOTAL	100.00

- (5) If necessary, the Minister may determine amended monitoring and/or extraction conditions while the groundwater level is at RL 1.0 metres AHD or below.
- (6) If 2 successive routine salinity (electrical conductivity) measurements made in subclauses 2 (e) and 2 (f) made at any 2 monitoring are 20% or more above the average of the 3 salinity (electrical conductivity) measurements previous to these 2 electrical conductivity measurements, then the Regional Director of the Land and Water Conservation is to be advised in writing as soon as practicable.
- (7) In the event of subclause (6), the Minister may determine amended monitoring conditions and/or extraction conditions on works in the area to alleviate the local impact from elevated salinity (electrical conductivity) levels.
- (8) The major utility must undertake the following operational monitoring in Tomaree (within the Anna Bay Special Area):
- approximately weekly, that is at intervals of no more than 10 days, measure the groundwater level at monitoring bore SK1273B,
 - once every 3 months, measure the groundwater level and salinity levels at the following 9 monitoring bores: SW1, SW2, BL40, BL68, BL206 (at Shoal Bay) and SW4, SW5, SW6, and SW7 (at Fingal Bay), and

Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

- (c) when the groundwater level at monitoring bore SK1273B falls below RL 4.00 metres AHD, the groundwater and salinity levels at the following 30 monitoring bores must be measured once every month: SK3913, SK4261, SK3917, SK2512, SK2509, SK3901b, SK4262, SK4265b, SK5057b, SK4255b, SK5054b, AB-N1500b, AB-N500b, AB-N100b, AB-S1100b, AB-S500b, AB-S100b, SK4468b, SK1274b, SK1277b, SK4264b, SK1275b, NB-N1500, NB-N500b, NB-N100, NB-S1500b, NB-S500b, NB-S100, SK9596, and SK4465b.
- (9) The major utility may extract groundwater from Tomaree (and only from within the Anna Bay Special Area) in accordance with the following rules:
- (a) if the groundwater level at monitoring bore SK1273B is at or above RL 9.00 metres AHD, extraction must not exceed 11,000 ML in any 3-year rolling period,
- (b) if the groundwater level at monitoring bore SK1273B is below RL 9.00 metres AHD and at or above RL 7.00 metres AHD, extraction must not exceed 9,500 ML in any 3 year rolling period,
- (c) if the groundwater level at monitoring bore SK1273B is below RL 7.00 metres AHD and at or above RL 4.00 metres AHD, extraction must not exceed 8,000 MLs in any 3 year rolling period,
- (d) if the groundwater level at monitoring bore SK1273B falls below RL 4.00 metres AHD, extraction must not exceed 4,000 ML in any 3 year rolling period until levels at SK 1273B return to RL 4.00 metres AHD or higher,
- (e) if observations at monitoring bores SW4, SW5, SW6 and SW7 at Fingal Bay indicate that the toe of the salt water interface is more than 250 metres inland from either SW4 or SW6, annual extraction from the Anna Bay/Fingal Bay bores must not exceed 100 ML per year,
- (f) if observations at monitoring bores SW1, SW2 and BL40, BL68, BL206 at Shoal Bay indicate that the toe of the salt water interface is more than 220 metres inland from either SW1 or BL206, the Nelson Bay bores must not be operated,
- (g) where bore operation is reduced or suspended under subclauses (e) or (f) of this clause, extraction can only resume when the toe of the salt water interface has receded to the distances stated in subclauses (e) at Fingal Bay and subclause (f) at Shoal Bay and with the written approval of the Regional Director of the Department of Land and Water Conservation,
- (h) the groundwater levels and extraction restrictions in these subclauses may be applied on a weekly pro rata basis, and
- (i) the extraction restrictiond in subclauses (f) and (g) of this clause may be applied on a monthly pro rata basis.

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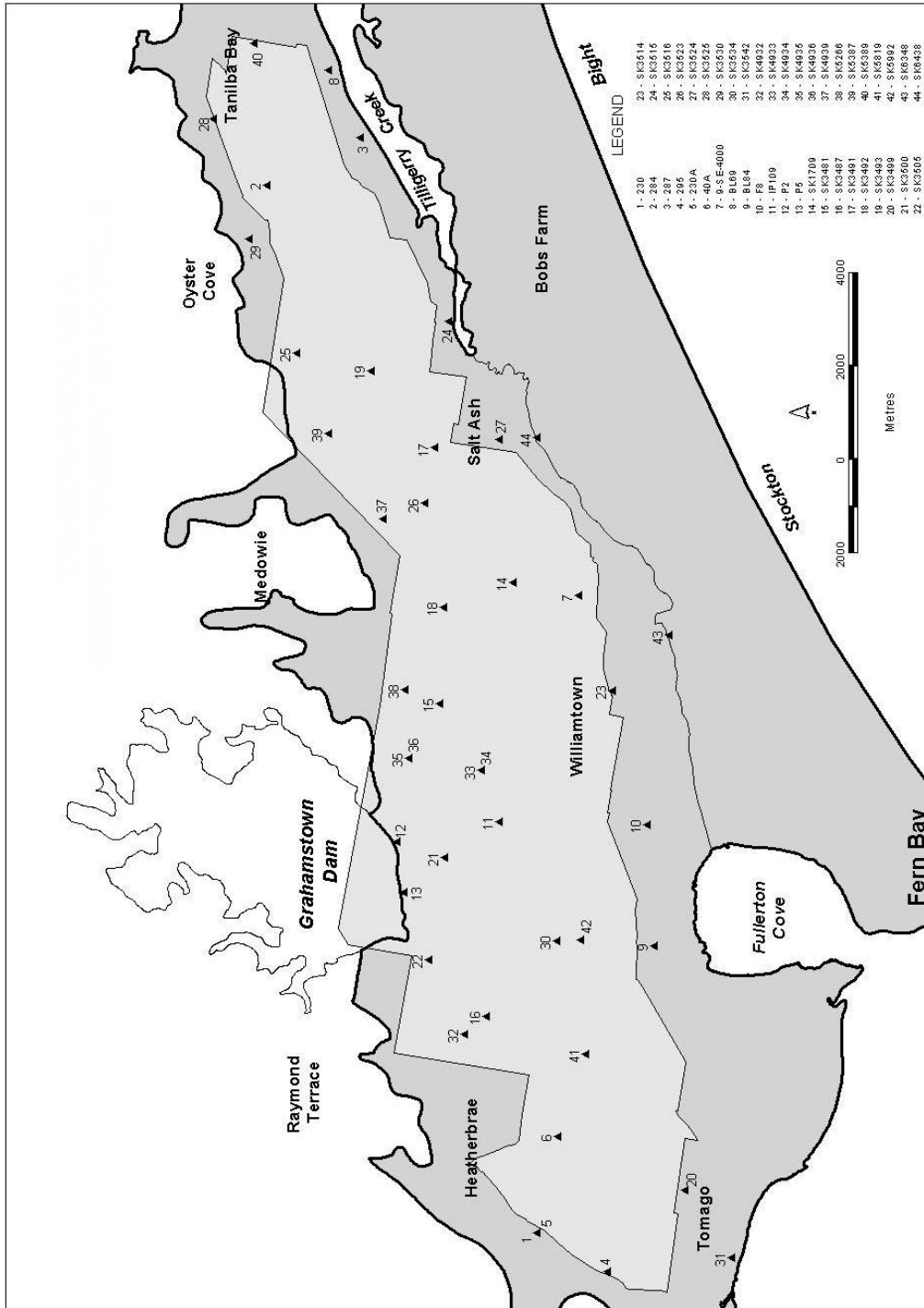
3 Additional mandatory conditions on water supply works for Hunter Water Corporation major utility

The major utility is permitted to relocate or replace water supply works in the Tomago and Tomaree (and only from within the special areas), provided that:

- (a) the relocation or replacement of the water supply works is within 200 metres of the original location of the water supply works being relocated or replaced,
- (b) the relocation or replacement of the water supply works does not increase the installed extraction capacity, except with the agreement of the Minister,
- (c) the relocation or replacement of the water supply works does not adversely impact upon any environmental, economic or social value of these groundwater sources,
- (d) any abandoned water supply work is abandoned by means suitable to prevent degradation of these groundwater sources and the Regional Director of the Department of Land and Water Conservation must be notified of the method of abandonment, and
- (e) The Regional Director of the Department of Land and Water Conservation must be provided with details of relocation and abandonment annually.

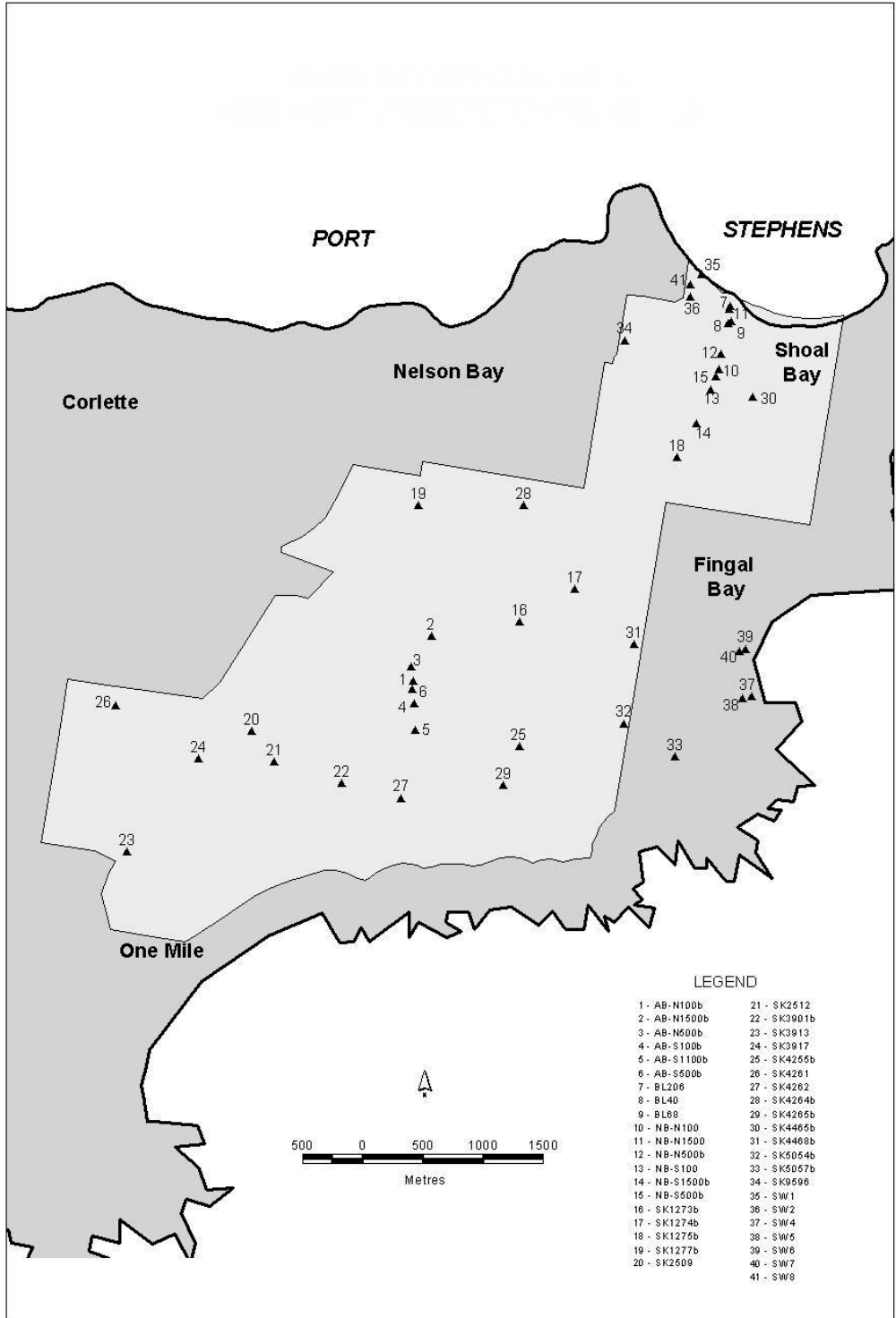
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Tomago (Special Area) Monitoring Bores



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Tomaree (Anna Bay Special Area) Monitoring Bores



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Appendix 1 Lower North Coast and Hunter Water Management Areas



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Appendix 2 Location of maps

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

Regional Office
Department of Land and Water Conservation
464 King Street
Newcastle West NSW 2302

District Office
Department of Land and Water Conservation
Cnr Newcastle Road and Banks Street
EAST MAITLAND NSW 2323

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Appendix 3 Performance indicators

Performance indicators for Tomago Tomaree Stockton Groundwater Sources Water Sharing Plan			
Performance indicator	Related objective	As measured by	Comments
(a) Change in groundwater extraction relative to the extraction limit	All	<ul style="list-style-type: none"> Average annual extraction volume for each groundwater source as a percentage of the extraction limit 	<ul style="list-style-type: none"> Plan provisions set the mechanism to remain within the sustainable yield.
(b) Change in climate adjusted groundwater levels	11 (a) 11 (b) 11 (c) 11 (d) 11(e)	<ul style="list-style-type: none"> Change in depth to water table 	<ul style="list-style-type: none"> Water levels will fluctuate with climate and resultant variable recharge. Some level declines will be expected during dry times, just as level rises are expected during wetter periods.
(c) Condition and extent of targeted groundwater dependent ecosystems, including vegetation and wetlands	11 (a) 11 (b) 11 (c) 11 (d) 11(e)	<ul style="list-style-type: none"> Identify representative groundwater dependent ecosystems (GDEs) Number and area of targetted GDEs Condition and extent of targeted GDEs, particularly vegetation and wetlands 	<ul style="list-style-type: none"> Groundwater dependent ecosystems identified in this water sharing plan.
(d) Change in groundwater quality.	11(k)	<ul style="list-style-type: none"> Trends in selected water quality parameters at selected monitoring bores that are likely to be affected by groundwater extraction 	<ul style="list-style-type: none"> Many water quality issues are a function of contamination by land based activities, rather than extraction.

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Performance indicators for Tomago Tomaree Stockton Groundwater Sources Water Sharing Plan			
Performance indicator	Related objective	As measured by	Comments
(e) Change in economic benefits derived from groundwater extraction and use	11(h)	<ul style="list-style-type: none"> • Water use per sector. • Qualitative assessment through structured interviews with water user groups 	<ul style="list-style-type: none"> • There are many factors affecting economic status of a region, for example commodity prices, other sources of water (ie surface water) etc. • Assessment undertaken as part of plan performance monitoring will make assumptions to attempt to identify the impact of the plan provisions.
(f) Extent to which domestic and stock rights requirements have been met	11 (f) 11 (i)	<ul style="list-style-type: none"> • Monitor increase in applications for water supply work (bore) approvals • Water use per sector • Qualitative assessment through basic rights focus group 	<ul style="list-style-type: none"> • Domestic and stock usage figures in this plan are estimated (not actual use).
(g) Extent to which major utility requirements (where major utilities are involved in urban water provision) have been met	11(g)	<ul style="list-style-type: none"> • Water use per sector. • Utility water use compared to utility access licence share component 	
(h) Extent to which native title rights requirements have been met	11(h)	<ul style="list-style-type: none"> • Monitor increase in applications for water supply work approvals for native title basic rights • Qualitative assessment through focus group semi structured interviews 	

Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

Performance indicators for Tomago Tomaree Stockton Groundwater Sources Water Sharing Plan			
Performance indicator	Related objective	As measured by	Comments
(i) Extent of recognition of spiritual, social and customary values of groundwater to Aboriginal people	11(j)	<ul style="list-style-type: none"> • Qualitative assessment through focus group and semi structured interviews • The number of licence applications referred to the Local Aboriginal Land Council measuring change in consultation on Aboriginal values in water licensing 	<ul style="list-style-type: none"> • The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. • It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement. • Consultation with the local Aboriginal community will seek to minimise the effects of new licences on important social, customary, cultural, and spiritual values.

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Appendix 4 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

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farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, commitments to take water refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

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8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.
- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11. Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:

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- (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
- (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
- (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.

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- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
 - (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Water Sharing Plan for the Tomago Tomaree Stockton Groundwater Sources 2003

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.
- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.

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- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.

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- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:

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- (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
- (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
- (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.

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- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

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20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or
 - (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.

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- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Water Sharing Plan for the Tarcutta Creek Water Source 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

 Water Sharing Plan for the Tarcutta Creek Water Source 2003

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Water Sharing Plan for the Tarcutta Creek Water Source 2003

Water Sharing Plan for the Tarcutta Creek Water Source 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Tarcutta Creek Water Source 2003* (hereafter **this Plan**).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter **the Act**).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Murrumbidgee Water Management Area known as the Tarcutta Creek Water Source (hereafter **this water source**) as shown on the map in Schedule 2, excluding any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

Note. The Murrumbidgee Water Management Area is shown on the map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

- (2) This water source is divided into the following management zones shown on the map in Schedule 2:
 - (a) Borambola management zone (being all rivers downstream of the confluence of Tarcutta Creek and Umbango Creek, to the Tarcutta Creek junction with the Murrumbidgee River),
 - (b) Westbrook management zone (being all rivers flowing into and including Tarcutta Creek, to its confluence with Umbango Creek), and
 - (c) Umbango management zone (being all rivers flowing into and including Umbango Creek, to its confluence with Tarcutta Creek).

Note. Specific cease to pump conditions apply to all access licences within these management zones.

5 Waters to which this Plan applies

- (1) The waters of this water source include all water occurring on the land surface shown on the map in Schedule 2 including, but not limited to:
 - (a) all rivers in this water source including, but not limited to, those nominated in Schedule 3, and
 - (b) all lakes and wetlands in this water source.

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- (2) The waters of this water source exclude all water contained within aquifers underlying this water source.
- (3) The waters of this water source exclude waters in any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined in Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter *the SWMOP*).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

Water Sharing Plan for the Tarcutta Creek Water Source 2003

Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

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

10 Vision

The vision for this Plan is the equitable and sustainable sharing of water between the environment, cultural, economic and social uses in the Tarcutta Creek Water Source.

11 Objectives

- (1) The broad objectives of this Plan are to:
 - (a) maintain flow-dependent riverine ecosystems and restore to health those which have been degraded, and
 - (b) optimise economic, social, cultural and environmental values, including those of Indigenous peoples, by providing for the fair and equitable sharing of water from this water source.
- (2) The specific objectives of this Plan are to:
 - (a) protect basic landholder rights, including native title rights,
 - (b) minimise the impact of extraction on natural water levels in river pools and wetlands during periods of no flow,
 - (c) protect natural low flow regimes,
 - (d) protect a portion of freshes and high flows,
 - (e) maintain the natural inundation patterns and distribution of floodwaters supporting natural wetlands and floodplain ecosystems,
 - (f) maintain or imitate natural flow variability in all rivers,
 - (g) maintain groundwater within natural levels and variability to sustain critical surface flows and ecosystems,
 - (h) define and provide for town water access,
 - (i) provide, where possible, adequate flow conditions for recreational and cultural use and amenity,
 - (j) define licensed water access to a share of available water, to provide for sustainable current and future water uses, within the limits of the Murray Darling Basin Ministerial Council Cap,
 - (k) facilitate water use efficiency to protect river flows,
 - (l) recognise and protect Indigenous rights to a share of flow for cultural heritage (especially within wetlands, floodplain, riverbanks and tributaries on Crown Lands) and traditional uses,
 - (m) improve the diversity and abundance of local native species, especially in relation to the recovery of threatened species,

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- (n) contribute to flows occurring in the Murrumbidgee River, and
- (o) contribute to the achievement of water quality suitable for identified values in this water source, including aquatic ecosystems, visual amenity, secondary and primary contact, recreation, livestock, irrigation and homestead water supply, drinking water and aquatic foods (cooked).

Note. Objective (o) refers to maintaining water quality. Although there are no specific strategies directly related to this objective in this Plan, the environmental water provisions in this Plan makes a positive contribution to maintaining water quality.

12 Strategies

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,
- (c) limit the long-term average extraction of water,
- (d) clearly define access rules and conditions for extracting water from this water source,
- (e) establish rules for determining the water available from time to time under access licences,
- (f) establish water allocation accounting rules, and
- (g) specify access licence dealing rules which maximise flexibility for water users without adversely impacting on this water source.

13 Performance indicators

The following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in low flows,
- (b) change in moderate to high flows,
- (c) change in local water utilities access,
- (d) change in ecological condition of this water source and dependent ecosystems,
- (e) extent to which basic landholder rights requirements have been met,
- (f) change in economic benefits derived from water extraction and use,
- (g) extent to which native title rights requirements have been met,
- (h) extent of recognition of spiritual, social and customary values of water to Aboriginal people, and
- (i) contribution to the achievement of water quality to support the environmental values of this water source.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

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Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow variability in this water source.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in this water source within the limits of water availability on a long-term average basis, and
 - (b) sharing of the flows that occur in this water source on a daily basis.

16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as Murrumbidgee Unregulated Rivers Extraction Management Unit, and is shown on the map in Schedule 5.

17 Flow classes

- (1) This Plan establishes the following flow classes as the basis for sharing of daily flows:
 - (a) in the Borambola management zone:
 - (i) very low flow class at or less than 16 megalitres per day (hereafter **ML/day**) on a rising river and at or less than 13 ML/day on a falling river,
Note. The 13 ML/day in (i) is referred to as the cease to pump level, and the 16 ML/day in subclause (i) is referred to as the commence to pump level following a cease to pump event.
 - (ii) A class flows greater than 16 ML/day and at or less than 44 ML/day on a rising river, and greater than 13 ML/day and at or less than 44 ML/day on a falling river.
 - (b) in the Westbrook management zone:
 - (i) very low flows at or less than 18 ML/day, measured at Westbrook, and
 - (ii) A class flows greater than 18 ML/day, measured at Westbrook, and at or less than 44 ML/day at the flow reference point.
 - (c) in the Umbango management zone:
 - (i) very low flows at or less than 4 ML/day, measured at Umbango, and
 - (ii) A class flows greater than 4 ML/day, measured at Umbango, and at or less than 44 ML/day at the flow reference point.
 - (d) for all management zones:

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- (i) B class flows greater than 44 ML/day and at or less than 93 ML/day, and
- (ii) C class flows greater than 93 ML/day.

Note. The flow classes recognise climate and therefore flow variability, in accordance with section 20 (2) (c) of the Act. They have been determined based on flow information which inherently includes seasonal effects as well as evaporation and seepage losses.

Note. The very low flow provisions established in this clause are subject to the review established in Part 15 of this Plan.

18 Flow reference point

For the purpose of this Plan, unless otherwise stated, all flows referred to relate to the estimated flows at the flow reference point at the downstream end of this water source, as shown in the map in Schedule 2.

19 Determination of flow class

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at a flow gauging station, correlated to the flow reference point established in clause 18.

Note. The 13 ML/day and 16 ML/day in clause 17 are equivalent to 12 ML/day and 15 ML/day respectively at the Borambola gauging station (no. 410047).

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Part 4 Environmental water provisions

20 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

21 Environmental health water

- (1) Environmental health water is identified and established as follows:
 - (a) In very low flows, the flow occurring in this water source minus 5.25 ML/day.
Note. 5.25 ML/day is the amount of water estimated at the commencement of this Plan for basic landholder rights and those access licences with access to very low flows.
 - (b) In A class flows, the flow occurring in this water source minus 31.05 ML/day.
Note. 31.05 ML/day is amount of water estimated at the commencement of this Plan for A class total daily extraction limit and basic landholder rights.
 - (c) In B class flows, the flow occurring in this water source minus 37.55 ML/day.
Note. 37.55 ML/day is amount of water estimated at the commencement of this Plan for B class total daily extraction limit and basic landholder rights.
 - (d) In C class flows, the flow occurring in this water source minus 47.05 ML/day.
Note. 47.05 ML/day is amount of water estimated at the commencement of this Plan for C class total daily extraction limit and basic landholder rights.
- (2) Environmental health water is maintained as follows:
 - (a) In very low flows:
 - (i) the holders of an unregulated river access licences (excluding unregulated river (Aboriginal cultural) access licences) are not permitted any access,
 - (ii) the holders of domestic and stock, local water utility and unregulated river (Aboriginal cultural) access licences may take water in very low flows, up to a total of 0.85 ML/day, and
 - (iii) persons exercising domestic and stock and native title rights may take a combined total of up to 4.4 ML/day.
Note. In times of severe water shortage the Minister may issue an Order under section 60 (2) of the Act which suspends the provisions of this Plan and the priorities it establishes.
Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment, for reasons of public health, or to preserve basic landholder rights.
 - (b) In A class flows:
 - (i) the holders of access licences have restricted access to water as specified in clause 45,

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- (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 4.4 ML/day in this flow class the access to water for unregulated river access licences will be reduced in accordance with clause 50 to maintain the environmental water in this flow class.
 - (c) In B class flows:
 - (i) the holders of access licences have restricted access to water as specified in clause 45,
 - (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 4.4 ML/day in this flow class the access to water for unregulated river access licences will be reduced in accordance with clause 50 to maintain the environmental water in this flow class.
 - (d) In C class flows:
 - (i) the holders of access licences have restricted access to water as specified in clause 45,
 - (ii) persons exercising domestic and stock and native title rights may take water, and
 - (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 4.4 ML/day in this flow class the access to water for unregulated river access licences will be reduced in accordance with clause 50 if this is necessary to maintain the environmental water in this flow class.
- (3) In all flow classes, limits are imposed on the availability of water in accordance with clauses 35 and 37, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

Note. These rules protect the water for the environment by limiting both the long-term average extraction, and the rate of extraction of water in different flow ranges, thereby achieving the objectives of this Plan.

Note. This Plan recognises that the environmental health water provisions provide non—extractive benefits, including traditional Aboriginal spiritual, social and cultural benefits, and improved water quality.

22 Extraction by water supply work

Notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

23 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

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24 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

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Part 5 Basic landholder rights

25 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

26 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 4.4 ML/day.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting rivers and lakes in this water source and/or as a result of an increase of the exercise of basic landholder rights by existing landholders.

27 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are estimated to be a total of 0 ML/day.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. Increase in use of native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

28 Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to the harvestable rights Order published in the NSW Government Gazette on 23 March 2001 under section 54 of the Act.

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Part 6 Bulk access regime

29 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (1):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Divisions 1 and 2 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 3 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

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Part 7 Requirements for water under access licences

30 Requirements for water under access licences

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

Note. The amount of water specified in this Part represents the total volumes specified on access licences in this water source. It is not a commitment to supply that water.

31 Estimate of water requirements

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within this water source will total approximately 4,945 megalitres per year (hereafter *ML/yr*).
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the share component of runoff harvesting access licences in this water source will total 1,577 ML/yr.

Note. Runoff harvesting is a category of access licence to be established by regulation under section 57 (k) of the Act. Runoff harvesting access licences may only be used for taking water from licensed runoff harvesting dams.
- (3) This Plan recognises that the total requirements for water for extraction within this water source may change during the term of this Plan as a result of:
 - (a) the granting, surrender, cancellation or non-renewal of access licences, or
 - (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act.

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Part 8 Rules for granting access licences

32 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 (2) of the Act, having regard to the limits to water availability in this water sources and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:
 - (a) local water utility access licences,
Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's share component at 5 year intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) domestic and stock access licences,
 - (c) an access licence resulting from an application of a type listed in section 82 (1) of the Act,
 - (d) unregulated river (Aboriginal cultural) access licences where the individual daily extraction limit (hereafter **IDEL**) is assigned in proportion to the share component, and the cumulative daily extraction limit assigned to this category of licence does not exceed 0.15 ML/ day in very low flows, 0.5 ML/ day in A class flows, 0.75 ML/ day in B class flows and 1.0 ML/ day in C class flows, or
 - (e) unregulated river (research) access licences where the IDEL is assigned in proportion to the share component, and the cumulative daily extraction limit assigned to this category of licence does not exceed 0.0 ML/ day in very low flows, 0.2 ML/ day in A class flows, 0.3 ML/ day in B class flows, and 0.5 ML/ day in C class flows.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share component sought will be the minimum required to meet that purpose and circumstance.
- (5) Subclause (4) does not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (6) Any IDEL granted in accordance with this clause cannot exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 50.
- (7) In accordance with section 56 of the Act, all access licences in this water source shall have a share component expressed as a volume in ML/yr.
- (8) Notwithstanding subclause (7), runoff harvesting access licences and domestic and stock access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from the specified works.

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

33 Limits to the availability of water

This Division is made in accordance with section 20 (2) (a) of the Act.

34 Extraction management unit

Management of the long-term extraction of water in this water source will be undertaken in the context of the Murrumbidgee Unregulated Rivers Extraction Management Unit (hereafter *this Unit*) referred to in clause 16 (2).

35 Long-term average extraction limit

The long-term average extraction limit for this Unit will be the total of:

- (a) the estimated annual extraction of water averaged over the period from July 1993 to June 1999 specified in conditions attached to or included in entitlements issued under Part 2 of the *Water Act 1912* in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit, and
- (b) an estimate of annual extraction of water under domestic and stock rights, and native title rights in this Unit at the commencement of this Plan.

36 Variation of the long-term average extraction limit

The long-term average extraction limit of this Unit may be varied by the Minister if dealings under Part 11 of this Plan result in the issuing or cancellation of access licences in this Unit.

Division 2 Available water determinations

37 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 35, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,
Note. A water accounting year is defined in clause 42 (3).
 - (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,

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- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
- (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be of such volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 35 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 35, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components,
- (j) a new available water determination for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

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Part 10 Rules for managing access licences

Division 1 General

38 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b), 21 (a) and 21 (c) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

39 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

40 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in this water source.

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

Note. Water allocations may also be recredited to these accounts in accordance with section 76 of the Act, subject to the operation of a return flows scheme established under section 75 of the Act.

41 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 37.

42 Annual accounting for water extraction

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is as follows:
 - (a) 100% of the access licence share component from 2003/4 to 2004/5,
 - (b) 200% of the access licence share component from 2004/5 to 2005/6, and

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- (c) thereafter, the sum of the previous 2 available water determinations.
- (5) Notwithstanding subclause (4) total water in any water allocation account cannot exceed 3 times the share component of the access licence:
 - (a) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (b) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (c) minus any water allocations assigned to another licence by a water allocation assignment under section 71G of the Act in that year.
- (6) In any one water accounting year, water taken from this water source under an access licence may not exceed a volume consisting of:
 - (a) twice the water allocation accrued under the licence that year,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in that year.
- (7) A water allocation account shall remain at or above zero at all times.

43 Three year accounting for water extraction

- (1) Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
 - (a) the water allocations accrued under the licence in those years,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71 G of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71 G of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
 - (a) 3 times the share component of the access licence,
 - (b) plus any water allocations assigned from another licence by water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by water allocation assignment under section 71G of the Act in those years.

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Division 3 Sharing flows on a daily basis

44 Sharing flows on a daily basis

This Division is made in accordance with sections 20 (2) (b) and 21 (a) of the Act.

45 Total daily extraction limits

- (1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:

- (a) 0.85 ML/day for the very low flow class,
- (b) 26.65 ML/day for A class,
- (c) 33.15 ML/day for B class, and
- (d) 42.65 ML/day for C class.

Note. These flows represent 6.2% to 7.7% of the top of very low class flows; an estimated 60% of the top of A class flows; an estimated 35.6 % of the top of B class flows; and an estimated 30 % of the 30th percentile C class flows.

- (2) The TDEL for each flow class specified in subclause (1) applies to all rivers within this water source apart from those rivers defined as minor streams in a harvestable right Order made under section 54 of the Act.

Note. The harvestable rights Order applying to this area at the commencement of this Plan is that gazetted on 23 March 2001 under section 54 of the Act. It identifies minor streams as non-permanent 1st and 2nd order streams as shown on topographic maps.

46 Initial assignment of the TDEL to categories of access licence

The TDEL for each flow class will initially be assigned to categories of access licences according to the following:

- (a) Local water utilities access licences:
 - (i) 0.225 ML/day of very low flow class,
 - (ii) 0.35 ML/day of A class,
 - (iii) 0.35 ML/day of B class, and
 - (iv) 0.35 ML/day of C class.
- (b) Domestic and stock access licences:
 - (i) 0.475 ML/day of very low flow class,
 - (ii) 0.5 ML/day of A class,
 - (iii) 0.5 ML/day of B class, and
 - (iv) 0.5 ML/day of C class.

- (c) Unregulated river access licences:
 - (i) 0 ML/ day of very low flow class,
 - (ii) 25.8 ML/day of A class,
 - (iii) 32.3 ML/day of B class, and

Note. The TDEL established at subclause (c) (ii) may vary in accordance with the review established at clause 74.

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(iv) 41.8 ML/day of C class.

(d) 0.15 ML/day of very low flow class for unregulated river (Aboriginal cultural) access licences.

Note. No IDELs will be issued to runoff harvesting access licences, and no TDEL is assigned to this category of access licence.

47 Unassigned TDEL

At the commencement of this Plan, there is no unassigned TDEL.

Note. Unassigned TDEL may vary as a result of the surrender, cancellation or non-renewal of an access licence's IDELs, or the operation of Part 8 of this Plan.

48 Daily extraction limits for individual access licence holders

- (1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 46 as its share component bears to all share components of licences of that category.
- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

49 Granting of unassigned TDEL

- (1) The unassigned TDEL in clause 47 may be assigned to access licences in the following circumstances:
 - (a) where they are applied for as part of a new access licence application,
 - (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act, or
 - (c) to existing access licences for the purpose of pumping into farm dams if:
 - (i) the purpose of the additional IDEL sought is established by the proponent,
 - (ii) the IDEL sought is the minimum required to satisfy that purpose, and
 - (iii) the extraction is consistent with the objectives and principles of this Plan.
- (2) Where additional IDELs are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 48, as amended by clause 50.

50 Adjustment to TDELs and IDELs

- (1) Where IDELs are assigned under clause 49, the unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category in clause 46 is increased accordingly.
- (2) Pursuant to section 42 (2) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan:

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- (a) first the unassigned TDEL specified in clause 47 then, if necessary, the TDEL for unregulated river access licences in clause 46 (c) shall be diminished to allow these additional basic landholder rights to be met, and
 - (b) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 42 (2) of the Act, if any unassigned TDEL cannot meet either:
- (a) the IDEL requirements of applicants for new access licences for domestic and stock access, unregulated river (Aboriginal cultural) access and unregulated river (research) access, or
 - (b) a local water utility's IDEL requirements resulting from a variation by the Minister under sections 66 (3) or 66 (4) of the Act,
- then the TDEL for unregulated river access licences in clause 46(c) will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (5) Any adjustment to unregulated river access licence IDELs arising from this clause will be done at intervals of no greater than 5 years.
- (6) If water that, pursuant to an access licence:
- (a) is committed to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be reduced by the IDEL on the access licence so committed, and clauses 45 and 46 adjusted accordingly, or
 - (b) is uncommitted to adaptive environmental water, then the TDEL for classes specified on the committed access licence in the specified category will be increased by the IDEL on the access licence so uncommitted, and clauses 45 and 46 adjusted accordingly.

51 Administrative arrangements for managing access to daily flows

Notwithstanding the forgoing provisions of this Division, this Plan provides that access licences may be managed as a group with respect to the IDELs, subject to the following rules:

- (a) all access licences (excepting local water utility licences) with IDELs shall be made part of a group established and maintained by the Minister at the time when IDELs are first assigned to licences under clause 48,
- (b) access licence holders have the right to have their access licence removed from the group, in which case they shall be permitted to extract under that access licence a maximum of the IDEL,
- (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject access licence,
- (d) access licence holders may make a request to form a group for their access licences,
- (e) daily extraction under all access licences within a group will be assessed as a whole against the combined IDELs,

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- (f) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,
- (g) where it been assessed that a holder of a licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that licence from the group,
- (h) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,
- (i) should a holder of an access licence that is part of a group commit the IDELs of that access licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
- (j) an access licence may not be in more than one group, and
- (k) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

52 Infrastructure failure

In the event of infrastructure failure, until such time as the infrastructure is returned to operation, the Minister can elect to:

- (a) continue to announce the current flow class,
- (b) announce another flow class based on climatic conditions and any other flow gauging information, or
- (c) restrict access to water to the lowest flow class,

Note. Infrastructure is defined in the dictionary.

Note. If satisfied that it is necessary to do so in the public interest, the Minister may direct the holders of an access licence to cease using a water supply work in accordance with section 323 of the Act.

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Part 11 Access licence dealing rules

53 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 4.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

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

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

54 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71D, 71F and 71J of the Act, and with respect to water allocation assignments under section 71G of the Act.
- (2) Dealings are prohibited under this clause if:
 - (a) any of the access licences or water allocations involved are not within this water source, unless the dealing is permitted under clause 59,

Note. Clause 56 relates to any dealings that involve an access licence moving from one water source to another.
 - (b) the dealing would result in more than minimal harm occurring to the water source and the environment,
 - (c) the dealing would result in the access licence extraction component nominating a work in a different management zone, or
 - (d) the dealing would result in an increase in the share or extraction components of the access licences nominating works within the Tarcutta Swamp exclusion zone shown in Schedule 2.

55 Rules for access licence dealings which alter the times, rates or circumstances specified in access licence extraction components

Notwithstanding clause 54, applications under section 71F of the Act to vary the times, rates or circumstances specified in an access licence with respect to the taking of water under the licence are prohibited.

56 Rules for change of water source

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

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

- (2) Dealings under section 71E of the Act are prohibited in this water source, unless provided for in this clause.
- (3) An access licence with a share component specifying this water source may be cancelled and a new licence issued in another water source only if:
 - (a) the access licence dealing rules in the other water source permit such a dealing, and:
 - (b) the new access licence issued is within this Unit.
- (4) An access licence with a share component specifying another water source may be cancelled and a new access licence issued in this water source only if the access licence dealing rules in the other water source permit such a dealing, and:
 - (a) the access licence cancelled is within this Unit, or
 - (c) the access licence cancelled is within the Murrumbidgee Regulated River Water Source.
- (5) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.
- (6) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

57 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
 - (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence,
 - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence,
 - (c) the conversion is from a regulated river access licence to unregulated river access licence, or

Note. This will occur directly following a dealing under section 71E of the Act that changes the water source to which the access licence applies.

 - (d) the conversion is from domestic and stock access licence to an unregulated river access licence.

Note. Any access to very low flows previously possible under the domestic and stock access licence will not be carried over to the new unregulated river access licence.
- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of

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the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.

58 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in the interstate transfer of an access licence into or out of this water source are prohibited.

59 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act, in relation to water allocation assignments between water sources.
- (2) Dealings under section 71G of the Act that result in water allocation assignments to or from access licences in this water source are prohibited unless provided for in this clause.
- (3) Dealings that assign water allocations between access licences inside this water source and access licences outside this water source, but inside this Unit, are permitted only if the access licence dealing rules in the other water source permit such a dealing.
- (4) Dealings that assign water allocations between access licences inside this water source, are permitted.

Note. Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

60 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in interstate assignment of water allocations to or from this water source are prohibited.

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Part 12 Mandatory conditions

61 Mandatory conditions on access licences

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.
- (2) All access licences shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
 - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
 - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
 - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
 - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
 - (g) any other conditions required to implement the provisions of this Plan.

62 Unregulated river access licences

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

63 Local water utility access licences

All local water utility access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of supplying water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, and

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- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

64 Domestic and stock access licences

All domestic and stock access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

65 Runoff harvesting access licences

All runoff harvesting access licences shall have a mandatory condition imposed on them specifying that water may be taken without restriction in rate, but only from the specified work.

66 Unregulated river (Aboriginal cultural) access licences

All unregulated river (Aboriginal cultural) access licences shall have mandatory conditions to give effect to the following:

- (a) water shall only be taken for Aboriginal personal, domestic and communal purposes including the purposes of drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, hunting, fishing, and gathering, and for recreational, cultural and ceremonial purposes,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

67 Unregulated river (research) access licences

All unregulated river (research) access licences shall have mandatory conditions to give effect to the following:

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- (a) water shall only be taken for the purpose of scientific research, experimentation or teaching by accredited tertiary institutions, government bodies or other approved organisations, where any primary production resulting from the research program is not sold for profit, without approval of the Minister,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

68 Mandatory conditions on water supply works approvals

All approvals for water supply works in this water source shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:

- (a) flow measurement devices:
 - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,
- (d) notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work,
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence, and
- (f) approvals for in-river dams must include a condition requiring the passing of such flows as the Minister determines to be appropriate to achieve the objectives of this Plan.

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Part 13 Granting and amending water supply works approvals

69 Granting and amending water supply works approvals

This Part is made in accordance with section 21 (b) of the Act.

70 Runoff harvesting dams

- (1) New or expanded runoff harvesting dams shall, in addition to other considerations, be subject to the dam capacity not exceeding that which is consistent with the access licence share component specifying the runoff harvesting dam as the nominated work.
- (2) When the water allocations that may be taken from a runoff harvesting dam are reduced either by the Minister, or on application of the approval holder, or by an assignment in accordance with Part 11 of this Plan, the Minister shall impose an additional condition requiring the dam to be modified so as to reduce its capacity, or requiring the water taken and evaporated from the dam to be reduced, consistent with the reduction in water allocations available.

Note. Extraction of water from a runoff harvesting dam requires a runoff harvesting access licence, unless the runoff harvesting dam is within the maximum harvestable right dam capacity for the property on which it is located, in which case no licences or approvals are required. Runoff harvesting is a category of access licence to be established by regulation under section 57 (k) of the Act.

71 In-river dams

The Minister may consider applications for in-river dams within this water source.

Note. Taking of water from an in-river dam requires an access licence unless it is taken in accordance with section 52 of the Act (domestic and stock rights). In either case, however, the dam requires a water management works approval unless exempted by regulation under the Act. All new or modified in-river dams will also require assessment under the *Fisheries Management Act 1994*.

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Part 14 Monitoring and reporting

72 Monitoring and reporting of performance indicators

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

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

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

Note. Implementation Program

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

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

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

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Part 15 Amendment of this Plan

73 Amendment of this Plan

This Part is made in accordance with section 42 (2) of the Act.

74 Amendment of very low flow provisions

- (1) The Minister may, under section 42 (2) of the Act and by notice published in the NSW Government Gazette, vary the very low flow and bottom of A class levels established in clause 17, following field verification.
- (2) Any variation made under subclause (1) should not result in the very low flow level measured at the flow reference point at the end of the water source being:
 - (a) less than 16 ML/day or greater than 23 ML/day on a rising river, and
 - (b) less than 13 ML/day or greater than 23 ML/day on a falling river.
- (3) If the new flow level measured at the flow reference point at the end of the water source as varied by subclause (1) is greater than 18 ML/day, it will be introduced in the first year following the amendment under subclause (1).
- (4) If the new flow level measured at the flow reference point at the end of the water source as varied by subclause (1) is greater than 18 ML/day, it will be introduced in the following stages:
 - (a) 18 ML/day for the first year following the amendment under subclause (1),
 - (b) $18 + [(new\ flow\ level - 18) \div 2]$ ML/day for the second year following the amendment under subclause (1), and
 - (c) the new flow level (ML/day) for the third year following the amendment under subclause (1), and for remaining years of this Plan.
- (5) If the new flow level measured at the flow reference point at the end of the water source as varied by subclause (1) exceeds 19 ML/day, the TDEL for unregulated river access licences established at clause 46 (c) (ii) will be diminished according to the following rules:
 - (a) if the new flow level is 20 ML/day, the TDEL will be reduced from 25.8 ML/day to 24.8 ML,
 - (b) if the new flow level is 21 ML/day, the TDEL will be reduced from 25.8 ML/day to 23.8 ML,
 - (c) if the new flow level is 22 ML/day, the TDEL will be reduced from 25.8 ML/day to 22.8 ML, or
 - (d) if the new flow level is 23 ML/day, the TDEL will be reduced from 25.8 ML/day to 21.8 ML.
- (6) If the very low flow and bottom of A Class levels measured at the flow reference point at the downstream end of the water source are amended in accordance with subclause (1), then the very low flow and bottom of A Class levels measured at Westbrook and Umbango in clause 17 will be amended to reflect the local flow levels representing the new flow level established at subclause (1).

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- (7) If the TDEL for unregulated river access licences is diminished under subclause (5), the TDEL established in clause 45 (b) will also be diminished to reflect this change.
- (8) The IDELs of each unregulated river access licence will then be reduced to comply with the diminished TDEL under subclause (5).
- (9) The Minister should cause the field verification in subclause (1) to be undertaken as soon as practical, but before the review of this Plan under section 43 (2) of the Act.
- (10) The field verification should assess the degree to which the objectives in clause 11 (2) (b) and (c) of this Plan are met.
- (11) In undertaking the field verification the Minister should:
 - (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture and the NSW National Parks and Wildlife Service, and key interest groups determined by the Minister, and
 - (b) prepare a documenting:
 - (i) the methodology adopted,
 - (ii) the hypotheses tested,
 - (iii) the field results and conclusions in terms of the degree to which the objectives in clause 11 (2) (b) and (c) are met,
 - (iv) the flow level recommended to meet the objectives, and
 - (v) the socio-economic impacts of recommended changes to the flow level.

75 Review of field verification

- (1) The Minister should seek advice from a review body on the field verification report specified in clause 74 (11) (b) before varying this Plan in accordance with clause 74 (1), if the field verification recommends a variation in the very low flow levels established in clause 17.
- (2) This review body may be:
 - (a) a water management committee with water sharing responsibilities for this water source, if one exists,
 - (b) an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a water management committee referenced at subclause (2) (a), or
 - (c) if there is no water management committee with water sharing responsibilities for this water source, then by a catchment management board with responsibilities for this water source or an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a catchment management board.
- (3) The review body should provide advice to the Minister on the field verification report, and advise on any changes to the recommendations contained in the report in relation to any variation of the very low flow levels.

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- (4) The review body should respond to the Minister as soon as practical after receiving the report, or within 3 months of that date at the latest.

76 Other amendment of this Plan

This Plan can be amended in accordance with clause 50 in respect to adjustments to TDELS and IDELS.

Water Sharing Plan for the Tarcutta Creek Water Source 2003

Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

account water is the balance in an access licence water allocation account at a particular time.

Note. An access licence water allocation account records water allocations accrued under the licence as well as water allocations taken, assigned or re-credited. The operation of the account is also governed by rules for the carrying over of credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

Cap is the long-term average annual volume of water that would have been diverted under the development and management conditions defined in Schedule F of the Murray Darling Basin Agreement.

conversion factor refers to the adjustment factor that is to be applied to share components when they are cancelled or reissued in a different water source and visa versa, or when the licence category is changed. It is designed to provide for the fact that the value of a unit of share component in terms of the average water allocations that result from it may vary from one water source to another, or from one category of licence to another.

endangered ecological communities means ecological communities listed in Schedule 1 of the *Threatened Species Conservation Act 1995* or Schedule 4 of the *Fisheries Management Act 1994*.

extraction limit is a limit on the amount of water that may be extracted from an extraction management unit.

extraction management unit is a group of water sources for the purpose of managing annual average extraction.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs. See also **in-river dam** and **runoff harvesting dam**.

flow classes are categorised by the size and duration of flow levels in unregulated rivers, for example:

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

flow gauging station is a device that is used to measure the height of a river, from which the flow in the river can be calculated.

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individual daily extraction limit (IDEL) is the volume of water that may be extracted by an individual access licence from an unregulated river on a daily basis from a particular flow class.

infrastructure includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within this water source.

in-river dam is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a “river” gazetted 23rd March 2001. See also **farm dam** and **runoff harvesting dam**.

management zone is an area within the water source in which daily extraction limits may be defined or where dealing restrictions are approved. Management zones may be designated where the water source to which the plan applies is divided into areas and total daily extraction limits are defined for each area. They may also be designated where local dealing restrictions are in place.

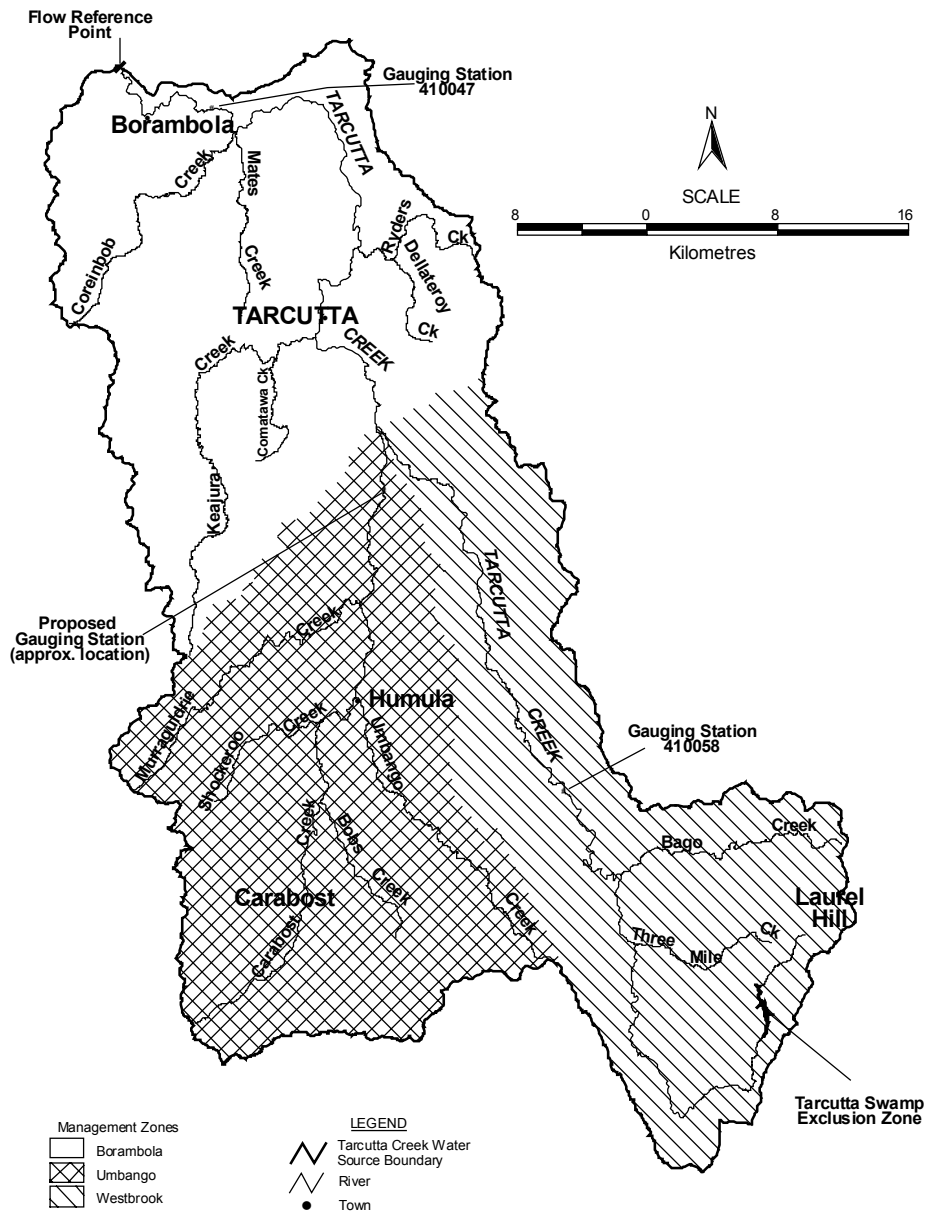
runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined by the Order made under section 5 of the *Water Act 1912* in relation to the definition of a river gazetted 23rd March 2001. See also **farm dam** and **in-river dam**.

Note. This Order refers to watercourses shown as blue lines on topographic maps. The lines which are uppermost in a catchment are 1st order streams, when two 1st order streams are joined they make a 2nd order stream, etc. For more information see the Farm Dams Assessment Guide available from the Department of Land and Water Conservation.

total daily extraction limit (TDEL) is the volume of water that may be extracted under access licences from an unregulated river on a daily basis from a particular flow class.

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Schedule 2 Tarcutta Creek Water Source



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Schedule 3 Rivers in the Tarcutta Creek Water Source

This water source includes, without limitation:

Bago Creek	Major Mitchells Creek
Bedding Gully	Mates Creek
Bella Gully	Mates Gully Creek
Black Jacks Creek	Macnamaras Creek
Bobs Creek	Morgans Creek
Brennans Creek	Murraguldrie Creek
Broad Creek	Nursery Creek
Butter Creek	Paddys Creek
Campbells Creek	Plain Creek
Carabost Creek	Possum Plain Creek (also known as Opossum Plain Creek)
Chinamens Creek	Redbank Creek
College Creek	Rock Spring Creek
Comatawa Creek	Rocky Creek
Coreinbob Creek	Ryders Creek
Coxs Creek	Sawpit Creek
Dellateroy Creek	Schoolmasters Creek
Dingo Creek	Scrubby Creek
Downfall Creek	Sextons Creek
Forest Creek	Shockeroo Creek
Galvins Creek	Spring Creek
Home Camp Creek	Spring Gully
Horse Creek	Spud Gully
Jacobs Creek	Stony Creek
Kavanghs Creek	Sullivans Creek
Keajura Creek	Supples Creek
Kilgowla Creek	Tarcutta Creek
Kurrajong Creek	Tarcutta Swamp
Lapstone Creek	Three Mile Creek
Little Mannus Creek	Tom Scotts Creek
Long Creek	Umbango Creek
MacIntyres Creek	Wattle Creek
Main Creek	

All 3rd order and permanently flowing 1st and 2nd order rivers/streams in this water source.

 Water Sharing Plan for the Tarcutta Creek Water Source 2003

Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL – contributes to target in full

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

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to target

Relevant Target	Level of contribution	Comments
Target 1b Extractions in Murray-Darling Basin's unregulated rivers limited to the MDBMC Cap level	FULL	<ul style="list-style-type: none"> This Plan sets out the basis for the extraction limit for this water source. The extraction limit is clearly defined as the average of the 6 years surveyed usage (1993-1999). Rules set out in Part 9 of this Plan.
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	<ul style="list-style-type: none"> Rules set out in Part 9 of this Plan.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	HIGH	<ul style="list-style-type: none"> Provides a relatively low level of protection to very low flows at the commencement of this Plan, however the field verification provisions permit this to increase if warranted. Has put in place daily extraction limits to protect/restore 40% to 94.7% of flows. 4 threatened fish species but no recovery plans in place therefore no specific provisions in this Plan. Tarcutta is part of an area listed as an endangered aquatic community with reduced flows as a key threatening process. See rules set out in Part 4 of this Plan.

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Relevant Target	Level of contribution	Comments
<p>Target 4a Wherever the frequency of “end of system” daily flows would be less than 60 percent of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60 percent of predevelopment levels or increased by at least 10 percent of the predevelopment frequency</p>	HIGH	<ul style="list-style-type: none"> • As compared at its commencement this Plan provides more than 10% improvement in A class flows. • Daily extraction limit protects 40% of A class flow; 64.4% of flow B and 70% of C class flows. • Rules set out in Part 10 of this Plan.
<p>Target 4b Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the predevelopment 95th percentile</p>	PARTIAL	<ul style="list-style-type: none"> • Cease to pump levels protect flows from access by unregulated river access licences. 0.85 ML/day can be extracted by domestic and stock, unregulated river (Aboriginal cultural) and local water utility access licences. • Cease to pump level can be increased to allow for better protection in accordance with clauses 74 and 75. • Rules set out in Parts 3, 4 and 10 of this Plan.
<p>Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components</p>	FULL	<ul style="list-style-type: none"> • This Plan recognises the access licence share components, and also establishes daily extraction limits for distribution to individual licence holders. • Rules set out in Part 10 of this Plan.
<p>Target 6b A pathway for reducing the share components to 200 percent of the long term average annual extraction limit to be established not later than the end of the term of the SWMOP</p>	FULL	<ul style="list-style-type: none"> • Total share components should not exceed 200% of extraction limit for Murrumbidgee Unregulated Rivers Extraction Management Unit. • Rules set out in Part 9 of this Plan.
<p>Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy</p>	PARTIAL	<ul style="list-style-type: none"> • The Government has established other mechanisms to address this target. • This Plan does provide reasonable market opportunity.

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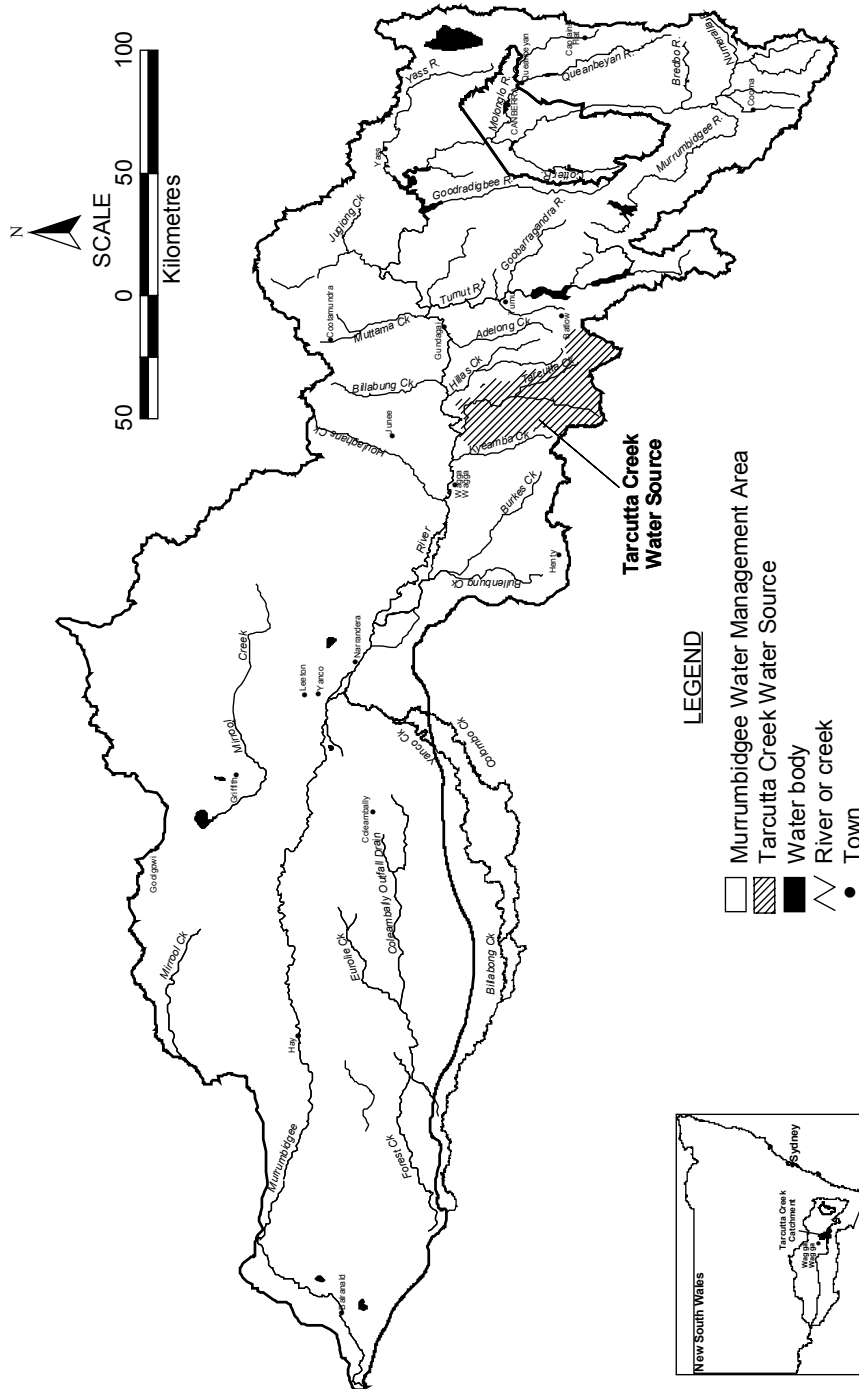
Relevant Target	Level of contribution	Comments
<p>Target 8 Daily extraction components specified and tradeable, subject to metering, reporting and compliance, for at least 50 percent of unregulated river access licences and for 80 percent of stressed unregulated rivers</p>	FULL	<ul style="list-style-type: none"> • This Plan establishes daily extraction limits across the whole water source. • Rules set out in Part 10 of this Plan.
<p>Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use</p>	FULL	<ul style="list-style-type: none"> • Cease to pump levels will protect flows for holders of domestic and stock rights from the impact of most access licences, however it does not protect them from the impact of licensed domestic and stock or urban water during dry periods. • The estimate of daily requirements for domestic and stock and native title rights is 4.4 ML/day. • Rules set out in Parts 3 and 5 of this Plan.
<p>Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed</p>	PARTIAL	<ul style="list-style-type: none"> • An Aboriginal community representative has been involved in the development of this Plan. • Forums were held with indigenous people to identify local water sharing issues.
<p>Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them</p>	HIGH	<ul style="list-style-type: none"> • This Plan does address specific Aboriginal cultural or traditional requirements, but has not identified any particular sites of importance. • This Plan does provide a level of environmental protection which will assist in protecting many Aboriginal values. • Part 8 of this Plan proposes a category of licence, being the unregulated river (Aboriginal cultural) access licence to provide for traditional cultural, spiritual and customary uses.

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Relevant Target	Level of contribution	Comments
Target 16a All share components of access licences tradeable	FULL	<ul style="list-style-type: none"> Part 11 of this Plan sets out the rules for access licence dealings.
Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water	FULL	<ul style="list-style-type: none"> This Plan establishes conversion factors for dealings between unregulated water sources within the extraction management unit, and between the Murrumbidgee regulated river and this water source.
Target 16d Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery	FULL	<ul style="list-style-type: none"> This Plan does not impose reduction factors.
Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment	FULL	<ul style="list-style-type: none"> Rules are established in Part 10 of this Plan.
Target 16f Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit	FULL	<ul style="list-style-type: none"> This Plan establishes 2 water transfer areas (Tarcutta Swamp Exclusion Zone and the rest). No net increase in access licence share and extraction components is permitted in the Tarcutta Swamp Exclusion Zone.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	HIGH	<ul style="list-style-type: none"> This Plan includes a specific water quality objective to improve or maintain water quality through flow management (this would not change rules but make expected outcomes more transparent). This Plan does provide reasonably high level of environmental protection which should assist in protecting water quality. See provisions set out in Part 2 of this Plan.

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Appendix 1 Murrumbidgee Water Management Area



Water Sharing Plan for the Tarcutta Creek Water Source 2003

Appendix 2 Location of maps for public inspection

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

District Office
Department of Land and Water Conservation
Corner of Johnston and Tarcutta Streets
WAGGA WAGGA NSW 2650

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Appendix 3 Performance indicators

Performance indicators for Tarcutta Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(a) Change in low flows.	11 (2) (c) 11 (2) (b) 11 (2) (f) 11 (2) (n)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points. 	<ul style="list-style-type: none"> River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. Note. Not every objective is relevant to every river in NSW. Plan will contribute to a decrease in the frequency and duration of low flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(b) Change in moderate to high flows.	11 (2) (d) 11 (2) (e) 11 (2) (f) 11 (2) (n)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points. 	<ul style="list-style-type: none"> RFO 3. Plan will maintain or increase the frequency and duration of moderate to high flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(c) Change in local water utilities access.	11 (2) (h) 11 (2) (j)	<ul style="list-style-type: none"> Change in safe yield (<i>safe yield</i> is the annual demand that can be supplied from the water supply headworks and is based on the period of records used and an acceptable level of restriction). 	<ul style="list-style-type: none"> Water sharing plans for unregulated water sources have the potential to impact on urban water supplies.

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Performance indicators for Tarcutta Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(d) Change in ecological condition of this water source and dependent ecosystems.	11 (2) (b) 11 (2) (g) 11 (2) (m)	<ul style="list-style-type: none"> • Periodic assessment of identified indicators for ecological condition. 	<ul style="list-style-type: none"> • Water sharing plans are limited to providing for changes in flow regime aimed at improving the conditions for the ecological condition of the river. • There are many other factors that contribute to ecological objectives. • The focus of this performance indicator will be the effect of flow strategies. Therefore assessment of ecological condition should be based largely on hydrologic parameters (such as wetted area, depth in pools and velocity). This attempts to exclude external, non-water sharing plan related factors (such as climate and catchment landuse changes).
(e) Extent to which basic landholder rights requirements have been met.	11 (2) (a) 11 (2) (i) 11 (2) (l)	<ul style="list-style-type: none"> • Assessment of cease to pump levels in relation to basic rights requirements. 	<ul style="list-style-type: none"> • Basic landholder rights usage figures in water sharing plans are estimated (not actual use).
(f) Change in economic benefits derived from water extraction and use.	11(2) (a) 11 (2) (h) 11 (2) (i) 11 (2) (j) 11 (2) (k) 11 (2) (n)	<ul style="list-style-type: none"> • Number of days access provided. • Percentage change in number and volume of farm dams. • Change in unit price of water transferred. 	<ul style="list-style-type: none"> • There are many factors affecting economic status of a region, for example commodity prices. • Measurement of the number of farm dams will indicate the adjustment to the rules and the ongoing access to water. • Assessment undertaken as part of plan performance monitoring will make assumptions to attempt to identify the impact of the plan provisions.

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Performance indicators for Tarcutta Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(g) Extent to which native title rights requirements have been met.	11 (2) (a) 11 (2) (l)	<ul style="list-style-type: none"> Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people. 	<ul style="list-style-type: none"> The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(h) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.	11 (2) (i) 11 (2) (l)	<ul style="list-style-type: none"> Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people. 	<ul style="list-style-type: none"> The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(i) Contribution to the achievement of water quality to support the environmental values of this water source.	11 (2) (o)	<ul style="list-style-type: none"> Change in the baseline figures of identified water quality variables. 	<ul style="list-style-type: none"> Many factors may affect water quality that are not related directly to flow management.

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Appendix 4 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

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groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, **commitments to take water** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.

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- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11. Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or

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- (c) if the licence is suspended under section 78 of the Act, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
- (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
- (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject

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- to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

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13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.
- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.

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- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
- (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
- (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:

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- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
- (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
- (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:
- (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.

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- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
- (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
- (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
- (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and

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- (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or

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- (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or
 - (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
- (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
- (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.
- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.

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- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Water Sharing Plan for the Tenterfield Creek Water Source 2003 Order

under the

Water Management Act 2000

Pursuant to section 50 of the *Water Management Act 2000*, I, the Minister for Land and Water Conservation, make the following Minister's plan.

JOHN AQUILINA, M.P.,
Minister for Land and Water Conservation

 Water Sharing Plan for the Tenterfield Creek Water Source 2003

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Water Sharing Plan for the Tenterfield Creek Water Source 2003

Water Sharing Plan for the Tenterfield Creek Water Source 2003

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Tenterfield Creek Water Source 2003* (hereafter **this Plan**).

2 Nature and status of this Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000* as amended (hereafter **the Act**).
- (2) This Plan covers the core provisions of section 20 of the Act for water sharing, and additional provisions of section 21 of the Act, and other relevant matters.

3 Date of commencement

This Plan takes effect on 1 July 2003 and ceases 10 years after that date.

4 Area to which this Plan applies

- (1) The area in respect of which this Plan is made is that area of land within the Border Rivers Water Management Area known as the Tenterfield Creek Water Source (hereafter **this water source**) as shown on the map in Schedule 2, excluding any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

Note. The Border Rivers Water Management Area is shown on a map in Appendix 1.

Note. Maps referred to in this Plan may be inspected at offices of the Department of Land and Water Conservation listed in Appendix 2.

- (2) This water source is divided into the following management zones shown on the map in Schedule 2:
 - (a) Tenterfield Creek Management Zone 1 (hereafter **Zone 1**),
 - (b) Tenterfield Creek Management Zone 2 (hereafter **Zone 2**),
 - (c) Tenterfield Creek Management Zone 3 (hereafter **Zone 3**),
 - (d) Tenterfield Creek Management Zone 4 (hereafter **Zone 4**), and
 - (e) Tenterfield Creek Management Zone 5 (hereafter **Zone 5**).

Note. Daily extraction limits are defined for each management zone.

5 Waters to which this Plan applies

- (1) The waters of this water source include all water occurring on the land surface shown on the map in Schedule 2 including, but not limited to:
 - (a) all rivers in this water source including, but not limited to, those nominated in Schedule 3, and
 - (b) all lakes and wetlands in this water source.

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- (2) The waters of this water source exclude all water contained within aquifers underlying this water source.
- (3) The waters of this water source exclude waters in any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.

6 Interpretation

- (1) Terms that are defined in the Act have the same meaning in this Plan and the effect of these terms may be explained in Notes.
- (2) Additional terms to those identified in subclause (1) are defined Schedule 1.
- (3) Notes in the text of this Plan do not form part of this Plan.
- (4) Schedules to this Plan form part of this Plan.
- (5) Appendices to this Plan do not form part of this Plan.

7 Effect on licences, authorities and permits under the Water Act 1912

- (1) This Plan applies from commencement to those matters that are administered under the Act at that time.
- (2) This Plan applies to other matters from the date the relevant provisions of the Act are commenced.

Note. To the extent possible, the rules embodied in this Plan will apply to matters administered under the *Water Act 1912* in the interim.

8 State Water Management Outcomes Plan

- (1) In accordance with section 16 (1) (a) of the Act, this Plan is consistent with the State Water Management Outcomes Plan published in the NSW Government Gazette on 20 December 2002 (hereafter *the SWMOP*).
- (2) Schedule 4 identifies the SWMOP targets applicable to this Plan and how this Plan contributes to those targets.

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Part 2 Vision, objectives, strategies and performance indicators

9 Vision, objectives, strategies and performance indicators

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

10 Vision

The vision for this Plan is for the community and government planning the management of this water source for a healthy environment, a viable economy and ongoing community well-being.

11 Objectives

The objectives of this Plan are to:

- (a) protect, maintain and enhance the environmental values of this water source,
- (b) manage this water source to ensure equitable sharing of water between all users,
- (c) ensure extraction from this water source is managed within the limits established for the Border Rivers Unregulated Extraction Management Unit,
- (d) ensure that extraction from this water source occurs within sustainable limits,
- (e) manage this water source to recognise and preserve basic landholder rights,
- (f) provide opportunities for market based trading of surface water rights in this water source, within sustainability limits,
- (g) contribute to the achievement of water quality to support the environmental values of this water source,
Note. This objective refers to maintaining water quality. Although there are no specific strategies directly related to this objective in this Plan, the environmental water provisions in this Plan make a positive contribution to maintaining water quality.
- (h) protect the cultural, heritage and spiritual value of this water source where possible through water sharing, and
Note. This objective refers to maintaining the cultural, heritage and spiritual value of this water source. Although there are no specific strategies directly related to this objective in this Plan, the environmental water provisions in this Plan make a positive contribution to maintaining the cultural, heritage and spiritual value of this water source.
- (i) recognise the importance of the management of this water source for downstream river health.

12 Strategies

The strategies of this Plan are to:

- (a) establish cease (and commence) to pump levels and flow classes,
- (b) limit the amount of water that can be extracted on a daily basis from different flow classes,

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- (c) limit the long-term average extraction of water,
- (d) clearly define access rules and conditions for extracting water from this water source,
- (e) establish rules for determining the water available from time to time under access licences,
- (f) establish water allocation accounting rules, and
- (g) specify access licence dealing rules that maximise flexibility for water users without adversely impacting on this water source.

13 Performance indicators

The following indicators are to be used to determine the performance of this Plan against its objectives:

- (a) change in low flows,
- (b) change in moderate to high flows,
- (c) change in local water utilities and major water utilities access (where those utilities are involved in urban water provision),
- (d) change in ecological condition of this water source and dependent ecosystems,
- (e) extent to which basic landholder rights requirements have been met,
- (f) change in economic benefits derived from water extraction and use,
- (g) extent to which native title rights requirements have been met,
- (h) extent of recognition of spiritual, social and customary values of water to Aboriginal people, and
- (i) contribution to the achievement of water quality to support the environmental values of this water source.

Note. Appendix 3 details the objectives to which these performance indicators relate and the methods for assessing these indicators.

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Part 3 Basis for water sharing

14 Basis for water sharing

This Part is made in order to give effect to section 5 (3) of the Act, and in accordance with sections 20 (2) (c) and 21 (e) of the Act.

15 Climatic variability

- (1) This Plan recognises climatic variability and therefore river flow variability in this water source.
- (2) To give effect to subclause (1), this Plan has provisions that manage:
 - (a) the sharing of water in this water source within the limits of water availability on a long-term average basis, and
 - (b) the sharing of the flows that occur in this water source on a daily basis.

16 Extraction management unit

- (1) The availability of water for extraction from this water source on a long-term average basis will be determined at the level of an extraction management unit.
- (2) The extraction management unit of which this water source is part is known as the Border Rivers Unregulated Extraction Management Unit, and is shown on the map in Schedule 5.

17 Flow classes

This Plan establishes the following flow classes as the basis for sharing of daily flows:

- (a) For Zone 1:
 - (i) very low flow class at or less than 0.2 megalitres per day (hereafter *ML/day*),

Note. The 0.2 ML/day corresponds to the estimated 80th percentile of all days, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (ii) C class flows greater than 0.2 ML/day and at or less than 3.0 ML/day, and
 - (iii) D class flows greater than 3.0 ML/day.
- (b) For Zone 2:
 - (i) very low flow class at or less than 2.0 ML/day,

Note. The 2.0 ML/day corresponds to the estimated 75th percentile of all days, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (ii) C class flows greater than 2.0 ML/day and at or less than 21 ML/day, and
 - (iii) D class flows greater than 21 ML/day.

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- (c) For Zone 3:
- (i) very low flow class at or less than 1.0 ML/day,
Note. The 1.0 ML/day corresponds to the 75th percentile of all days, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (ii) C class flows greater than 1.0 ML/day and at or less than 9.0 ML/day, and
 - (iii) D class flows greater than 9.0 ML/day.
- (d) For Zone 4:
- (i) very low flow class at or less than 1.0 ML/day,
Note. The 1.0 ML/day corresponds to the estimated 60th percentile of all days, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (ii) C class flows greater than 1.0 ML/day and at or less than 8.0 ML/day, and
 - (iii) D class flows greater than 8.0 ML/day.
- (e) For Zone 5:
- (i) very low flow class at or less than 4.5 ML/day,
Note. The 4.5 ML/day corresponds to the estimated 75th percentile of all days, and is referred to as the cease to pump on a falling river and the commence to pump on a rising river.
 - (ii) C class flows greater than 4.5 ML/day and at or less than 124.0 ML/day, and
 - (iii) D class flows greater than 124.0 ML/day.

Note. The flow classes have been determined based on flow information that inherently includes seasonal effects as well as evaporation and seepage losses.

18 Flow reference point

For the purpose of this Plan, all flows referred to relate to the estimated flows at the flow reference point at the downstream end of this water source, as shown on the map in Schedule 2.

19 Determination of flow class

Announcement of daily flow classes will be made from time to time by the Minister based on the flow at a flow gauging station, correlated to the flow reference point established in clause 18.

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Part 4 Environmental water provisions

20 Environmental water provisions

This Part is made in accordance with sections 5 (3) and 8 (1), 8 (2) and 20 (1) (a) of the Act.

21 Environmental health water

(1) Environmental health water is identified and established as follows:

(a) In very low flows:

- (i) in Zone 1, the flow occurring in this zone minus 0.2 ML/day and minus 0.044 ML/day when access to very low flows and pools is provided for under clause 62,
- (ii) in Zone 2, the flow occurring in this zone minus 0.4 ML/day and minus 1.0 ML/day when access to very low flows and pools is provided for under clause 62,
- (iii) in Zone 3, the flow occurring in this zone minus 0.2 ML/day and minus 0.6 ML/day when access to very low flows and pools is provided for under clause 62,
- (iv) in Zone 4, the flow occurring in this zone minus 0.1 ML/day and minus 0.5 ML/day when access to very low flows and pools is provided for under clause 62, and
- (v) in Zone 5, the flow occurring in this zone minus 0.8 ML/day and minus 5.0 ML/day when access to very low flows and pools is provided for under clause 62.

Note. These figures are the amount of water estimated at the commencement of this Plan for basic landholder rights and those access licences with access to very low flows.

(b) In C class flows:

- (i) in Zone 1, the flow occurring in this zone minus 0.42 ML/day,
- (ii) in Zone 2, the flow occurring in this zone minus 5.3 ML/day,
- (iii) in Zone 3, the flow occurring in this zone minus 3.2 ML/day,
- (iv) in Zone 4, the flow occurring in this zone minus 2.6 ML/day, and
- (v) in Zone 5, the flow occurring in this zone minus 25.6 ML/day.

Note. These figures are the amount of water estimated at the commencement of this Plan for C class total daily extraction limit and basic landholder rights.

(c) In D class flows:

- (i) in Zone 1, the flow occurring in this zone minus 0.42 ML/day,
- (ii) in Zone 2, the flow occurring in this zone minus 10.4 ML/day,
- (iii) in Zone 3, the flow occurring in this zone minus 6.1 ML/day,
- (iv) in Zone 4, the flow occurring in this zone minus 5.6 ML/day, and

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(v) in Zone 5, the flow occurring in this zone minus 34.8 ML/day.

Note. These figures are the amount of water estimated at the commencement of this Plan for D class total daily extraction limit and basic landholder rights.

(2) Environmental health water is maintained as follows:

(a) In very low flows:

- (i) the holders of access licences are not permitted any access,
- (ii) notwithstanding subclause (a) (i), access licence holders listed on Schedule 6 may have limited access to very low flows in accordance with clause 62, and
- (iii) persons exercising domestic and stock and native title rights may take a combined total of up to 0.2 ML/day in Zone 1, 0.4 ML/day in Zone 2, 0.2 ML/day in Zone 3, 0.1 ML/day in Zone 4, or 0.8 ML/day in Zone 5.

Note. In times of severe water shortage the Minister may issue an Order under section 60 (2) of the Act which suspends the provisions of this Plan and the priorities it establishes.

Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment, for reasons of public health, or to preserve basic landholder rights.

(b) In C class flows:

- (i) the holders of access licences have restricted access to water as specified in clause 45,
- (ii) persons exercising domestic and stock and native title rights may take water, and
- (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 0.2 ML/day in Zone 1, 0.4 ML/day in Zone 2, 0.2 ML/day in Zone 3, 0.1 ML/day in Zone 4, or 0.8 ML/day in Zone 5 in this flow class the access to water for unregulated river access licences will be reduced in accordance with clause 50 to maintain the environmental water in this flow class.

(c) In D class flows:

- (i) the holders of access licences have restricted access to water as specified in clause 45,
- (ii) persons exercising domestic and stock and native title rights may take water, and
- (iii) if the water taken under domestic and stock and native title rights is assessed to be exceeding 0.2 ML/day in Zone 1, 0.4 ML/day in Zone 2, 0.2 ML/day in Zone 3, 0.1 ML/day in Zone 4, or 0.8 ML/day in Zone 5 in this flow class the access to water for unregulated river access licences will be reduced in accordance with clause 50 to maintain the environmental water in this flow class.

(d) In all flow classes, limits are imposed on the availability of water in accordance with clauses 35 and 37, that protect a proportion of natural river flows for fundamental ecological needs from increases in long-term water extraction.

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Note. These rules protect the water for the environment by limiting both the water extracted on a long-term average basis, and the rate of extraction of water in different flow ranges, thereby achieving the objectives of this Plan.

Note. This Plan recognises that the environmental health water a non-extractive water source for traditional Aboriginal spiritual, social and cultural benefits, and improved water quality.

22 Extraction by water supply work

Subject to the operation of clause 62, notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is permitted only if there is visible flow in the river in the vicinity of the work.

23 Supplementary environmental water

At the commencement of this Plan, there is no water committed for specified environmental purposes in accordance with section 8 (1) (b) of the Act.

24 Adaptive environmental water

- (1) At any time an access licence holder may, by a process determined by the Minister, commit all or part of their licence as adaptive environmental water.
- (2) The conditions of the commitment specified in subclause (1):
 - (a) are to be established by the Minister,
 - (b) are to be specified on the licence, and
 - (c) shall be such as to ensure that there is a contribution to the objectives of this Plan.
- (3) At the commencement of this Plan there are no access licences committed to an environmental purpose in accordance with section 8 (1) (c) of the Act.

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Part 5 Basic landholder rights

25 Basic landholder rights

This Part is made in accordance with sections 5 (3) and 20 (1) (b) of the Act.

Note. The Minister may issue an Order under section 328 of the Act to restrict the exercise of domestic and stock rights from this water source to protect the environment, for reasons of public health, or to preserve basic landholder rights.

26 Domestic and stock rights

- (1) At the commencement of this Plan the water requirements of holders of domestic and stock rights are estimated to be a total of 1.7 ML/day, distributed as follows:
 - (a) Zone 1 in 0.2 ML/day,
 - (b) Zone 2 in 0.4 ML/day,
 - (c) Zone 3 in 0.2 ML/day,
 - (d) Zone 4 in 0.1 ML/day, and
 - (e) Zone 5 in 0.8 ML/day.
- (2) This Plan recognises that the exercise of domestic and stock rights may increase during the term of this Plan.

Note. Increase in use of domestic and stock rights may occur as a result of an increase in the number of landholdings fronting rivers and lakes in this water source and/or as a result of an increase of the exercise of basic landholder rights by existing landholders.

27 Native title rights

- (1) At the commencement of this Plan there are no holders of native title rights and therefore the water requirements for native title rights are 0 ML/day.
- (2) This Plan recognises that the exercise of native title rights may increase during the term of this Plan.

Note. Increase in use of native title rights may occur as a result of the granting of native title rights under the Commonwealth's *Native Title Act 1993*.

28 Harvestable rights

The requirement for water under harvestable rights is the amount of water owners of land are entitled to capture pursuant to the harvestable rights Order published in the NSW Government Gazette on 23 March 2001 under section 54 of the Act.

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Part 6 Bulk access regime

29 Bulk access regime

- (1) This Part is made in accordance with section 20 (1) (e) of the Act.
- (2) This Plan establishes a bulk access regime for the extraction of water under access licences in this water source having regard to:
 - (a) the environmental water provisions established under Part 4 of this Plan,
 - (b) the requirements for basic landholder rights identified under Part 5 of this Plan, and
 - (c) the requirements for water for extraction under access licences identified under Part 7 of this Plan.
- (3) The bulk access regime established in subclause (2):
 - (a) recognises the effect of climatic variability on the availability of water as provided for under Part 3 of this Plan,
 - (b) establishes rules according to which access licences are granted as provided for in Part 8 of this Plan,
 - (c) recognises and is consistent with limits to the availability of water as provided for in Part 9, Division 1 of this Plan,
 - (d) establishes rules according to which available water determinations are to be made as provided for in Part 9 Division 2 of this Plan,
 - (e) establishes rules according to which access licences are managed as provided for in Part 10 of this Plan, and
 - (f) establishes rules with respect to the priorities according to which access licences are to be adjusted as a consequence of any reduction in the availability of water as provided for in Parts 9 and 10 of this Plan.

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Part 7 Requirements for water under access licences

30 Requirements for water under access licences

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

Note. The amount of water specified in this Part represents the total volumes specified on access licences in this water source. It is not a commitment to supply that water.

31 Estimate of water requirements

- (1) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, the requirements identified for water for extraction under access licences within each zone of this water source will total approximately 3675 megalitres per year (hereafter *ML/yr*), distributed as follows:
 - (a) 846 ML/yr in Zone 1,
Note. 824 ML/yr of this is for Tenterfield Shire Council for the town water supply.
 - (b) 433 ML/yr in Zone 2,
 - (c) 665 ML/yr in Zone 3,
 - (d) 340 ML/yr in Zone 4, and
 - (e) 1,391 ML/yr in Zone.
- (2) It is estimated that at the time of commencement of Part 2 of Chapter 3 of the Act in the area in respect of which this Plan is made, there will be several runoff harvesting access licences in this water source, that will have their access licence share component expressed as the water that can be extracted from time to time from the approved works.
- (3) This Plan recognises that the total requirements for water for extraction within this water source may change during the term of this Plan as a result of:
 - (a) the granting, surrender, cancellation or non-renewal of access licences, or
 - (b) variations to local water utility licences arising from sections 66 (3) or 66 (4) of the Act.

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Part 8 Rules for granting access licences

32 Rules for granting access licences

- (1) This Part is made in accordance with sections 20 (2) (b) and 63 of the Act, having regard to the limits to water availability in this water source and the need to protect the ecological health of the river.
- (2) Access licences may be granted in this water source subject to any embargo on the making of applications for access licences made under Chapter 3 Part 2 Division 7 of the Act.
- (3) The Minister should declare an embargo on the making of applications for access licences in this water source, other than access licences of the following kinds:
 - (a) local water utility access licences,
Note. Pursuant to sections 66 (3) and 66 (4) of the Act, the Minister may also vary a local water utility's share component at 5 year intervals, or on application of the local water utility where there is a rapid growth in population.
 - (b) domestic and stock access licences, or
 - (c) an access licence resulting from an application of a type listed in section 82 (1) of the Act.
- (4) In applying for a new access licence, the applicant must establish the purpose and circumstance relating to that access licence, and that the share component sought will be the minimum required to meet that purpose and circumstance.
- (5) Subclause (4) does not apply to a new access licence arising from an application of a type listed in section 82 (1) of the Act.
- (6) Any individual daily extraction limit (hereafter **IDEL**) granted in accordance with this clause cannot exceed the IDEL initially assigned to an equivalent share component for that category of access licence, as varied by clause 50.
- (7) In accordance with section 56 of the Act, all access licences in this water source shall have a share component expressed as a volume in ML/yr.
- (8) Notwithstanding subclause (7) runoff harvesting access licences may have the share component expressed either as a volume in ML/yr or in terms of the amount of water that can be extracted from time to time from specified works.

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Part 9 Limits to the availability of water

Division 1 Long-term average extraction limit

33 Limits to the availability of water

This Division is made in accordance with section 20 (2) (a) of the Act.

34 Extraction management unit

Management of the long-term extraction of water in this water source will be undertaken in the context of the Border Rivers Unregulated Extraction Management Unit (hereafter *this Unit*) referred to in clause 16 (2).

35 Long-term average extraction limit

The long-term average extraction limit for this Unit will be the total of:

- (a) the estimated annual extraction of water averaged over the period from July 1993 to June 1999 specified in conditions attached to or included in entitlements issued under Part 2 of the *Water Act 1912* in this Unit, immediately prior to the commencement of Part 2 of Chapter 3 of the Act for this Unit, and
- (b) an estimate of annual extraction of water under domestic and stock and native title rights in this Unit at the commencement of this Plan.

36 Variation of the long-term average extraction limit

The long-term average extraction limit of this Unit may be varied by the Minister if dealings under Part 11 of this Plan result in the issuing or cancellation of access licences in this Unit.

Division 2 Available water determinations

37 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) In making an available water determination under section 59 of the Act, the Minister should consider the following rules:
 - (a) water extraction in this Unit will be monitored in each water accounting year to determine if there is any growth in volumes extracted above the extraction limit specified in clause 35, based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years,
Note. A water accounting year is defined in clause 42 (3).
 - (b) if water that, pursuant to an access licence, is committed as adaptive environmental water to be left in a river for environmental purposes, then for the purpose of subclause (a), the extraction will be assumed to be 100% of the available water determination,

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- (c) if water that, pursuant to an access licence, is committed as adaptive environmental water to be extracted for environmental purposes, then for the purpose of subclause (a), the extraction will be that measured through the approved water supply work,
- (d) for all access licences, an initial available water determination, of such volume of water as is equivalent to two times the access licence share component, should be made on 1 July 2003, and such determination should apply for one water accounting year,
- (e) from 1 July 2004, available water determinations for local water utility and domestic and stock access licences should be of such volume of water as is equivalent to the access licence share component, with priority given to making this water available above the making of water available to all other categories of access licence, and such determinations should be made annually,
- (f) from 1 July 2004, available water determinations for unregulated river access licences, including all subcategories, should be such volume of water as is equivalent to the access licence share component, except as provided in subclauses (g) and (h), and such determinations should be made annually,
- (g) if the 3 year average of extraction in this Unit exceeds the long-term average extraction limit established in clause 35 by 5% or greater, then the available water determination for the following water accounting year for unregulated river access licences in this water source should be reduced by an amount that is assessed necessary by the Minister to return subsequent total water extraction to the long-term average extraction limit,
- (h) if the 3 year average of extraction in this Unit is less than 95% of the long-term average extraction limit established in clause 35, the available water determination for unregulated river access licences in this water source shall be increased to such an extent as to allow extraction to increase to that extraction limit,
- (i) notwithstanding subclause (h), the available water determination shall not exceed 100% of total access licence share components,
- (j) a new available water determination for unregulated river access licences determined under subclause (g) or (h) should be repeated for each of the subsequent two water accounting years unchanged in quantity, and
- (k) available water determinations for runoff harvesting access licences should be made annually and should be either the access licence share component or the water that can be extracted from time to time from the approved works, depending on the manner in which the share component is expressed on the licence.

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Part 10 Rules for managing access licences

Division 1 General

38 Rules for managing access licences

This Part is made in accordance with sections 20 (2) (b), 21 (a) and 21 (c) of the Act, having regard to:

- (a) the environmental water rules established in Part 4 of this Plan,
- (b) requirements for water to satisfy basic landholder rights identified in Part 5 of this Plan, and
- (c) requirements for water for extraction under access licences in Part 7 of this Plan.

Division 2 Water allocation account management

39 Water allocation account management

This Division is made in accordance with sections 20 (2) (b) and 21 (c) of the Act.

40 Water allocation accounts

In accordance with section 85 of the Act, a water allocation account shall be established for each access licence in this water source.

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

Note. Water allocations may also be recredited to these accounts in accordance with section 76 of the Act, subject to the operation of a return flows scheme established under section 75 of the Act.

41 Accrual of water allocations

Water allocations will be accrued into water allocation accounts in accordance with the Minister's available water determinations as specified in clause 37.

42 Annual accounting for water extraction

- (1) Water taken from this water source will be accounted for at least annually.
- (2) Water extracted by a water supply work nominated by an access licence is taken to be extracted and will be periodically debited against the access licence water allocation account.
- (3) A water accounting year shall be the 12 month period commencing 1 July.
- (4) The maximum water allocation that can be carried over from one water accounting year to the next is as follows:
 - (a) 100% of the access licence share component from 2003/4 to 2004/5,
 - (b) 200% of the access licence share component from 2004/5 to 2005/6, and
 - (c) thereafter, the sum of the previous 2 available water determinations.

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- (5) Notwithstanding subclause (4) total water in any water allocation account cannot exceed 3 times the share component of the access licence:
 - (a) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (b) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (c) minus any water allocations assigned to another licence by a water allocation assignment under section 71G of the Act in that year.
- (6) In any one water accounting year, water taken from this water source under an access licence may not exceed a volume consisting of:
 - (a) twice the water allocation accrued under the licence that year,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in that year,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in that year, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in that year.
- (7) A water allocation account shall remain at or above zero at all times.

43 Three year accounting for water extraction

- (1) Water taken from this water source in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
 - (a) the water allocations accrued under the licence in those years,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71 G of the Act in those years,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71 G of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
 - (a) 3 times the share component of the access licence,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71G of the Act in those years,
 - (c) plus any water allocations re-credited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocations assigned to another licence, by a water allocation assignment under section 71G of the Act in those years.

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Division 3 Sharing flows on a daily basis

44 Sharing flows on a daily basis

This Division is made in accordance with sections 20 (2) (b) and 21 (a) of the Act.

45 Total daily extraction limits

(1) This Plan establishes a total daily extraction limit (hereafter **TDEL**) for each flow class as follows:

(a) in Zone 1:

- (i) for the very low flow class, 0.044 ML/day when access to very low flows and pools is provided under clause 62,
- (ii) for C class, 0.22 ML/day, and
- (iii) for D class, 0.22 ML/day,

Note. These flows represent 7% of the top of C class flows at the 20th percentile and 1.7% of the top of D class flows at the 5th percentile for all days.

(b) in Zone 2:

- (i) for the very low flow class, 1.0 ML/day when access to very low flows and pools is provided under clause 62,
- (ii) for C class, 4.9 ML/day, and
- (iii) for D class, 10 ML/day,

Note. These flows represent 23% of the top of C class flows at the 20th percentile and 12% of the top of D class flows at the 5th percentile for all days.

(c) in Zone 3:

- (i) for the very low flow class, 0.6 ML/day when access to very low flows and pools is provided under clause 62,
- (ii) for C class, 3.0 ML/day, and
- (iii) for D class, 5.9 ML/day,

Note. These flows represent 33% of the top of C class flows at the 20th percentile and 16% of the top of D class flows at the 5th percentile for all days.

(d) in Zone 4:

- (i) for the very low flow class, 0.5 ML/day when access to very low flows and pools is provided under clause 62,
- (ii) for C class, 2.5 ML/day, and
- (iii) for D class, 5.5 ML/day,

Note. These flows represent 31% of the top of C class flows at the 20th percentile and 18% of the top of D class flows at the 5th percentile for all days.

(e) in Zone 5:

- (i) for the very low flow class, 5.0 ML/day when access to very low flows and pools is provided under clause 62,
- (ii) for C class, 24.8 ML/day, and
- (iii) for D class, 34 ML/day,

Note. These flows represent 20% of the top of C class flows at the 20th percentile and 6% of the top of D class flows at the 5th percentile for all days.

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- (f) in Zones 1 to 5, 0 ML/day for the very low flow class in years 9 and 10 of this Plan.
- (2) The TDEL for each flow class specified in subclause (1) applies to all rivers within this water source apart from those rivers identified as minor streams in a harvestable rights Order made under section 54 of the Act.

Note. The harvestable rights Order applying to this area at the commencement of this Plan is that gazetted on 23 March 2001 under section 54 of the Act. It identifies minor streams as non-permanent 1st and 2nd order streams as shown on topographic maps.

46 Initial assignment of the TDEL to categories of access licence

- (1) The following TDEL will be initially assigned to domestic and stock access licences:
- (a) in Zone 1, there are no domestic and stock access licences,
 - (b) in Zone 2:
 - (i) 0.01 of the very low flow class for the licences listed on Schedule 6, subject to clause 62,
 - (ii) 0.2 ML/day of C class, and
 - (iii) 0.5 ML/day of D class,
 - (c) in Zone 3:
 - (i) 0.05 ML/day of C class, and
 - (ii) 0.09 ML/day of D class,
 - (d) in Zone 4, there are no domestic and stock access licences, and
 - (e) in Zone 5, there are no domestic and stock access licences.
- (2) Unregulated river access licences:
- (a) in Zone 1:
 - (i) 0.044 ML/day of the very low flow class for Schedule 6 licences, subject to clause 62,
 - (ii) 0.22 ML/day of C class, and
 - (iii) 0.22 ML/day of D class,
 - (b) in Zone 2:
 - (i) 0.99 ML/day of the very low flow class for Schedule 6 licences, subject to clause 62,
 - (ii) 4.7 ML/day of C class, and
 - (iii) 7.0 ML/day of D class,
 - (c) in Zone 3:
 - (i) 0.6 ML/day of the very low flow class for Schedule 6 licences, subject to clause 62,
 - (ii) 2.95 ML/day of C class, and
 - (iii) 5.81 ML/day of D class,
 - (d) in Zone 4:
 - (i) 0.5 ML/day of the very low flow class for Schedule 6 licences, subject to clause 62,

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- (ii) 2.5 ML/day of C class, and
- (iii) 4.0 ML/day of D class,
- (e) in Zone 5:
 - (i) 5.0 ML/day of the very low flow class for Schedule 6 licences, subject to clause 62,
 - (ii) 16.6 ML/day of C class, and
 - (iii) 25 ML/day of D class.

47 Unassigned TDEL

At the commencement of this Plan, unassigned TDEL in each flow class is as follows:

- (a) in Zone 1:
 - (i) 0 ML/day of C class, and
 - (ii) 0 ML/day of D class,
- (b) in Zone 2:
 - (i) 0 ML/day of C class, and
 - (ii) 2.5 ML/day of D class,
- (c) in Zone 3:
 - (i) 0 ML/day of C class, and
 - (ii) 0 ML/day of D class,
- (d) in Zone 4:
 - (i) 0 ML/day of C class, and
 - (ii) 1.5 ML/day of D class,
- (e) in Zone 5:
 - (i) 8.2 ML/day of C class, and
 - (ii) 9 ML/day of D class.

Note. Unassigned TDEL may vary as a result of the surrender, cancellation or non-renewal of an access licence's IDELs, or the operation of Part 8 of this Plan.

48 Daily extraction limits for individual access licence holders

- (1) Each access licence requiring an IDEL, as specified in Part 12 of this Plan, is assigned the same proportion of the TDEL specified in clause 46 as its share component bears to all the share components of access licences of that category.
- (2) Notwithstanding subclause (1), in relation to those access licences that are currently excluded from a flow class or part of a flow class by existing conditions on the access licence or the water supply work nominated by the access licence, the IDEL resulting from subclause (1) will be adjusted to reflect as far as possible such an exclusion.

49 Granting of unassigned TDEL

- (1) The unassigned TDEL in clause 47 may be assigned to access licences in the following circumstances:
 - (a) where they are applied for as part of a new access licence application,

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- (b) to a local water utility access licence where the Minister varies the access licence in accordance with sections 66 (3) or 66 (4) of the Act,
 - (c) to existing access licences for the purpose of pumping into farm dams if:
 - (i) the purpose of the additional IDEL sought is established by the proponent,
 - (ii) the IDEL sought is the minimum required to satisfy that purpose, and
 - (iii) the extraction is consistent with the objectives and principles of this Plan,
 - (d) at the end of year 8 of this Plan, when access to very low flows and pools is revoked, 50% of the Zone 5 unassigned C class TDEL in clause 47 (e) (i) may be granted to all access licences that are on Schedule 6 at that time, as part of a strategy to reduce low flow access, or
 - (e) the method for distributing the unassigned TDEL specified in subclause (d) will be determined by the Minister according to the following principles for allocation:
 - (i) application must be made to the Minister for the unassigned TDEL,
 - (ii) a farm water management plan, approved by the Minister, must be in place that provides for the potential licensed water usage,
 - (iii) no single applicant can be granted more than 50% of their C class IDEL held at that time, and
 - (iv) when 50% of the unassigned TDEL in C class flows has been assigned according to this subclause, then no further applications will be granted.
Note. The remaining 50% is to be reserved for assignment under subclauses (a), (b) and (c).
- (2) Where additional IDELS are assigned to an access licence in accordance with this clause, the amount of IDEL so assigned shall be determined by the Minister consistent with the ratios of share component to IDEL for the specific category of access licence as initially assigned under clause 48, as amended by clause 50.

50 Adjustment to TDELS and IDELS

- (1) Where IDELS are assigned under clause 49 the unassigned TDEL is reduced accordingly, and the TDEL assigned to the appropriate licence category and zone in clause 46 is increased accordingly.
- (2) Pursuant to section 42 (2) of the Act, if total extraction of water under domestic and stock or native title rights exceeds the level specified in Part 5 of this Plan:
 - (a) first the unassigned TDEL specified in clause 47 then, if necessary, the TDEL for unregulated river access licences in clause 46 (2) shall be diminished to allow these additional basic landholder rights to be met, and
 - (b) the IDELS of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
- (3) Pursuant to section 42 (2) of the Act, if any unassigned TDEL cannot meet either the IDEL requirements of applicants for new domestic and stock access licences, or a local water utility's IDEL requirements, then the TDEL for unregulated river

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- access licences in clause 46 (2) will be diminished to such an extent as to allow those requirements to be met.
- (4) Following an adjustment to the TDEL for unregulated river access licences in subclause (3) the IDELs of each unregulated river access licence will then be reduced to comply with this diminished TDEL.
 - (5) Any adjustment to unregulated river access licence IDELs arising from this clause will be done at intervals of no greater than 5 years.
 - (6) If water that, pursuant to an access licence:
 - (a) is committed to adaptive environmental water, then the TDEL for the classes specified on the committed access licence in the specified category will be reduced by the IDEL on the access licence so committed, and clauses 45 and 46 will be adjusted accordingly, or
 - (b) is uncommitted to adaptive environmental water, then the TDEL for the classes specified on the committed access licence in the specified category will be increased by the IDEL on the access licence so uncommitted, and clauses 45 and 46 will be adjusted accordingly.

51 Administrative arrangements for managing access to daily flows

- (1) Notwithstanding the forgoing provisions of this Division, this Plan allows group management of access licences with respect to the IDELs.
- (2) The Minister may determine that, from the commencement of this Plan and until otherwise determined:
 - (a) all access licences with IDELs shall be made part of a group maintained by the Minister, and
 - (b) access licences with IDELs will be assessed as a whole against their combined IDELs.
- (3) At any time when subclause (2) does not apply:
 - (a) access licence holders may make a request to form a group for their access licences,
 - (b) access licence holders may have their access licence removed from a group, in which case they shall be permitted to extract under that licence a maximum of the licensed IDEL, and
 - (c) where an access licence is removed or added to a group, the group combined IDEL shall be adjusted by the amount of IDEL on the subject licence.
- (4) Groups will be managed according to the following rules:
 - (a) daily extraction by a group cannot exceed the combined IDELs of all access licences in the group,
 - (b) where it been assessed that a holder of an access licence within a group is repeatedly causing the combined IDEL to be exceeded then the Minister may remove that access licence from the group,
 - (c) where daily extraction by a group exceeds the combined IDELs of all access licences in the group, then the Minister may dissolve the group and require each access licence holder to comply with the licensed IDELs,

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- (d) should a holder of an access licence which is part of a group commit the IDELs of that licence to the environment consistent with section 8 (1) (c) of the Act, then those IDELs shall be removed from the group,
- (e) an access licence may not be in more than one group, and
- (f) the Minister may refuse to allow an access licence to be included in a group, and may refuse a request to form a group.

52 Infrastructure failure

In the event of infrastructure failure, the Minister can elect to:

- (a) continue to announce the current flow class,
- (b) announce another flow class based on climatic conditions and any other flow gauging information, or
- (c) restrict access to water to the lowest flow class.

Note. Infrastructure is defined in the dictionary.

Note. If satisfied that it is necessary to do so in the public interest, the Minister may direct the holders of an access licence to cease using a water supply work in accordance with section 323 of the Act.

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Part 11 Access licence dealing rules

53 Access licence dealing rules

- (1) This Part is made in accordance with section 20 (1) (d) of the Act and with the Minister's access licence dealing principles gazetted on 27 December 2002 under section 71L of the Act.

Note. The Minister's access licence dealing principles are contained in Appendix 4.

- (2) Applications for access licence dealings may be granted subject to the Minister's access licence dealing principles gazetted from time to time under section 71L of the Act and the rules in this Part.

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

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

54 Rules relating to constraints within this water source

- (1) This clause applies to any relevant dealings under sections 71D, 71F and 71J of the Act, and with respect to water allocation assignments under section 71G of the Act.
- (2) Dealings are prohibited under this clause if:
 - (a) any of the access licences or water allocations involved are not within this water source, unless the dealing is permitted under clause 59, or
Note. Clause 56 relates to any dealings that involve an access licence moving from one water source to another.
 - (b) the dealing would result in the access licence extraction component nominating a work in a different management zone.
- (3) If a dealing results in a share or extraction component of an access licence, or part thereof, on Schedule 6 nominating a different water supply work, then the access licence, or part thereof, shall be removed from Schedule 6.

55 Rules for access licence dealings which alter the times, rates or circumstances specified on access licence extraction components

An access licence holder may apply under section 71F of the Act to alter their access licence extraction component to specify any unassigned TDEL in clause 47 as additional access in accordance with clauses 49 and 50.

56 Rules for change of water source

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

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- (2) Dealings under section 71E of the Act are prohibited in this water source, unless provided for in this clause.
- (3) An access licence with a share component specifying this water source may be cancelled and a new licence issued in another water source only if:
 - (a) the new access licence issued is within this Unit, and
 - (b) the access licence dealing rules in the other water source permit such a dealing.
- (4) An access licence with a share component specifying another water source may be cancelled and a new access licence issued in this water source only if the access licence dealing rules in the other water source permit such a dealing, and:
 - (a) the access licence cancelled is within this Unit, or
 - (b) the access licence cancelled is within the Border Rivers Regulated River Water Source.
- (5) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.
- (6) The extraction component of the cancelled access licence is not to be carried over to the new access licence.

57 Rules for conversion of access licence category

- (1) This clause relates to dealings under section 71B of the Act.
- (2) Conversion of an access licence of one category to an access licence of another category may be permitted only if:
 - (a) the conversion is from an unregulated river access licence to a runoff harvesting access licence,
 - (b) the conversion is from a runoff harvesting access licence to an unregulated river access licence,
 - (c) the conversion is from a regulated river access licence to an unregulated river access licence,
Note. This will occur directly following a dealing under section 71E of the Act that changes the water source to which the access licence applies.
 - (d) the conversion is from domestic and stock access licence to an unregulated river access licence,
 - (e) the conversion is from an unregulated river access licence to a major water utility access licence, or
 - (f) the conversion is from a major water utility access licence to an unregulated river access licence.
- (3) The volume of share component on an access licence issued under this clause is to be the volume of the cancelled share component multiplied by a conversion factor established by the Minister, and published in an Order made under section 71L of the Act, that protects environmental water, basic landholder rights, and the reliability of supply to all other access licences subject to this Plan.

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58 Rules for interstate access licence transfer

- (1) This clause relates to dealings under section 71H of the Act.
- (2) Dealings that result in the interstate transfer of an access licence into or out of this water source are prohibited.

59 Rules for water allocation assignments between water sources

- (1) This clause relates to dealings under section 71G of the Act, in relation to water allocation assignments between water sources.
- (2) Dealing under section 71G of the Act that result in water allocation assignments to or from access licences in this water source are prohibited unless provided for in this clause.
- (3) Dealings that assign water allocations between access licences inside this water source and access licences outside this water source, but inside this Unit, are permitted only if the access licence dealing rules in the other water source permit such a dealing.
- (4) Dealings that assign water allocations between access licences inside this water source, are permitted.

Note. Each water allocation assignment must be applied for. Licence holders may enter into private contracts to assign water allocations for a number of years. Such contracts are not guaranteed by the Government, and approval must be sought annually. Approval will be subject to the rules in this Plan, including local impact assessment.

60 Rules for interstate assignment of water allocations

- (1) This clause relates to dealings under section 71I of the Act.
- (2) Dealings that result in interstate assignment of water allocations to or from this water source are prohibited.

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Part 12 Mandatory conditions

61 Mandatory conditions on access licences

- (1) This Part is made in accordance with sections 17 (c) and 20 (2) (e) of the Act.
- (2) All access licences shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:
 - (a) the specification of the share component of the access licence,
 - (b) the specification of the extraction component of the access licence, including IDELs arising from the operation of Part 10 Division 3 of this Plan where applicable, and the variation thereof,
 - (c) the requirement that extraction under the access licence will be subject to the available water determinations,
 - (d) the requirement that extraction under the access licence will be subject to the water allocation account management rules established in Part 10 Division 2 of this Plan,
 - (e) the requirement that the taking of water in accordance with the access licence will only be permitted if the resulting debit from the access licence water allocation account will not exceed the volume of water allocation remaining in the account,
 - (f) the requirement that water may only be taken under the access licence by the water supply work nominated by the access licence, and
 - (g) any other conditions required to implement the provisions of this Plan.

62 Access to very low flows and pools

Notwithstanding clauses 22 and 67 (d), and subject to the review at clause 75, all access licences listed on Schedule 6 can continue to have access to very low flows and pools until the completion of year 8 of this Plan, and such access is subject to the following conditions:

- (a) access to very low flows and pools will cease on the completion of year 8 of this Plan,
- (b) the volume of water that may be extracted from Zone 5 is limited to the volume of water that can be extracted until the depth of an individual pool in Zone 5 falls to 30 centimetres below the level at which surface outflow ceases at the downstream end of the pool, at a rate not exceeding the very low flow class TDEL specified in clause 45 for Zone 5,
- (c) the volume of water that may be extracted from Zones 1, 2, 3, and 4 is limited to the volume of water that can be extracted until the depth of an individual pool in those Zones falls to 15 centimetres below the level at which surface outflow ceases at the downstream end of the pool, at a rate not exceeding the very low flow class TDELs specified in clause 45 for each Zone, and

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- (d) if an access licence on Schedule 6 is cancelled, surrendered not renewed, or nominates a different water supply work, it will be removed from the Schedule.

63 Unregulated river access licences

All unregulated river access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group, and
- (b) notwithstanding subclause (a), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

64 Local water utility access licences

All local water utility access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of supplying water for the exercise of a water supply function of the local water utility or for other such purpose provided for under the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, and
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows.

65 Domestic and stock access licences

All domestic and stock access licences shall have mandatory conditions to give effect to the following:

- (a) water may only be taken for the purposes of domestic consumption or stock watering as defined in section 52 of the Act,
- (b) water may only be taken in accordance with a flow class determined by the Minister, at a rate not exceeding that specified for the flow class on the access licence extraction component, unless otherwise authorised by an approved group,
- (c) notwithstanding subclause (b), water may be taken without any restrictions in rate from an in-river dam while the dam is passing all inflows, and
- (d) the conditions in subclauses (b) and (c) are not to be imposed if the extraction component of the access licence specifies that water may only be taken from a runoff harvesting dam.

66 Runoff harvesting access licences

All runoff harvesting access licences shall have a mandatory condition imposed on them specifying that water may be taken without restriction in rate, but only from the specified work.

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67 Mandatory conditions on water supply works approvals

All approvals for water supply works in this water source shall have mandatory conditions to give effect to the provisions of this Plan in relation to the following:

- (a) flow measurement devices:
 - (i) shall be installed and maintained on all works used for extraction of water under an access licence, and
 - (ii) shall be of a type and shall be maintained in a manner which is acceptable to the Minister,
- (b) water extraction and property water management infrastructure details shall be provided to the Minister on request,
- (c) it is the responsibility of the work approval holder to ascertain from the Minister the flow class at any time before commencing to take water under an access licence with an IDEL,
- (d) subject to the operation of clause 62, notwithstanding all other rights and conditions, extraction of water from a river by an approved water supply work is not permitted if there is no visible flow in the river in the vicinity of the work,
- (e) extraction under an access licence through an approved work is only authorised with respect to the work nominated by the access licence, and
- (f) approvals for in-river dams must include a condition requiring the passing of such flows as the Minister determines to be appropriate to achieve the objectives of this Plan.

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Part 13 Granting and amending water supply works approvals

68 Granting and amending water supply works approvals

This Part is made in accordance with section 21 (b) of the Act.

69 Runoff harvesting dams

- (1) New or expanded runoff harvesting dams shall, in addition to other considerations, be subject to the dam capacity not exceeding that which is consistent with the access licence share component specifying the runoff harvesting dam as the nominated work.
- (2) When the water allocations that may be taken from a runoff harvesting dam are reduced either by the Minister, or on application of the approval holder, or by an assignment in accordance with Part 11 of this Plan, the Minister may impose an additional condition requiring the dam to be modified so as to reduce its capacity, or requiring the water taken and evaporated from the dam to be reduced, consistent with the reduction in water allocations available.

Note. Extraction of water from a runoff harvesting dam requires a runoff harvesting access licence, unless the runoff harvesting dam is within the maximum harvestable right dam capacity for the property on which it is located, in which case no licences or approvals are required. Runoff harvesting is a category of access licence to be established by regulation under section 57 (k) of the Act.

70 In-river dams

The Minister may consider applications for new in river-dams within this water source.

Note. Taking of water from an in-river dam requires an access licence unless it is taken in accordance with section 52 of the Act (domestic and stock rights). In either case, however, the dam requires a water management works approval unless exempted by regulation under the Act.

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Part 14 Monitoring and reporting

71 Monitoring and reporting of performance indicators

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

Note. Review and Audit of this Plan

In accordance with section 43 (2) of the Act, this Plan is to be reviewed, within the fifth year of its term, for the purpose of ascertaining whether its provisions remain adequate and appropriate for ensuring the effective implementation of the water management principles of the Act.

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

Note. Implementation Program

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

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

The results of the review of the Implementation Program will be included in the annual report for the Department of Land and Water Conservation.

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Part 15 Amendment of this Plan

72 Amendment of this Plan

This Part is made in accordance with section 42 (2) of the Act.

73 Amendment of very low flow provisions

- (1) The Minister may, under section 42 (2) of the Act and by notice published in the NSW Government Gazette, vary the very low flow levels established in clause 17 and consequently the bottom of C class established in clause 17, following field verification.
- (2) Any variation made under subclause (1) should not result in the very low flow levels being greater than the flow equivalent to 10 ML/day at the flow reference point at the downstream end of Zone 5.
- (3) The Minister should cause the field verification in subclause (1) to be undertaken as soon as practical, but before the review of this Plan under section 43 (2) of the Act.
- (4) The field verification should assess the degree to which the following objectives of the *Water Quality and River Flow Interim Environmental Objectives* (NSW Government 1999) are met:
 - (a) Objective 1 - to protect water levels in natural river pools and wetlands during periods of no flow, and
 - (b) Objective 2 - to protect natural low flows.
- (5) In undertaking the field verification the Minister should:
 - (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture and the NSW National Parks and Wildlife Service, and
 - (b) prepare a report documenting:
 - (i) the methodology adopted,
 - (ii) the hypotheses tested,
 - (iii) the field results and conclusions in terms of the degree to which the Objectives in subclause (4) are met,
 - (iv) the flow level recommended to meet the Objectives in subclause (4), and
 - (v) the socio-economic impacts of recommended changes to the flow level.

74 Review of field verification

- (1) The Minister should seek advice from a review body on the field verification report specified in clause 73 (5) (b) before varying this Plan in accordance with clause 73 (1), if the field verification recommends a variation in the very low flow levels established in clause 17.
- (2) This review body may be:

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- (a) a water management committee with water sharing responsibilities for this water source, if one exists,
 - (b) an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a water management committee referenced at subclause (2) (a), or
 - (c) if there is no water management committee with water sharing responsibilities for this water source, then by a catchment management board with responsibilities for this water source or an expert advisory panel or advisory committee established for this purpose by the Minister on the recommendation of a catchment management board.
- (3) The review body should provide advice to the Minister on the field verification report, and advise on any changes to the recommendations contained in the report in relation to any variation of the very low flow levels.
- (4) The review body should respond to the Minister as soon as practical after receiving the report, or within 3 months of that date at the latest.

75 Environmental review of provisions allowing access to very low flows and pools

- (1) The Minister may, under section 42 (2) of the Act and by notice published in the NSW Government Gazette, delete clause 62 and Schedule 6, following a review of the environmental effects of pumping on the health of the water source, including the pools.
- (2) The review established in subclause (1) shall:
- (a) be undertaken as part of the review of this Plan under section 43 (2) of the Act, and
 - (b) assess the environmental effects on the overall health of the water source and specifically on the pools, of pumping from the very low flows and pools during times of access under clause 62.
- (3) In undertaking the review, the Minister should:
- (a) consult with the NSW Environment Protection Authority, NSW Fisheries, NSW Agriculture, and the NSW National Parks and Wildlife Service,
 - (b) consult with representatives of key interested parties incorporating consideration and documentation of socio-economic impacts of possible deletion of the access conditions established at clause 62, and of Schedule 6, and
 - (c) prepare a report documenting:
 - (i) the methodology adopted,
 - (ii) the field results and conclusions in terms of the degree to which pumping from pools in accordance with clause 62 could be damaging to the environment and ecology of the water source, and
 - (iii) the socio-economic impacts of ceasing access to very low flows provided for in clause 62.
- (4) In the event that the findings and results of the report referred to at subclause (3) (c) indicate that the access conditions established at clause 62 are such that no more

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than minimal harm is occurring to the water source, then access to very low flows should remain in place up to the end of year 8 of the Plan.

- (5) In the event that the findings and results of the report referred to at subclause (3) (c) indicate that the access conditions established at clause 62 are such that unacceptable harm is occurring to the water source then access to very low flows should cease at the end of year 5 of the Plan.

76 Other amendment of this Plan

This Plan can be amended in accordance with clause 50 in respect to adjustments to TDELS and IDELS.

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Schedule 1 Dictionary

The following definitions apply to this Plan in addition to the definitions set out in the Act:

account water is the balance in an access licence water allocation account at a particular time.

Note. An access licence water allocation account records water allocations accrued under the licence as well as water allocations taken, assigned or re-credited. The operation of the account is also governed by rules for the carrying over of credits from one accounting period to the next and rules for the maximum credit that may be allowed to accumulate in the account as established in a water sharing plan. Water allocations are the shares of available water accrued under an access licence from time to time as a result of available water determinations.

Cap is the long-term average annual volume of water that would have been diverted under the development and management conditions defined in Schedule F of the Murray Darling Basin Agreement.

conversion factor refers to the adjustment factor that is to be applied to share components when they are cancelled or reissued in a different water source and visa versa, or when the licence category is changed. It is designed to provide for the fact that the value of a unit of share component in terms of the average water allocations that result from it may vary from one water source to another, or from one category of licence to another.

endangered ecological communities means ecological communities listed in Schedule 1 of the *Threatened Species Conservation Act 1995* or Schedule 4 of the *Fisheries Management Act 1994*.

extraction limit is a limit on the amount of water that may be extracted from an extraction management unit.

extraction management unit is a group of water sources for the purpose of managing annual average extraction.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs. See also **in-river dam** and **runoff harvesting dam**.

flow classes are categorised by the size and duration of flow levels in unregulated rivers, for example:

- (a) very low flows may be a class on their own,
- (b) low flows may be categorised as 'A' class,
- (c) moderate flows may be categorised as 'B' class,
- (d) high flows may be categorised as 'C' class,
- (e) very high flows may be categorised as 'D' class, and
- (f) extremely high flows may be categorised as 'E' class.

flow gauging station is a device that is used to measure the height of a river, from which the flow in the river can be calculated.

individual daily extraction limit (IDEL) is the volume of water that may be extracted by an individual access licence from an unregulated river on a daily basis from a particular flow class.

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infrastructure includes, but is not limited to, a:

- (a) flow gauging device or any other appliance that is used to measure the height of a river relative to a known datum point, from which the flow in the river can be calculated, or
- (b) flow announcement system which is the mechanism by which the Minister communicates daily flow classes to the holders of an access licence within this water source.

in-river dam is a dam on a 3rd, 4th or higher order river. 3rd, 4th or higher order rivers are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a “river” gazetted 23rd March 2001. See also **farm dam** and **runoff harvesting dam**.

management zone is an area within the water source in which daily extraction limits may be defined or where dealing restrictions are approved. Management zones may be designated where the water source to which the plan applies is divided into areas and total daily extraction limits are defined for each area. They may also be designated where local dealing restrictions are in place.

stock watering means the watering of stock being raised on the land, but does not include the use of water in connection with intensive animal husbandry.

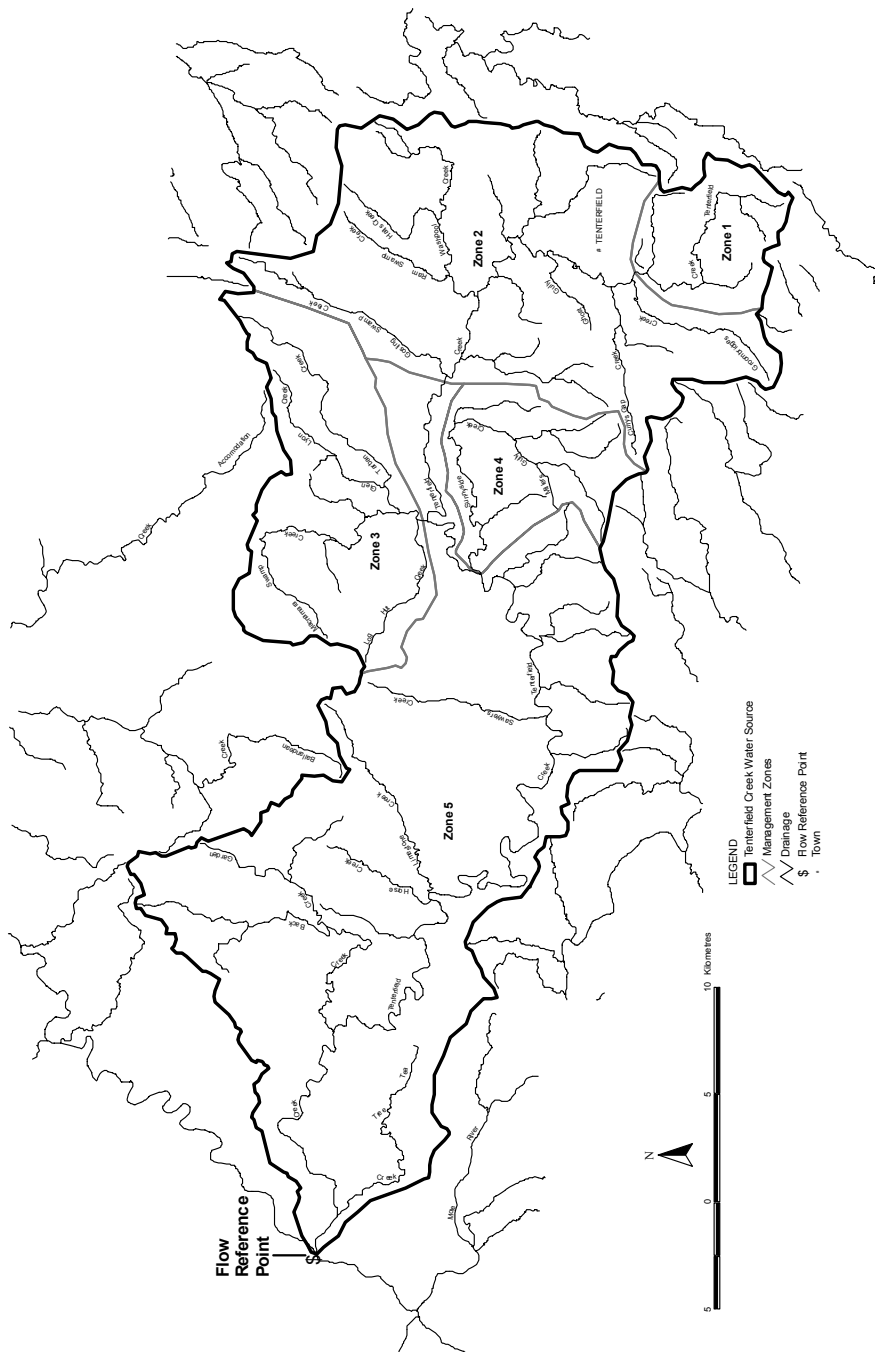
runoff harvesting dam is a farm dam on a hillside or 1st or 2nd order stream which collects and stores rainfall runoff. 1st and 2nd order streams are as defined in the Order made under section 5 of the *Water Act 1912* in relation to the definition of a river gazetted 23rd March 2001. See also **farm dam** and **in-river dam**.

Note. This Order refers to watercourses shown as blue lines on topographic maps. The lines which are uppermost in a catchment are 1st order streams, when two 1st order streams are joined they make a 2nd order stream, etc. For more information see the Farm Dams Assessment Guide available from the Department of Land and Water Conservation.

total daily extraction limit (TDEL) is the volume of water that may be extracted under access licences from an unregulated river on a daily basis from a particular flow class.

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Schedule 2 Tenterfield Creek Water Source



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Schedule 3 Rivers in the Tenterfield Creek Water Source

The rivers in this water source include, without limitation:

Zone 1

Tenterfield Creek, Walkers Gully, Green Swamp Creek, Hawkins Creek, and Nolans Gully.

Zone 2

Tenterfield Creek (from below Tenterfield dam to the junction of Gosling Swamp Creek and Tenterfield Creek), Goombridges Creek, Currys Gap Creek, Blacksmiths Creek, Ghost Gully, Pitkins Swamp Creek, Bryans Gap Creek, Washbrook Creek, Washpool Creek, Bullock Dray Creek, Ram Swamp Creek, Halls Creek, Doctors Nose Creek, and Gosling Swamp Creek.

Zone 3

Tarban Creek, Glen Lyon Creek, Macnamara Swamp Creek, and Log Hut Creek.

Zone 4

Quarry Gully, Millers Gully, Spring Creek, Saltwater Gully, Collins Creek, and Sunnyside Creek (also called Millers Creek on road sign, 6 Mile Creek or The 10 Mile Creek on licence).

Zone 5

Tenterfield Creek (from below junction of Tenterfield Creek and Gosling Swamp Creek), Swamp Creek, Whalans Creek, Ten Mile Creek, Eight Mile Creek, Deadmans Creek, Sawyers Creek, Five Mile Creek, Limestone Creek, Horse Creek, Double Hut Creek, Back Creek, and Teatree Creek.

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Schedule 4 Contribution to relevant targets in the December 2002 State Water Management Outcomes Plan

Levels of assessed contribution:

FULL – contributes to target in full

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

PARTIAL - goes some way to contributing to the target

LOW - only small degree of contribution to target

Relevant Target	Level of contribution	Comments
Target 1b Extractions in Murray-Darling Basin's unregulated rivers limited to the Murray Darling Basin Ministerial Council Cap level	HIGH	<ul style="list-style-type: none"> Part 9 of this Plan clearly sets out the basis for the extraction limit for the Border Rivers Unregulated Extraction Management Unit. Until the cumulative impact of this limit can be assessed for all of this Unit it is not possible to properly assess ecological sustainability and downstream impacts. There is a relatively low level of share component in this Unit and application of TDELS should ensure adequate downstream flows.
Target 1f Rules for adjustments to future available water determinations in the event that the extraction limits are exceeded, clearly prescribed in consultation with the relevant management committee, and acted upon	FULL	<ul style="list-style-type: none"> Rules set out in Part 9 of this Plan.
Target 2 All management plans incorporating mechanisms to protect and restore aquatic habitats, and the diversity and abundance of native animals and plants, with particular reference to threatened species, populations and communities and key threatening processes	PARTIAL	<ul style="list-style-type: none"> Little protection for very low flows during first 8 years of this Plan. Part 10 of this Plan establishes TDELS to protect/restore environmental flows At least 3 listed threatened fish species are likely to occur in Tenterfield Creek (silver perch, purple spotted gudgeon, olive perchlet) but there are no recovery plans in place and, therefore, no specific provisions in this Plan.

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		<ul style="list-style-type: none"> While this Plan provides high level of flow protection in most zones and flow ranges, the continued erosion of very low flows and pool levels may continue to threaten these species.
<p>Target 4a Wherever the frequency of “end of system” daily flows would be less than 60 percent of the predevelopment level without environmental water rules or extraction limits, the flows increased to 60 percent of predevelopment levels or increased by at least 10 percent of the predevelopment frequency</p>	PARTIAL	<ul style="list-style-type: none"> Total daily extraction limits protect 60 to 100% of flows in Zones 2 to 5 in the very low flow class and in Zones 1 to 5 in the C and D classes. In Zone 1, 0% of flows in the very low flow class are protected.
<p>Target 4b Frequency of “end of system” daily very low flows (as defined by local field investigation) protected or restored to predevelopment levels to maintain or restore their critical ecological functions, drought refuges and habitat connectivity. In the absence of such local assessments, protection extended up to at least the predevelopment 95th percentile</p>	LOW	<ul style="list-style-type: none"> This Plan allows water users to pump below cease to pump level for first 8 years and allows users to pump out of pools after the creek has ceased flowing restricted by a height limit in the pools. A review of the environmental effects of pumping on the health of the river and the pools will be conducted as part of the year 5 review of this Plan.
<p>Target 5 Access rights for water access licensees clearly and legally specified in terms of share and extraction components</p>	FULL	<ul style="list-style-type: none"> This Plan establishes TDELs for distribution to individual licensees.
<p>Target 6b A pathway for reducing the share components to 200 percent of the long term average annual extraction limit to be established not later than the end of the term of the SWMOP</p>	FULL	<ul style="list-style-type: none"> Total licensed share components for the Border Rivers Unregulated Extraction Management Unit should not exceed 200% of extraction limit for this Unit.

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<p>Target 7 Mechanisms in place to enable Aboriginal communities to gain an increased share of the benefits of the water economy</p>	PARTIAL	<ul style="list-style-type: none"> The Government has established alternative mechanisms to address this target. This Plan does establish unallocated TDEL but does not provide an exemption from the access licence embargo for Aboriginal cultural heritage purposes.
<p>Target 8 Daily extraction components specified and tradeable, subject to metering, reporting and compliance, for at least 50 percent of unregulated river access licences and for 80 percent of stressed unregulated rivers</p>	FULL	<ul style="list-style-type: none"> To meet this target Statewide, the individual plans should as far as practicable, establish TDELS across the whole water source, and this Plan does this.
<p>Target 12 Measures in place in all water sources subject to a gazetted water sharing plan to protect domestic and stock rights from the impact of other water access and use</p>	HIGH	<ul style="list-style-type: none"> Domestic and stock basic rights have been estimated for each zone and are adequately protected by the cease to pump in all zones except Zone 1 (the estimated requirements for domestic and stock access is 0.2 ML/day, and the cease to pump is 0.2 ML/day).
<p>Target 13 The knowledge sharing, training and resources necessary to ensure that Aboriginal people have the capacity to be effectively involved in water management identified and addressed</p>	HIGH	<ul style="list-style-type: none"> Two Aboriginal community representatives have been involved in development of this Plan. The Moombahlene Local Aboriginal Land Council were consulted to identify significance of Tenterfield Creek to Aboriginal people.
<p>Target 14 Water sources, ecosystems and sites of cultural or traditional importance to Aboriginal people identified, plans of management prepared, and measures put in place to protect and improve them</p>	PARTIAL	<ul style="list-style-type: none"> The features and flows in Tenterfield Creek of significance to the local Aboriginal people have been identified. This Plan does provide a reasonable level of environmental protection which should assist in protecting Aboriginal values. The provision for pumping from pools and very low flows may compromise Aboriginal values over the next 8 years.
<p>Target 16a All share components of access licences tradeable</p>	FULL	<ul style="list-style-type: none"> Part 11 of this Plan provides for trading of share components and IDELS.

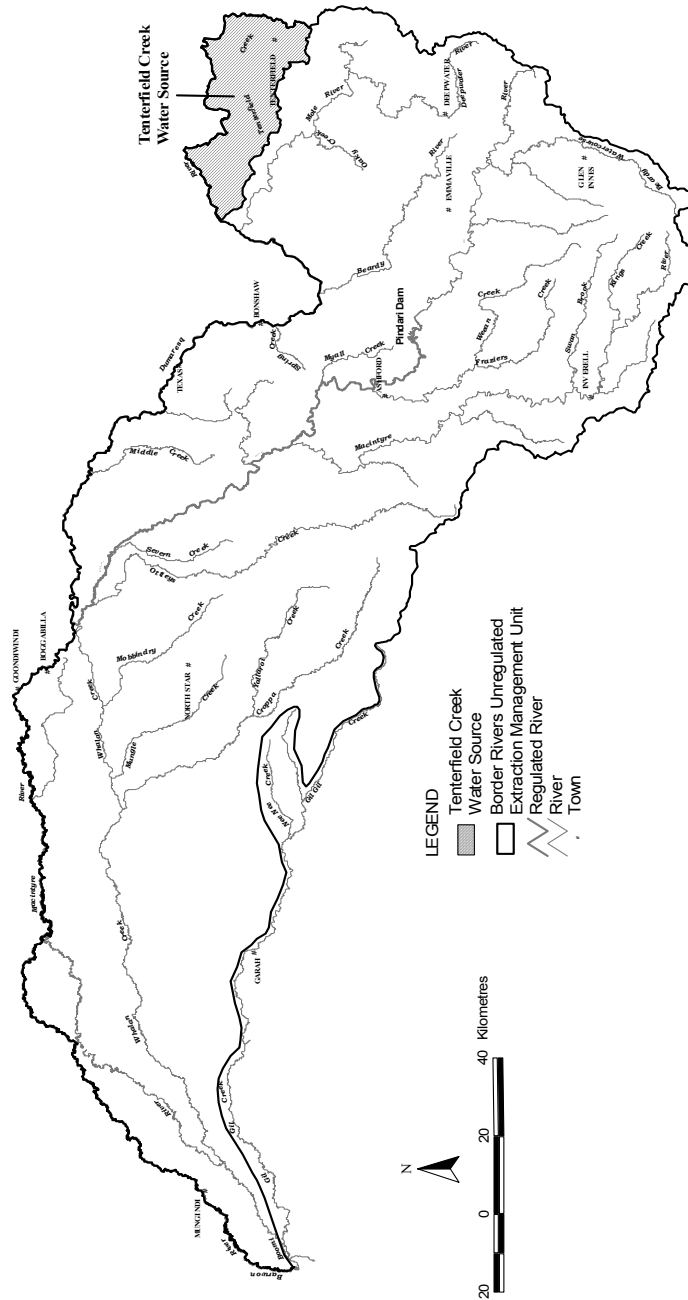
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Target 16c Conversion factors and protocols established to facilitate trading and dealings between water sources, whilst also protecting existing access and environmental water	FULL	<ul style="list-style-type: none"> Part 11 of this Plan provides for exchange rates to be determined by the Minister.
Target 16d Reduced conversion factors only applied when necessary to offset increased losses associated with water supply delivery	FULL	<ul style="list-style-type: none"> Part 11 of this Plan provides for conversion factors to be determined by the Minister.
Target 16e Any unassigned access rights identified and clear mechanisms established for their future assignment	FULL	<ul style="list-style-type: none"> Part 10 of this Plan establishes rules for unallocated TDEs.
Target 16f Zones established where necessary for environmental protection and limits/constraints on water dealings in them made explicit	PARTIAL	<ul style="list-style-type: none"> This Plan does not establish water trading zones, however, no trading of daily extraction limits is permitted between the 5 management zones.
Target 35 All management plans incorporating water quality objectives that have considered Government approved Interim Environmental Objectives, the current Australian and New Zealand Environment and Conservation Council Guidelines and the recommendations of relevant Healthy Rivers Commission Inquiries	PARTIAL	<ul style="list-style-type: none"> This Plan includes a generalised water quality objective. This Plan does provide reasonably high level of environmental protection which should assist in protecting water quality.

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Schedule 5 Border Rivers Unregulated Extraction Management Unit

This Unit excludes any river that is declared by the Minister, by Order published in the NSW Government Gazette, to be a regulated river.



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Schedule 6 Access licences with access to very low flows and pools

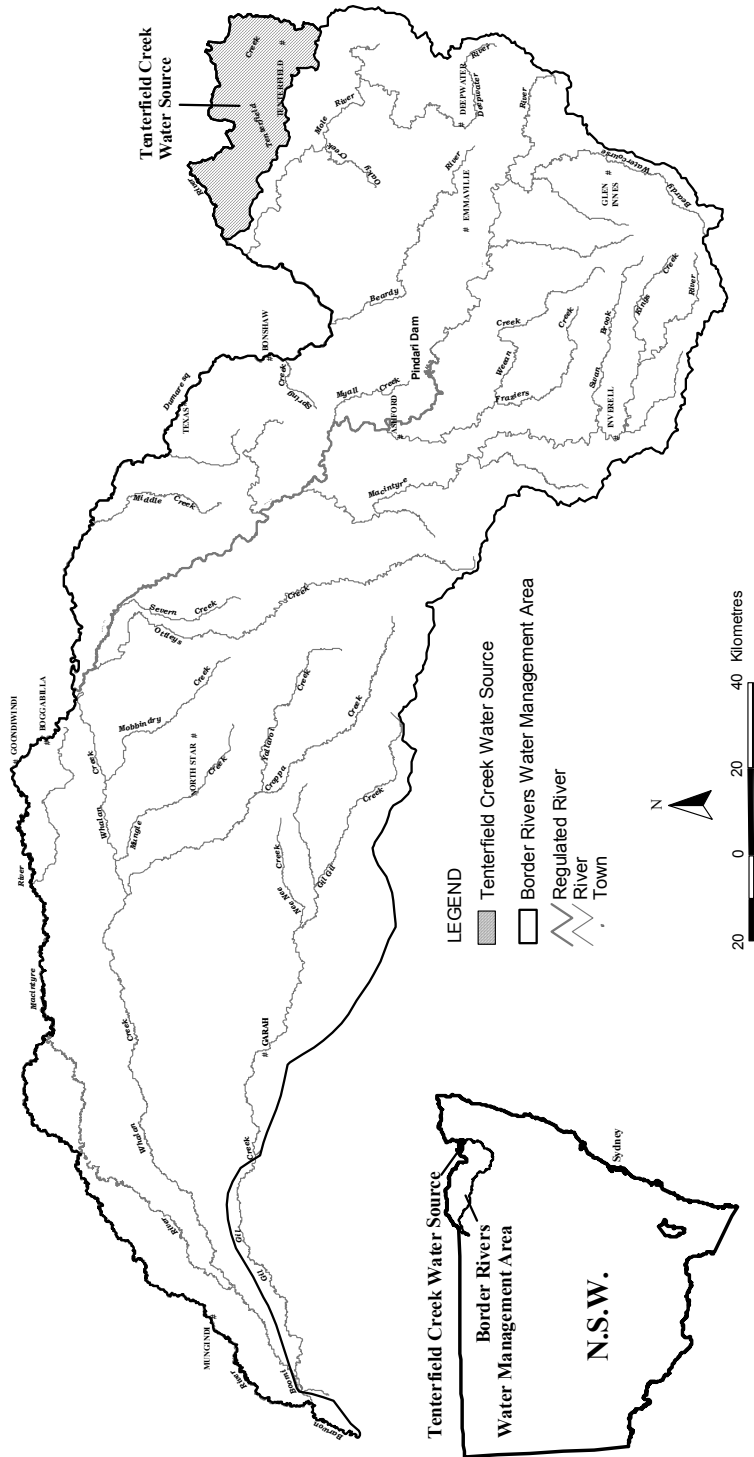
The access licences with the following numbers have access to very low flows in accordance with clause 62:

90SL009763	90SL039966	90SL034368
90SL011206	90SL017794	90SL039977
90SL017706	90SL018363	90SL044815
90SL025196	90SL019188	90SL047556
90SL031959	90SL021103	90SL047600
90SL032101	90SL021123	90SL100162
90SL036174	90SL021126	90SL049711
90SL037319	90SL031556	90SL036117
90SL039616	90SL100516	90SL036650
90SL040784	90SL100517	90SL037820
90SL042646	90SL100518	90SL039009
90SL033343	90SL100519	

Note. The access licence details in this Schedule may change during the period of this Plan. The District Office of the Department of Land and Water Conservation, shown in Appendix 2, should be contacted for a current list.

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Appendix 1 Border Rivers Water Management Area



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Appendix 2 Location of maps for public inspection

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

District Office
Department of Land and Water Conservation
134-136 Meade Street
GLEN INNES NSW 2370

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Appendix 3 Performance indicators

Performance indicators for the Tenterfield Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(a) Change in low flows.	11 (a) 11 (c) 11 (d) 11 (f) 11 (g)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points 	<ul style="list-style-type: none"> River Flow Objectives (RFOs) 1, 2 and 6. RFOs are the objectives agreed to by the NSW Government aimed at safeguarding river flows for environmental health. Note. Not every objective is relevant to every river in NSW. Plan will contribute to a decrease in the frequency and duration of low flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(b) Change in moderate to high flows.	11 (b) 11 (c) 11 (d) 11 (f) 11 (g)	<ul style="list-style-type: none"> Assessment of change in flow duration characteristics at identified reference points 	<ul style="list-style-type: none"> RFO 3. Plan will maintain or increase the frequency and duration of moderate to high flows. This assessment will focus on the plan's end of system reference point(s), and will be based on a qualitative assessment of compliance with the water sharing rules, due to the current modelling limitations in most unregulated rivers.
(c) Change in local water utilities and major water utilities access (where those utilities are involved in urban water provision).	11 (c)	<ul style="list-style-type: none"> Change in safe yield (<i>safe yield</i> is the annual demand that can be supplied from the water supply headworks and is based on the period of records used and an acceptable level of restriction) 	<ul style="list-style-type: none"> Water sharing plans for unregulated water sources have the potential to impact on urban water supplies.

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Performance indicators for the Tenterfield Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(d) Change in ecological condition of this water source and dependent ecosystems.	11 (a) 11 (b) 11 (d) 11 (h) 11 (i)	<ul style="list-style-type: none"> • Periodic assessment of identified indicators for ecological condition 	<ul style="list-style-type: none"> • Water sharing plans are limited to providing for changes in flow regime aimed at improving the conditions for the ecological condition of the river. • There are many other factors that contribute to ecological objectives. • The focus of this performance indicator will be the effect of flow strategies. Therefore assessment of ecological condition should be based largely on hydrologic parameters (such as wetted area, depth in pools and velocity). This attempts to exclude external, non - water sharing plan related factors (such as climate and catchment landuse changes).
(e) Extent to which basic landholder rights requirements have been met.	11 (e)	Assessment of cease to pump levels in relation to basic rights requirements	<ul style="list-style-type: none"> • Basic landholder rights usage figures in water sharing plans are estimated (not actual use).
(f) Change in economic benefits derived from water extraction and use.	11 (c) 11 (f)	<ul style="list-style-type: none"> • Number of days access provided • Percentage change in number and volume of farm dams • Change in unit price of water transferred 	<ul style="list-style-type: none"> • There are many factors affecting economic status of a region, for example commodity prices. • Measurement of the number of farm dams will attempt to identify the impact of the plan provisions.
(g) Extent to which native title rights requirements have been met.	11 (h) 11 (i)	<ul style="list-style-type: none"> • Assessment of cease to pump levels in relation to basic rights requirements 	<ul style="list-style-type: none"> • The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.

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Performance indicators for the Tenterfield Creek Water Sharing Plan			
Performance indicator	Related objective	As measured by	Commentary
(h) Extent of recognition of spiritual, social and customary values of water to Aboriginal people.	11 (a) 11 (b) 11 (d) 11 (g) 11 (h) 11 (i)	<ul style="list-style-type: none"> Assessment of amount and type of information collected to identify the range of values of water to Aboriginal people 	<ul style="list-style-type: none"> The collection of information on the values associated with water is considered the first step in addressing the objects of the Act. It would be expected that at the end of five years there should be relevant information collected for each water source, as a minimum requirement.
(i) Contribution to the achievement of water quality to support the environmental values of this water source.	11 (g)	<ul style="list-style-type: none"> Change in the baseline figures of identified water quality variables 	<ul style="list-style-type: none"> Many factors may affect water quality that are not related directly to flow management.

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Appendix 4 Minister's access licence dealing principles

The following is the text from the Access Licence Dealing Principles Order, published in the NSW Government Gazette on 27 December 2002.

Access Licence Dealing Principles Order 2002

Part 1 Introduction

1. Name of Order

This Order is the *Access Licence Dealing Principles Order 2002*.

2. Commencement

This Order commences on 20 December 2002.

3. Establishment of access licence dealing principles

The access licence dealing principles set out in this order are established.

4. Interpretation

- (1) References in this order to licences of category 'runoff harvesting' or 'regulated river (conveyance)' are subject to those categories being prescribed by regulation made under section 57 (k) of the Act.
- (2) Notes in this order do not form part of the order.

5. Effect

- (1) Consistent with section 71K (1) of the Act, all applications for access licence dealings under Division 4 of Part 2 of Chapter 3 of the Act are to be dealt with in accordance with:
 - (a) the water management principles, and
 - (b) the principles in this order, and
 - (c) access licence dealing rules established by any relevant management plan.
- (2) Consistent with section 71L of the Act, any access licence dealing rules established by management plans must be consistent with the principles in this order.

6. Definitions

In this order the following definitions apply:

dealing means a dealing under Chapter 3, Part 2 Division 4 of the *Water Management Act 2000*.

farm dam is a privately owned dam typically of earthen construction designed to collect and/or store water for use on one or a few properties. It does not include publicly owned dams or weirs.

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groundwater source means a water source specified in a groundwater management plan.

hydrologically connected water sources are water sources where water from one flows into the other, or, in the case of river systems, where flow from both goes into a common river downstream.

management plan means a plan made under section 41 or 50 of the *Water Management Act 2000*.

regulated river water source means a water source specified in a regulated river management plan.

runoff harvesting dam is a farm dam on a hillside or minor stream which collects and stores rainfall runoff. Minor streams are as defined in an order made under section 53 of the *Water Management Act 2000*.

unregulated river water source means a water source specified in an unregulated river management plan.

Part 2 General principles

7. Impacts on water sources

- (1) Dealings should not adversely affect environmental water and water dependent ecosystems as identified in any relevant management plan.
- (2) Dealings should be consistent with any strategies to maintain or enhance water quality identified in any relevant management plan.
- (3) In unregulated river water sources, dealings should not increase commitments to take water from water sources or parts of water sources identified in any relevant management plan as being of high conservation value.
- (4) In unregulated river water sources or a groundwater sources, dealings should not increase commitments to take water from water sources or parts of water sources above sustainable levels identified in any relevant management plan.
- (5) In regulated river water sources, dealings should not increase daily demand for water delivery at those locations and times where it is identified in any relevant management plan that demand exceeds delivery capacity.
- (6) In regulated river water sources, dealings should not increase commitments to take water in lower river or effluent systems where this will result in flow at greater than 80% of channel capacity for more than 10% of days used for water delivery.
- (7) In this clause, **commitments to take water** refers, in relation to all access licences with nominated works in that water source or part of a water source, to:
 - (a) the total volume of share components, or
 - (b) the total volume of water allocations in water allocation accounts, or
 - (c) where relevant, the sum of limits on rates of extraction in extraction components.

8. Impacts on indigenous, cultural, heritage or spiritual matters

- (1) Dealings should not adversely affect geographical and other features of indigenous significance.

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- (2) Dealings should not adversely affect geographical and other features of major cultural, heritage or spiritual significance.

9. Impacts on water users

- (1) Dealings should not adversely affect the ability of a person to exercise their basic landholder rights.
- (2) Dealings should have no more than minimal effect on the ability of a person to take water using an existing approved water supply work and any associated access licences. This should be addressed by constraints on dealings established in access licence dealing rules in relevant management plans.

10. Maximising social and economic benefits

- (1) The objective of access licence dealings is to help to facilitate maximising social and economic benefits to the community of access licences as required under the objects of the Act. Dealings do this by:
 - (a) allowing water to move from lower to higher value uses, and
 - (b) allowing the establishment of water markets that value the access licences, thereby encouraging investment in water efficient infrastructure, and
 - (c) allowing greater flexibility to access licence holders.
- (2) Subject to other principles in this order, access licence dealing rules should allow maximum flexibility in dealings to promote the objectives set out in subclause (1).

Part 3 Principles for specific types of access licence dealings

11. Transfer of access licences

- (1) This clause applies to dealings under section 71A of the Act.
- (2) Dealings under section 71A are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Access licence dealing rules established by a management plan shall not regulate or prohibit dealings under section 71A of the Act.

Note. as indicated in section 71A (3), consent to the transfer of a local water utility access licence may only be granted if the transferee is a local water utility, and consent to the transfer of a major water utility access licence may only be granted if the transferee is a major water utility.

12. Conversion of access licence to new category

- (1) This clause applies to access licence dealings under section 71B of the Act.
- (2) Dealings under section 71B are prohibited:
 - (a) if the licence is proposed to be converted to category regulated river (conveyance) or category estuarine or category coastal, or
 - (b) if there is an outstanding debt under the Act in respect of the licence, or
 - (c) if the licence is suspended under section 78 of the Act, or

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- (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) if the licence share component is not numerically quantified.
- (3) Dealings under section 71B are prohibited unless provisions of the relevant management plan:
- (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (4) The share and extraction components of a new licence issued under a dealing under section 71B must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act for the new category.
- (5) Except for where it is otherwise specified in access licence dealing rules in the relevant management plan or where this dealing is accompanied by a dealing under section 71E, water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licence, up to a maximum of the share component volume of the new licence.
- (6) The share component on a new access licence issued under a dealing under section 71B is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factor rules in management plans:
- (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licence.
- (9) For conversion of category from regulated river (high security), unregulated river or aquifer to major utility and vice versa:
- (a) a major utility licence may only be converted to another category if it has components relating to only one water source, and
 - (b) subject to imposing such mandatory conditions as are required by the relevant management plan for the new category, the extraction component on the cancelled licence is to be carried over to the new licence.
- (10) For conversion of category from regulated river (general security) to regulated river (high security) and vice versa, and for conversion of category from domestic and stock to regulated river (high security) and vice versa, the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.

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- (11) For conversion of category from regulated river (conveyance) to regulated river (high security) or regulated river (general security), the extraction component on the cancelled licence is to be carried over to the new licence, subject to imposing such mandatory conditions as are required by the relevant management plan for the new category.
- (12) For conversion of category from regulated river (general security) to unregulated river:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from regulated river (general security) to unregulated river must be accompanied by an application under section 71E to change the share component to an unregulated river water source, and is conditional on granting of that application, and
 - (d) water allocations remaining in the water allocation account on the cancelled licence may not be credited to the new licence.
- (13) For conversion of category from unregulated river to runoff harvesting:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is not on a river (apart from a minor stream as defined in an order made under section 53 of the Act), and
 - (c) the application for conversion of category from unregulated river to runoff harvesting access licence must be accompanied by an application under section 71J to nominate the water supply work to a runoff harvesting dam, and is conditional on granting of that application.
- (14) For conversion of category from runoff harvesting to unregulated river:
- (a) no parts of the extraction component on the cancelled licence are to be carried over to the new licence, and
 - (b) the extraction component of the new licence is to specify a location or area which is on an unregulated river (apart from a minor stream as defined in an order made under section 53 of the Act).
- (15) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. Under section 71B applications to convert local water utility access licences and supplementary access licences are prohibited, and licences granted are subject to the mandatory conditions applicable to the category or subcategory of licence to which it belongs. Also licences may only be granted in relation to the same water source or water management area as the cancelled licence.

13. Subdivision of access licences

- (1) This clause applies to subdivision dealings under section 71C of the Act.

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- (2) Dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licence may be carried forward to the new licences.
- (4) The category of the new licences is to be the same as the category of the cancelled licence.
- (5) The areas or locations specified in the cancelled licence are to be carried over to all the new licences.
- (6) Any indivisible parts of the times, rates or circumstances specified in the extraction component of the cancelled licence are to be carried forward to all the new licences.
- (7) Water allocations remaining in the water allocation account of the cancelled licence are to be credited to the new licences so that the combined water allocations in the accounts of the new licences are no greater than the water allocations which remained in the account of the cancelled licence.
- (8) Access licence dealing rules established by a management plan shall not regulate or prohibit subdivision dealings under section 71C of the Act.

Note. As indicated in section 71C (3), the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction components of the cancelled licence, and conditions on the cancelled licence are to be carried over to the new licences.

14. Consolidation of access licences

- (1) This clause applies to consolidation dealings under section 71C of the Act.
- (2) Consolidation dealings under section 71C are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if the licences to be consolidated do not have share components in the same water source, or
 - (d) if the location or area specified in the extraction component of the licences is not the same.
- (3) Subject to the granting of an application under section 71J, any nominated water supply works on the cancelled licences may be carried forward to the new licence.
- (4) Water allocations remaining in the water allocation accounts on the cancelled licences are to be credited to the new licence so that the water allocations in the account of the new licence is no greater than the sum of the water allocations remaining in the accounts of the cancelled licences.
- (5) Access licence dealing rules established by a management plan shall not regulate or prohibit consolidation dealings under section 71C of the Act.

Note. as indicated in section 71C, the licences to be consolidated must be of the same category or subcategory, the combined share components and combined extraction components of the new licences are to be no greater than the share and extraction

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components of the cancelled licence, and conditions on the cancelled licences are to be carried over to the new licences.

15. Assignment of rights under access licences

- (1) This clause applies to assignment of rights dealings under section 71D of the Act.
- (2) Dealings under section 71D are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of any of the licences, or
 - (b) if any of the licences are suspended under section 78 of the Act, or
 - (c) if any of the licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act.
- (3) Only share or extraction components, or parts thereof, that are numerically quantified may be assigned from one licence to another.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71D, the licences which are involved in a dealing under section 71D must be of the same category and have share components in the same water source or water management area. This dealing does not apply to local water utility access licences.

16. Change of water source

- (1) This clause applies to amendment of share component dealings under section 71E of the Act.
- (2) Dealings under section 71E are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence does not have the share component expressed as a volume, or
 - (d) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (e) from an unregulated river water source to a regulated river water source, or
 - (f) from a groundwater source to a regulated river or unregulated river water source, or vice versa, or
 - (g) if the licence is of category major water utility or supplementary.
- (3) A dealing under section 71E is prohibited unless there is a hydrologic connection between the water sources of the cancelled and issued licences.
- (4) A dealing under section 71E is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.

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- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) The share component on the new access licence is to be of a volume equal to the volume on the cancelled licence multiplied by a conversion factor determined by the Minister in accordance with any rules set out in relevant management plans.
- (7) Conversion factors rules in management plans:
 - (a) must be based on protecting environmental water and basic landholder rights as specified in the management plans, and maintaining the available water to other access licences, and
 - (b) are not to be set for the purpose of achieving a reduction in overall water extraction from water sources.
- (8) Nominated water supply works on the cancelled licence are not to be carried over to the new licence.
- (9) No water allocations remaining in the water allocation account of the cancelled licence may be credited to the new licence.
- (10) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71E, the new licence arising from a dealing under section 71E is subject to the mandatory conditions relevant to its category or subcategory and water source. This dealing does not apply to local water utility access licences.

17. Amendment of extraction component of access licence

- (1) This clause applies to amendment of extraction component dealings under section 71F of the Act.
- (2) Dealings under section 71F are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence,
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences.
- (3) Amendment of the times, rates and circumstances part of the extraction component may only occur where:
 - (a) access licence dealing rules in the relevant plan make provision for it consistent with the principles in Part 2 of this order, and
 - (b) those rules specifically indicate the nature of those amendments which are allowed.
- (4) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Note. As indicated in section 71F, the area or location arising from a variation of an access licence under this dealing must relate to the same water management area or water source as that to which the original area or location related.

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18. Assignment of water allocations between access licences

- (1) This clause applies to assignment of water allocation dealings under section 71G of the Act.
- (2) Dealings under section 71G are prohibited:
 - (a) if either of the access licences is suspended under section 78 of the Act, or
 - (b) if either of the access licences are of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on both access licences, or
 - (d) if any of the access licences is of category runoff harvesting, or
 - (e) if any of the access licences is of category major utility, unless specific provision is made in access licence dealing rules to allow this, or
 - (f) from a supplementary water access licence to a licence of any other category.
- (3) Assignment of water allocations between access licences relating to different water sources is prohibited if:
 - (a) either licence is of category supplementary, or
 - (b) there is no hydrologic connection between the water sources, or
 - (c) one water source is a regulated river and the other is an unregulated river, or
 - (d) one water source is a groundwater source and the other is a regulated river or unregulated river water source.
- (4) Assignment of water allocations between access licences relating to different water sources is prohibited unless provisions of the relevant management plans:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (5) Assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

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19. Interstate transfer dealings

- (1) This clause applies to dealings under section 71H of the Act.
- (2) Any dealings under section 71H must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71H are prohibited unless the waters for which the interstate access licence equivalent has or will have rights to are hydrologically connected to the water source in which to which the access licence to be issued or revoked relates.
- (4) Dealings under section 71H which revoke an access licence are prohibited:
 - (a) if there is an outstanding debt under the Act in respect of the licence, or
 - (b) if the licence is suspended under section 78 of the Act, or
 - (c) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, or
 - (d) if the licence is of category local water utility or major water utility.
- (5) The share and extraction components of a new licence issued under this dealing must comply with any requirements that are specified in the relevant management plan for a licence granted under section 63 of the Act.
- (6) Dealings under section 71H are prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by such dealings, and
 - (b) protect basic landholder rights from being affected by such dealings, and
 - (c) protect the available water under other access licences from being affected by such dealings.
- (7) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

20. Interstate assignment of water allocations

- (1) This clause applies to interstate assignment of water allocation dealings under section 71I of the Act.
- (2) Any dealings under section 71I must be consistent with the relevant inter-state agreement.
- (3) Dealings under section 71I are prohibited:
 - (a) if the access licence is suspended under section 78 of the Act, or
 - (b) if the licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, or
 - (c) if a method of measurement of water extraction which is satisfactory to the Minister is not established for all nominated water supply works on the access licence, or
 - (d) if the access licence is of category runoff harvesting or supplementary water, or

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- (e) if the access licence is of category major utility, unless specific provision is made in access licence dealing rules in the relevant management plan to allow this.
- (4) This dealing is prohibited unless arrangements are in place which:
 - (a) protect environmental water from being affected by the dealing, and
 - (b) protect basic landholder rights from being affected by the dealing, and
 - (c) protect the available water under other access licences from being affected by the dealing.
- (5) Interstate assignment of water allocations from a local water utility access licence is prohibited unless:
 - (a) the Minister has approved a demand management plan for all NSW towns supplied under the local water utility access licence, and
 - (b) the Minister has approved a drought management plan for all NSW towns supplied under the local water utility access licence, and
 - (c) the Minister is satisfied the assignment will not put the water supply for NSW towns supplied by the local water utility at risk.
- (6) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

21. Nomination of water supply works

- (1) This clause applies to nomination of water supply works dealings under section 71J of the Act.
- (2) Dealings under section 71J are prohibited if the access licence is suspended under section 78 of the Act.
- (3) Dealings under section 71J are prohibited if the access licence is of a kind which is not subject to embargo in accordance with an order made under sections 80 or 81 of the Act, apart from local water utility access licences, with the following exceptions:
 - (a) if new or additional works are to be nominated, where those works supply the same property as the current nominated works, or a contiguous property to the property supplied by the current nominated works which is occupied by the same landholder, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.
- (4) Dealings under section 71J are prohibited if the access licence is of category local water utility, with the following exceptions:
 - (a) if new or additional works are to be nominated, that those works supply the same town water supply scheme as the current nominated works, or
 - (b) if a nominated work is withdrawn, that there remains at least one nominated work.

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- (5) Nomination of a water supply work is prohibited if the access licence does not have an extraction component allowing taking of water at the location of the nominated work.
- (6) With regard to runoff harvesting access licences:
 - (a) the nominated work must be a runoff harvesting dam of capacity consistent with the share component of the access licence, and
 - (b) withdrawal of nominated work may only be granted where arrangements are in place to ensure that the nominated work does not conserve any more water than is permitted pursuant to the exercise of basic landholder rights.
- (7) Withdrawal of nomination may not be prohibited by access licence dealing rules, except for as otherwise specified in this clause.
- (8) Subject to the other parts of this clause, access licence dealing rules may prohibit or regulate these dealings provided this is done consistent with the principles in Part 2 of this order.

Department of Mineral Resources

NOTICE is given that the following application has been received:

EXPLORATION LICENCE APPLICATION

(T03-0005)

No. 2051, DAVID ROY CARSTEIN, area of 1 unit, for Group 1, dated 30 January, 2003. (Broken Hill Mining Division).

EDWARD OBEID, MLC,
Minister for Mineral Resources

NOTICE is given that the following applications have been granted:

EXPLORATION LICENCE APPLICATION

(C02-0178)

No. 1955, now Exploration Licence No. 6047, DEPARTMENT OF MINERAL RESOURCES, County of Brisbane, Map Sheet (9033), area of 2480 hectares, for Group 9, dated 21 January, 2003, for a term until 20 January, 2008.

MINING LEASE APPLICATION

(T97-1270)

Inverell No. 90, now Mining Lease No. 1527 (Act 1992), WILSON GEMS & INVESTMENTS PTY.LTD (ACN 001 155 755), Parish of Ditmas, County of Gough, Map Sheet (9238-4-S), area of 162 hectares, to mine for sapphire, dated 14 January, 2003, for a term until 13 January, 2010.

EDWARD OBEID, MLC,
Minister for Mineral Resources

NOTICE is given that the following applications for renewal have been received:

(T98-1169)

Exploration Licence No. 5563, COMPASS RESOURCES N.L. (ACN 010 536 820), area of 15 units. Application for renewal received 31 January, 2003.

(T66-1849)

Exploration (Prospecting) Licence No. 2364, PERILYA BROKEN HILL LIMITED (ACN 099 761 289), area of 1 unit. Application for renewal received 28 January, 2003.

(T66-1136)

Exploration (Prospecting) Licence No. 2379, PERILYA BROKEN HILL LIMITED (ACN 099 761 289), area of 22 units. Application for renewal received 28 January, 2003.

(T68-4556)

Exploration (Prospecting) Licence No. 3365, PERILYA BROKEN HILL LIMITED (ACN 099 761 289), area of 2 units. Application for renewal received 28 January, 2003.

(T68-4788)

Exploration (Prospecting) Licence No. 3661, PERILYA BROKEN HILL LIMITED (ACN 099 761 289), area of 1 unit. Application for renewal received 28 January, 2003.

EDWARD OBEID, MLC,
Minister for Mineral Resources

RENEWAL OF CERTAIN AUTHORITIES

NOTICE is given that the following authorities have been renewed:

(T83-0207)

Exploration Licence No. 2059, AURIONGOLD EXPLORATION PTY LIMITED (ACN 067 813 932), County of Bland, Map Sheet (8329), area of 14 units, for a further term until 22 August, 2004. Renewal effective on and from 23 January, 2003.

(C92-2027)

Exploration Licence No. 4575, MARUBENI THERMAL COAL PTY LTD (ACN 061 468 620), ANGLO COAL (DARTBROOK) PTY LTD (ACN 000 012 813) and SSANGYONG RESOURCES PTY LIMITED (ACN 071 744 986), County of Brisbane, Map Sheet (9033), area of 960.6 hectares, for a further term until 23 May, 2007. Renewal effective on and from 17 January, 2003.

(T97-1199)

Exploration Licence No. 5359, MURRAY BASIN TITANIUM PTY LTD (ACN 082 497 827), Counties of Kilfera, Manara and Taila, Map Sheet (7429, 7430, 7529, 7530, 7531, 7630, 7631), area of 730 units, for a further term until 8 October, 2004. Renewal effective on and from 23 January, 2003.

(T97-1200)

Exploration Licence No. 5362, MURRAY BASIN TITANIUM PTY LTD (ACN 082 497 827), Counties of Perry and Wentworth, Map Sheet (7430, 7431, 7531), area of 548 units, for a further term until 9 October, 2004. Renewal effective on and from 23 January, 2003.

(T97-1022)

Exploration Licence No. 5421, ILUKA MIDWEST LIMITED (ACN 008 763 666), Counties of Caira and Taila, Map Sheet (7529), area of 277 units, for a further term until 7 January, 2004. Renewal effective on and from 23 January, 2003.

(T98-1020)

Exploration Licence No. 5504, OMYA AUSTRALIA PTY LIMITED (ACN 001 682 533), County of Harden, Map Sheet (8628), area of 3 units, for a further term until 10 August, 2004. Renewal effective on and from 23 January, 2003.

(C98-2716)

Exploration Licence No. 5600, MUSWELLBROOK COAL COMPANY LIMITED (ACN 000 009 521), County of Brisbane, Map Sheet (9033), area of 5780 hectares, for a further term until 20 January, 2006. Renewal effective on and from 17 January, 2003.

EDWARD OBEID, MLC,
Minister for Mineral Resources

WITHDRAWAL OF APPLICATION FOR RENEWAL

NOTICE is given that the application for renewal in respect of the following authority has been withdrawn:

(T01-0016)

Mineral Lease No. 4692 (Act 1906), NEW ENGLAND ANTIMONY MINES N.L. (RECEIVERS & MANAGERS APPOINTED) (ACN 005 482 940), Parish of Allingham, County of Clarke, Map Sheet (9337-4-S), area of 15.65 hectares. The title continues to have effect until 23 February, 2003.

EDWARD OBEID, MLC,
Minister for Mineral Resources

CANCELLATION OF AUTHORITIES AT REQUEST OF HOLDERS

NOTICE is given that the following authorities have been cancelled:

(T02-0162)

Mining Lease No. 1053 (Act 1973), UNIMIN AUSTRALIA LIMITED (ACN 000 971 844), Parish of Wialdra, County of Phillip, Map Sheet (8833-3-S), area of 6.087 hectares. Cancellation took effect on 24 January, 2003.

(T02-0159)

Mineral Lease No. 6005 (Act 1906), UNIMIN AUSTRALIA LIMITED (ACN 000 971 844), Parish of Wialdra, County of Phillip, Map Sheet (8833-3-S), area of 2820 square metres. Cancellation took effect on 24 January, 2003.

EDWARD OBEID, MLC,
Minister for Mineral Resources

TRANSFERS

(C02-0591)

Consolidated Coal Lease No. 704 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL ANGUS PLACE PTY LIMITED (ACN 101 508 945). The transfer was registered on 24 January, 2003.

(C02-0586)

Consolidated Coal Lease No. 719 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL WYEE PTY LIMITED (ACN 101 509 120). The transfer was registered on 24 January, 2003.

(C02-0578)

Consolidated Coal Lease No. 720 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL MUNMORAH PTY LIMITED (ACN 101 508 963). The transfer was registered on 24 January, 2003.

(C02-0586)

Consolidated Coal Lease No. 721 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL WYEE PTY LIMITED (ACN 101 509 120). The transfer was registered on 24 January, 2003.

(C02-0578)

Consolidated Coal Lease No. 722 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL MUNMORAH PTY LIMITED (ACN 101 508 963). The transfer was registered on 24 January, 2003.

(C02-0590)

Consolidated Coal Lease No. 727 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL NEWSTAN PTY LIMITED (ACN 101 508 865). The transfer was registered on 24 January, 2003.

(C02-0590)

Consolidated Coal Lease No. 746 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL NEWSTAN PTY LIMITED (ACN 101 508 865). The transfer was registered on 24 January, 2003.

(C02-0591)

Consolidated Coal Lease No. 756 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL ANGUS PLACE PTY LIMITED (ACN 101 508 945). The transfer was registered on 24 January, 2003.

(C02-0584)

Consolidated Coal Lease No. 762 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL MANDALONG PTY LIMITED (ACN 101 508 892). The transfer was registered on 24 January, 2003.

(C02-0589)

Mining Lease No. 1370 (Act 1992), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL MYUNA PTY LIMITED (ACN 101 508 981). The transfer was registered on 24 January, 2003.

(C02-0590)

Mining Lease No. 1380 (Act 1992), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL NEWSTAN PTY LIMITED (ACN 101 508 865). The transfer was registered on 24 January, 2003.

(C02-0591)

Mining Lease No. 1424 (Act 1992), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL ANGUS PLACE PTY LIMITED (ACN 101 508 945). The transfer was registered on 24 January, 2003.

(C02-0584)

Mining Lease No. 1431 (Act 1992), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL MANDALONG PTY LIMITED (ACN 101 508 892). The transfer was registered on 24 January, 2003.

(C02-0584)

Mining Lease No. 1443 (Act 1992), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL MANDALONG PTY LIMITED (ACN 101 508 892). The transfer was registered on 24 January, 2003.

(C02-0590)

Mining Lease No. 1452 (Act 1992), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL NEWSTAN PTY LIMITED (ACN 101 508 865). The transfer was registered on 24 January, 2003.

(C02-0590)

Mining Lease No. 1480 (Act 1992), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL NEWSTAN PTY LIMITED (ACN 101 508 865). The transfer was registered on 24 January, 2003.

(C02-0584)

Mining Purposes Lease No. 191 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL MANDALONG PTY LIMITED (ACN 101 508 892). The transfer was registered on 24 January, 2003.

(C02-0590)

Mining Purposes Lease No. 304 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL NEWSTAN PTY LIMITED (ACN 101 508 865). The transfer was registered on 24 January, 2003.

(C02-0590)

Mining Purposes Lease No. 305 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL NEWSTAN PTY LIMITED (ACN 101 508 865). The transfer was registered on 24 January, 2003.

(C02-0578)

Mining Purposes Lease No. 306 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL MUNMORAH PTY LIMITED (ACN 101 508 963). The transfer was registered on 24 January, 2003.

(C02-0578)

Mining Purposes Lease No. 307 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL MUNMORAH PTY LIMITED (ACN 101 508 963). The transfer was registered on 24 January, 2003.

(C02-0578)

Mining Purposes Lease No. 308 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL MUNMORAH PTY LIMITED (ACN 101 508 963). The transfer was registered on 24 January, 2003.

(C02-0590)

Mining Purposes Lease No. 327 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL NEWSTAN PTY LIMITED (ACN 101 508 865). The transfer was registered on 24 January, 2003.

(C02-0590)

Mining Purposes Lease No. 328 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL NEWSTAN PTY LIMITED (ACN 101 508 865). The transfer was registered on 24 January, 2003.

(C02-0584)

Mining Purposes Lease No. 329 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL MANDALONG PTY LIMITED (ACN 101 508 892). The transfer was registered on 24 January, 2003.

(C02-0589)

Mining Purposes Lease No. 334 (Act 1973), formerly held by POWERCOAL PTY LTD (ACN 052 533 070) has been transferred to CENTENNIAL MYUNA PTY LIMITED (ACN 101 508 981). The transfer was registered on 24 January, 2003.

EDWARD OBEID, MLC,
Minister for Mineral Resources

Department of Planning



New South Wales

Botany Local Environmental Plan 1995 (Amendment No 26)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S02/00880/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Planning

Clause 1 Botany Local Environmental Plan 1995 (Amendment No 26)

Botany Local Environmental Plan 1995 (Amendment No 26)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Botany Local Environmental Plan 1995 (Amendment No 26)*.

2 Aims of plan

This plan aims:

- (a) to allow, with the consent of the Council of the City of Botany Bay, the carrying out of development on the land to which this plan applies for the purpose of a caretaker's residence used in conjunction with an industrial use of the land, and
- (b) to introduce a definition of *caretaker's residence* into *Botany Local Environmental Plan 1995*, and
- (c) to remove a house on land to which this plan applies from the list of heritage items in *Botany Local Environmental Plan 1995* and add plantings of Canary Island Date Palms on that land to that list of heritage items.

3 Land to which plan applies

This plan applies to Lot 1 in DP 169307, known as 23 Byrnes Street, Botany.

4 Amendment of Botany Local Environmental Plan 1995

Botany Local Environmental Plan 1995 is amended as set out in Schedule 1.

Botany Local Environmental Plan 1995 (Amendment No 26)

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 4)

[1] Schedule 1 Definitions

Insert in alphabetical order:

caretaker's residence means a residence used for the purpose of providing ancillary support services to the principal industrial use of the land on which the residence is located, if:

- (a) the residence is necessary for the security and/or supervision of the principal use of the land, and
- (b) the principal use of the land has been established, and
- (c) the residence is physically linked to or within the curtilage of a building used for industrial purposes.

[2] Schedule 2 Development for certain additional purposes

Insert at the end of the Schedule:

- Land, being Lot 1, DP 169307, known as 23 Byrnes Street, Botany—Caretaker's residence.

[3] Schedule 3 Heritage items and heritage conservation areas

Omit from the Schedule:

70	House	23 Byrnes Street, Botany
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Insert instead:

70	Canary Island Date Palms (<i>Phoenix Canariensis</i>)	23 Byrnes Street, Botany
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Hornsby Shire Local Environmental Plan 1994 (Amendment No 64)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S99/01389/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Planning

Clause 1 Hornsby Shire Local Environmental Plan 1994 (Amendment No 64)

Hornsby Shire Local Environmental Plan 1994 (Amendment No 64)

1 Name of plan

This plan is *Hornsby Shire Local Environmental Plan 1994 (Amendment No 64)*.

2 Aims of plan

This plan aims:

- (a) to implement the amendments to the *Hornsby Shire Local Environmental Plan 1994* that were recommended in the Berowra Waters Plan of Management, and
- (b) to introduce a new zone that covers the river settlements located along Berowra Creek and Hawkesbury River, so as to ensure that the controls applying to that land are consistent with the characteristics of the settlements, and
- (c) to rezone three sites owned by Hornsby Shire Council to the Open Space A (Public Recreation—Local) Zone, so as to retain the land as public open space, and
- (d) to permit, with the consent of the Council:
 - (i) development for the purpose of a restaurant and holiday cabins on the property at Sunny Corner known as Peats Bite Restaurant, and
 - (ii) development for the purposes of an eco-tourism facility on the property at Fishermans Point known as Melvy's Wharf, and
- (e) to update the list of heritage items in the *Hornsby Shire Local Environmental Plan 1994*.

Hornsby Shire Local Environmental Plan 1994 (Amendment No 64)

Clause 3

3 Land to which plan applies

This plan applies to land within the Hornsby local government area, within the localities known as Berowra Waters, Neverfail Bay, Calabash Point, Coba Point, Marramarra Creek, Sunny Corner, Fishermans Point and Milsons Passage, as shown by distinctive colouring on the map marked "Hornsby Shire Local Environment Plan 1994 (Amendment No 64)" deposited in the office of Hornsby Council.

4 Amendment of Hornsby Shire Local Environmental Plan 1994

The *Hornsby Shire Local Environmental Plan 1994* is amended as set out in Schedule 1.

Hornsby Shire Local Environmental Plan 1994 (Amendment No 64)

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 4)

[1] Clause 7 Zoning control table

Insert in order of zones in clause 7 (1):

Environmental Protection E (River Settlement) Zone

[2] Clause 7 (2)

Insert in order of zones in the Table to the subclause:

Environmental Protection E (River Settlement) Zone

Objectives of Zone

- (a) to protect the natural environment of sensitive areas within the catchment of the Hawkesbury River.
- (b) to accommodate low density housing that is consistent with the environmental sensitivity, infrastructure limitations and access limitations of the area.
- (c) to protect the scenic quality and water quality of the area and promote development that is within the environmental capacity of the area.

Without Development Consent

Development for the purpose of:

Home occupations; special care homes.

Exempt development.

Only With Development Consent

Development for the purpose of:

Bushfire hazard reduction (except ancillary buildings); communications facilities; demolition; dwelling-houses; group homes; utility installations.

Subdivision.

Hornsby Shire Local Environmental Plan 1994 (Amendment No 64)

Amendments

Schedule 1

Prohibited

Development that is not permitted without development consent or permitted only with development consent.

Description on Map

Coloured orange with red edging and lettered "E".

[3] Clause 14 Density

Insert at the end of the Minimum Allotment Size Table to clause 14 (1):

Environmental Protection E (River Settlement) 40ha

[4] Clause 15 Floorspace ratio

Insert at the end of the Floorspace Ratio Table to clause 15 (1):

Environmental Protection E (River Settlement) 0.4:1

[5] Clause 18 Heritage

Omit "Environmental Protection A, B, C or D" from clause 18 (9) (b) (iv).
Insert instead "Environmental Protection A, B, C, D or E".

[6] Clause 22 Exceptions

Insert at the end of the Table to clause 22 (1):

Lot No 1 Sunny Corner, Berowra Creek	Lot 1 DP 901023 Lot A DP 319646 Lot 1 DP 1003363 Lot 0 DP 752026	Restaurant and holiday cabins
Lot No 99 Fishermans Point, Berowra Creek	Lot 99 DP 132067 Lot B DP 363636 Lot 1 DP 659848	Eco-tourism facility

[7] Clause 23 Dictionary

Insert in appropriate order in the definition of *the map* in clause 23 (1):

Hornsby Shire Local Environmental Plan 1994 (Amendment
No 64)

Hornsby Shire Local Environmental Plan 1994 (Amendment No 64)

Schedule 1 Amendments

[8] Schedule D

Insert at the end of the matter relating to Berowra Waters:

Berowra Waters Road	Rex Jones Memorial	L
Franks Bight adjacent to Kirkpatrick Way	Tidal Bath remains	L



Liverpool Local Environmental Plan 1997 (Amendment No 28)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (P99/00515/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Planning

Clause 1 Liverpool Local Environmental Plan 1997 (Amendment No 28)

Liverpool Local Environmental Plan 1997 (Amendment No 28)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Liverpool Local Environmental Plan 1997 (Amendment No 28)*.

2 Aims of plan

This plan aims to provide heritage conservation incentives, including provision for non-conforming uses, for development involving buildings that are heritage items listed in Schedule 2 to *Liverpool Local Environmental Plan 1997* or within heritage conservation areas established by that plan.

3 Land to which plan applies

This plan applies to land that is the site of a heritage item or within a heritage conservation area under Schedule 2 to *Liverpool Local Environmental Plan 1997*.

4 Amendment of Liverpool Local Environmental Plan 1997

Liverpool Local Environmental Plan 1997 is amended by omitting clause 75 (1) and by inserting instead:

- (1) The Council may grant consent to the use, for any purpose, of a building that is a heritage item or is within a heritage conservation area, or is on the site of a heritage item, even though that use would be otherwise prohibited by this plan, but only if it is satisfied that:
 - (a) the condition of the building is such that the use of the building for any purpose that is permissible would be impractical or undesirable, and
 - (b) the building requires a substantial amount of capital expenditure (other than for maintenance work) in order to conserve the heritage significance of the building, and

Liverpool Local Environmental Plan 1997 (Amendment No 28)

Clause 4

-
- (c) the proposed use of the building is in accordance with a conservation management plan that has been endorsed by the Council, and
 - (d) the cost of the conservation work identified in the conservation management plan is such that there is no reasonable possibility that any of the uses of the building that are permissible would be economically viable for the current or any future owner, and
 - (e) the granting of consent to the proposed use of the building would ensure that all necessary conservation work identified in the conservation management plan is carried out, and
 - (f) the proposed use of the building, if approved, would not affect the heritage significance of the building or its setting, and
 - (g) the proposed use of the building would not adversely affect the amenity of the surrounding area, and
 - (h) the conservation of the building or its site depends on the Council granting that consent.



Marrickville Local Environmental Plan 2001 (Amendment No 10)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S02/00382/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Planning

Clause 1 Marrickville Local Environmental Plan 2001 (Amendment No 10)

Marrickville Local Environmental Plan 2001 (Amendment No 10)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Marrickville Local Environmental Plan 2001 (Amendment No 10)*.

2 Aims of plan

This plan aims:

- (a) to rezone certain land from the Residential 2 (A) zone to the General Business 3 (A) zone under *Marrickville Local Environmental Plan 2001*, and
- (b) to reclassify certain land from community land to operational land within the meaning of the *Local Government Act 1993*.

3 Land to which plan applies

This plan applies to land:

- (a) shown edged heavy black and numbered on Sheets 1 to 9 of the map marked "Marrickville Local Environmental Plan 2001 (Amendment No 10)" deposited in the offices of Marrickville Council, and
- (b) shown coloured blue on Sheet 10 of the map marked "Marrickville Local Environmental Plan 2001 (Amendment No 10)" deposited in the offices of Marrickville Council.

4 Amendment of Marrickville Local Environmental Plan 2001

Marrickville Local Environmental Plan 2001 is amended as set out in Schedule 1.

Marrickville Local Environmental Plan 2001 (Amendment No 10)

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 4)

[1] Schedule 1 Definitions

Insert at the end of the definition of *the map*:

Marrickville Local Environmental Plan 2001 (Amendment No 10)
—Sheet 10

[2] Schedule 3 Classification and reclassification of public land as operational land

Insert in appropriate alphabetical order in Columns 1 and 2 of Part 3:

Camperdown	Hordern Place Car Park, Hordern Place, Camperdown, being Lot 8, DP 247501, as shown edged heavy black and numbered “16” on Sheet 9 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Dulwich Hill	Loftus Street Car Park, 1–15 Loftus Street, Dulwich Hill, being Lot 1, DP 732545, as shown edged heavy black and numbered “5” on Sheet 3 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Dulwich Hill	Seaview Street Car Park, 14 Seaview Street, Dulwich Hill, being Lot 122, DP 1006040, as shown edged heavy black and numbered “7” on Sheet 3 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Dulwich Hill	Seaview Street Car Park, 26–36 Seaview Street, Dulwich Hill, being Lot B, DP 320726, Lot 101, DP 635676, Lot 2, DP 909146, as shown edged heavy black and numbered “6” on Sheet 3 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”

Marrickville Local Environmental Plan 2001 (Amendment No 10)

Amendments

Schedule 1

Enmore	Edgware Road Car Park, 2 Edgware Road, Enmore, being Lots 13–18, Sec 2, DP 1166, as shown edged heavy black and numbered “15” on Sheet 8 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Marrickville	Calvert Street Car Park, 285–295 Illawarra Road, Marrickville, being Lots 27–30 and Part Lot 31, Sec 1, DP 1943, as shown edged heavy black and numbered “2” on Sheet 2 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Marrickville	Garners Avenue Car Park, 64–68 Garners Avenue, Marrickville, being Lots 22–25, DP 730, as shown edged heavy black and numbered “3” on Sheet 2 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Marrickville	Petersham Road Car Park, Petersham Road, Marrickville, being Pt Lot 1, DP 804376, as shown edged heavy black and numbered “1” on Sheet 1 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Marrickville	Victoria Road Car Park, 176 Marrickville Road, Marrickville, being Lots 190–194, DP 2012, as shown edged heavy black and numbered “4” on Sheet 2 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Newtown	Lennox Street Car Park, 10 Lennox Street, Newtown, being Lot 21, DP 629126, as shown edged heavy black and numbered “14” on Sheet 7 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Petersham	Charles Street Car Park, 4 Charles Street, Petersham, being Lot 1, DP 106976, Lot 10, DP 1027414, as shown edged heavy black and numbered “12” on Sheet 5 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”

Marrickville Local Environmental Plan 2001 (Amendment No 10)

Amendments

Schedule 1

Petersham	Chester Street Car Park, 5–7 Chester Street, Petersham, being Lots 1–3, DP 598422, Lots A and B, DP 438174, as shown edged heavy black and numbered “8” on Sheet 4 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Petersham	Crystal Street Car Park, 126 Crystal Street, Petersham, being Lot 5, DP 52786, as shown edged heavy black and numbered “9” on Sheet 4 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Petersham	Queen Street Car Park, 21 Queen Street, Petersham, being Lot 3, DP 219525, as shown edged heavy black and numbered “11” on Sheet 5 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Petersham	Sadlier Crescent Car Park, 1 Sadlier Crescent, Petersham, being Lot 2, DP 707624, as shown edged heavy black and numbered “10” on Sheet 4 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”
Stanmore	Temple Street Car Park, 1 Temple Street, Stanmore, being Lot 50, Sec G, DP 2871, as shown edged heavy black and numbered “13” on Sheet 6 of 10 of the map marked “Marrickville Local Environmental Plan 2001 (Amendment No 10)”

Strathfield Local Environmental Plan No 101

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979. (S02/00952/S69)

ANDREW REFSHAUGE, M.P.,
Minister for Planning

Clause 1 Strathfield Local Environmental Plan No 101

Strathfield Local Environmental Plan No 101

1 Name of plan

This plan is *Strathfield Local Environmental Plan No 101*.

2 Aims of plan

This plan aims to zone the land to which this plan applies from unzoned road to the Industrial zone under the *Strathfield Planning Scheme Ordinance*. The land will no longer be used as a road.

3 Land to which plan applies

This plan applies to so much of Tavistock Road, Homebush West, as is shown edged heavy black, lettered "4" and hatched on the map marked "Strathfield Local Environmental Plan No 101" deposited in the office of Strathfield Municipal Council.

4 Amendment of Strathfield Planning Scheme Ordinance

The *Strathfield Planning Scheme Ordinance* is amended by inserting in appropriate order in paragraph (b) of the definition of *Scheme map* in clause 4 (1) the following words:

Strathfield Local Environmental Plan No 101

Wingecarribee Local Environmental Plan 1989 (Amendment No 91)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979. (W96/00238)

ANDREW REFSHAUGE, M.P.,
Minister for Planning

Clause 1 Wingecarribee Local Environmental Plan 1989 (Amendment No 91)

Wingecarribee Local Environmental Plan 1989 (Amendment No 91)

1 Name of plan

This plan is *Wingecarribee Local Environmental Plan 1989 (Amendment No 91)*.

2 Aims of plan

This plan aims:

- (a) to rezone the land to which it applies to part Residential “A1” and part Open Space (Existing Recreation) under *Wingecarribee Local Environmental Plan 1989*, and
- (b) to include provisions in that plan:
 - (i) restricting the erection of any buildings on part of the land to which this plan applies, and
 - (ii) requiring the Council of the Shire of Wingecarribee to take certain matters into account when determining a development application relating to that part of the land.

3 Land to which plan applies

This plan applies to part Lot 458, DP 45785, part Lot 2, DP 46942, part Lot 273, DP 751262 and part road reserve, Apple Street, Berrima, as shown edged heavy black on the map marked “Wingecarribee Local Environmental Plan 1989 (Amendment No 91)” deposited in the office of Wingecarribee Shire Council.

4 Amendment of Wingecarribee Local Environmental Plan 1989

Wingecarribee Local Environmental Plan 1989 is amended as set out in Schedule 1.

Wingecarribee Local Environmental Plan 1989 (Amendment No 91)

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 4)

[1] Clause 5 Definitions

Insert in appropriate order at the end of the definition of *the map* in clause 5 (1):

Wingecarribee Local Environmental Plan 1989 (Amendment No 91)

[2] Clause 58A

Insert after clause 58:

58A Special provisions—certain land in Apple Street, Berrima

- (1) This clause applies to part Lot 458, DP 45785, part Lot 2, DP 46942 and part road reserve, Apple Street, Berrima as shown edged heavy black on the map marked “Wingecarribee Local Environmental Plan 1989 (Amendment No 91)” and zoned Residential “A1”.
- (2) The Council shall not grant consent to the erection of any building on the land to which this clause applies unless the Council is satisfied that:
 - (a) the building will not exceed 1 storey in height; and
 - (b) the building will not be erected on or to the south of the natural ridgeline which transects the land.
- (3) In determining an application for consent for any development on the land to which this clause applies, the Council must take into account whether adequate provision has been made:
 - (a) for the disposal of all effluent water by means of connection to the Council’s reticulated sewerage system, and
 - (b) for stormwater and floodwater runoff arising from the development to be disposed of without any risk of contamination to the Wingecarribee River, and

Wingecarribee Local Environmental Plan 1989 (Amendment No 91)

Schedule 1 Amendments

- (c) for the protection of groundwater in the locality from degradation and contamination in such a way as to ensure that there is no overall adverse impact on groundwater quality.

Roads and Traffic Authority

ROADS ACT 1993

Notice under Clause 17 of the Road Transport (Mass, Loading and Access) Regulation 1996

Tenterfield Shire Council, in pursuance of Division 2 of Part 3 of the Road Transport (Mass, Loading and Access) Regulation 1996, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

(Mark Arnold)

General Manager
Tenterfield Shire Council
247 Rouse Street

TENTERFIELD NSW 2372

(by delegation from the minister for Roads)

SCHEDULE

1. Citation

This Notice may be cited as the Tenterfield Shire Council B-Doubles Notice No *01/2003*.

2. Commencement

This notice takes effect on the date of Gazettal .

3. Effect

This Notice remains in force until 5 years from the date of Gazettal.

4. Application

This Notice applies to B-Doubles which comply with Schedule 1 to the Road Transport (Mass, Loading and Access) Regulation 1996 and Schedule 4 to the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

Type	Road No	Road Name	Starting Point	Finishing Point	Conditions
25M	MR 622	Mt Lindesay Rd	New England Highway (SH9)	Boundary Road	
25M	000	Boundary Rd	Mt Lindesay Rd (MR622)	Saleyards access	
25M	000	Old Ballandean Rd	New England Highway (SH9)	Mt Lindesay Rd	
25M	000	Miles St, Tenterfield	Rouse St (SH9)	Crown St	
25M	000	Crown St, Tenterfield	Miles St	Manners St	
25M	000	Manners St, Tenterfield	Rouse St (SH9)	Crown St	
25M	000	Simpson St, Tenterfield	New England Highway (SH9)	Rear Entrance to BP Service Station	
25M	000	Clive St, Tenterfield	Rouse St (SH9)	Scott St	
25M	000	Scott St, Tenterfield	Clive St	Southern boundary of Schiffmann's Fuel Depot	
25M	000	Derby St, Tenterfield	Rouse St (SH9)	Western Boundary of AMPOL Service Station (7 Knights)	
25M	000	Western Boundary St, Tenterfield	New England Highway (SH9)	Petre St	
25M	000	Petre St, Tenterfield	Western Boundary St	100 metres east of Western Boundary St	

- End of Notice -

Roads Act 1993

Notice under Clause 17 of the Road Transport (Mass, Loading and Access) Regulation, 1996

Narromine Shire Council, in pursuance of Division 2 of Part 3 of the *Road Transport (Mass, Loading and Access) Regulation 1996*, by this Notice, specify the routes and areas on or in which Road Trains may be used subject to any requirements or conditions set out in the Schedule.

Paul Bennett
General Manager
Narromine Shire Council
(by delegation from the Minister for Roads)

Schedule

1. **Citation**

This Notice may be cited as the Narromine Shire Council Road Train Notice No 1, 2003.

2. **Commencement**

This Notice takes effect on the date of Gazettal.

3. **Effect**

This Notice remains in force until and including 1 August 2003 unless it is amended or repealed earlier.

4. **Application**

4.1 This Notice applies to Road Trains which comply with Schedule 1 to the Road Transport (Mass, Loading and Access) Regulation 1996 and Schedule 4 to the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

Road Train routes within the Narromine Shire Council

Type	Road No	Road Name	Conditions
RT	000	Narromine Shire Council area.	<p>All local roads within Narromine Shire Council area and to the west of the Newell Highway.</p> <p>Travel not permitted during the following hours on school days: 7 am - 9 am 3:30 pm - 4:45 pm</p> <p>Routes will operate from 1 February 2003 to 1 August 2003.</p> <p>Access is not permitted to the Newell Highway South of Dubbo from local roads.</p> <p><u>Access to the Newell Highway North of Dubbo:</u></p> <ul style="list-style-type: none"> - No access permitted in the period half an hour before sunset to half an hour after sunrise. - No access permitted between 7:30 am – 9 am and 3:30 pm – 5 pm on school days.

Roads Act 1993

Notice under Clause 17 of the Road Transport (Mass, Loading and Access) Regulation, 1996

Yarrowlumla Shire Council, in pursuance of Division 2 of Part 3 of the *Road Transport (Mass, Loading and Access) Regulation 1996*, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

Robert Morgan
General Manager
Yarrowlumla Shire Council
(by delegation from the Minister for Roads)

Schedule

1. Citation

This Notice may be cited as the Yarrowlumla Shire Council B-Doubles Notice No 1/2003.

2. Commencement

This Notice takes effect from the date of gazettal.

3. Effect

This Notice remains in force until 31 December 2006 unless it is amended or repealed earlier.

4. Application

4.1 This Notice applies to B-Doubles which comply with Schedule 1 to the Road Transport (Mass, Loading and Access) regulation 1996 and Schedule 4 to the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

B-Double routes within the Yarrowlumla Shire Council

Type	Rd No	Road Name	Starting point	Finishing point	Conditions
25	000	Brindabella Rd, Tumut State Forest	Wee Jasper Rd	Wyora Road	
25	000	Nottingham Rd, Tumut State Forest	Brindabella Rd	Ridge Rd	
25	000	Ridge Rd, Tumut State Forest	Nottingham Rd	Brindabella Rd	
25	000	Limestone Creek Rd, Tumut State Forest	Ridge Rd	Nottingham Rd	
25	000	Federal Highway Service Rd, Sutton	Southbound access 3km south of Sutton Interchange	Eaglehawk Interchange	Travel permitted in a southbound direction only

ROADS ACT 1993

Notice under Clause 17 of the Road Transport (Mass, Loading and Access) Regulation, 1996

Bellingen Shire Council, in pursuance of Division 2 of Part 3 of the Road Transport (Mass, Loading and Access) Regulation 1996, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the schedule.

Peter Doyle
General Manager
Bellingen Shire Council
(by delegation from the Minister for Roads)

SCHEDULE

1. Citation

This Notice may be cited as the Bellingen Shire Council B-Double Notice No. 1/2003.

2. Commencement

This notice takes effect from date of gazettal.

3. Effect

This notice remains in force unless it is amended or repealed.

4. Application

This Notice applies to B-Doubles which comply with Schedule 1 to the Road Transport (Mass, Loading and Access) Regulation 1996 and Schedule 4 to the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

B-Double routes within the Bellingen Shire Council

Type	Road No.	Road Name	Starting Point	Finishing Point
25	1010	Keevers Drive	State Highway 10 (Pacific Highway)	Access road to Kachels Abattoirs

ROADS ACT 1993
Notice under Clause 17 of the Roads Transport (Mass, Loading and Access)
Regulation, 1996

Pittwater Council, in pursuance of Division 2 of Part 3 of the Road Transport (Mass, Loading, Access) Regulation 1996, by this Notice, specify the routes and areas on or in which B-Doubles may be used subject to any requirements or conditions set out in the Schedule.

PAUL DAVIES
 Traffic Engineer
 Pittwater Council
 (by delegation from the Minister for Roads)

Schedule

1. Citation

This Notice may be cited as the Pittwater Council B-Double Notice No 1/ 2003.

2. Commencement

This Notice takes effect from the date of gazettal.

3. Effect

This Notice remains in force until 1 July 2005 unless it is amended or repealed earlier.

4. Application

4.1 This Notice applies to B-Doubles which comply with Schedule 1 of the Road Transport (Mass, Loading and Access) regulation 1996 and Schedule 4 of the Road Transport (Vehicle Registration) Regulation 1998.

5. Routes

19m B-Double routes where the Gross Mass exceeds 50 tonnes within the Pittwater Council

Type	Road	Starting point	Finishing point
19	Avalon Pde, Avalon	Barrenjoey Rd	Shell Service Station

ROADS ACT 1993

Order - Sections 46, 47 and 50

Redeclaration of Roads in the Hornsby City Council Local Government Area.

I, the Minister for Roads, pursuant to Sections 46, 47 and 50 of the Roads Act, by this Order:

- a) Vary the route of State Highway No 10 – Pacific Highway and Main Road No 161 by revoking the previously published declarations of these roads and declaring as State Highway No 10 – Pacific Highway and Main Road No 161, the roads described in the schedule below,
- b) Declare as Secondary Road No 2103 the route described in the schedule below, and
- c) Revoke the declaration of Main Road No 587.

CARL SCULLY MP
MINISTER FOR ROADS

via Raymond Terrace by pass, Karuah, Bulahdelah Freeway, Taree bypass, Moorland, Kew, Telegraph Point, Kempsey, Frederickton, Clybucca, Eungai Creek, Warrell Creek, Macksville, Urunga, Coffs Harbour, Woolgoolga, South Grafton, Ulmarra, Cowper, Tyndale, Woodburn, Wardell, Ballina, Bangalow bypass, Brunswick Heads by pass, Yelgun – Chinderah Freeway, and Chinderah bypass to the Queensland Border via Tweed Heads bypass.

From the Pacific Highway at the intersection of Bridge Road and Jersey Street North at Hornsby via Bridge Road, old Pacific Highway, Hookhams Corner, and Galston Road to Old Northern Road at Dural.

SCHEDULENAME AND NUMBER DESCRIPTION

State Highway No 10	Pacific Highway - From the Warringah Freeway at North Sydney northerly (with a loop along Arthur Street and then westerly along Berry Street, North Sydney) to George Street at Hornsby, then via George Street, Bridge Road and Jersey Street North at Asquith, then via Berowra, Cowan, and Peats Ferry Bridge over the Hawkesbury River to the Sydney – Newcastle Freeway at Calga Interchange; then from the Sydney – Newcastle Freeway at Gosford Interchange at Kariong to the intersection of Alfred Higgs Place and Dane Drive at Gosford; then from Etna Street at Gosford via Narara, Lisarow and Ourimbah to the Sydney - Newcastle Freeway at Ourimbah; then from the Sydney - Newcastle Freeway at Kangy Angy via Tuggerah, Wyong, Doyalson, Swansea, Belmont and Charlestown to City Road at South Adamstown, then via City Road, Stewart Avenue, Hunter Street and Maitland Road to Hexham, then	Secondary Road No 2103 90M1533(5) RNIM SB	From Galston Road at Hookhams Corner, Hornsby via old Pacific Highway to Pacific Highway (Jersey Street North) at Asquith.
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ROADS ACT 1993

Section 10

Notice of Dedication of Land as Public Road at Thornton and Beresfield in the Maitland and Newcastle City Council areas

THE Roads and Traffic Authority of New South Wales dedicates the land described in the schedule below as public road under section 10 of the Roads Act 1993.

D J Lorsch
 Manager, Statutory Processes,
 Roads and Traffic Authority of New South Wales.

 SCHEDULE

All those pieces or parcels of land situated in the Maitland City Council area, Parish of Alnwick and County of Northumberland, shown as Lots 101 and 102 Deposited Plan 1041245; and

ALSO All that piece or parcel of land situated in the Newcastle City Council area, Parish of Alnwick and County of Northumberland, shown as Lot 4 Deposited Plan 237977.

(RTA Papers: 9/307.115)

ROADS ACT 1993

Section 10

Notice of Dedication of Land as Public Road at Gilgandra in the Gilgandra Shire Council area

THE Roads and Traffic Authority of New South Wales dedicates the land described in the schedule below as public road under section 10 of the Roads Act 1993.

D J Lorsch
 Manager, Statutory Processes,
 Roads and Traffic Authority of New South Wales.

 SCHEDULE

All that piece or parcel of land situated in the Gilgandra Shire Council area, Parish of Eringinerin and County of Gowen, shown as Lot 2 Deposited Plan 1047475.

(RTA Papers: FPP 2M3526; RO 17/165.1265)

ROADS ACT 1993**LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991**

Notice of Compulsory Acquisition of Land at Hoxton Park in the Liverpool City Council area.

THE Roads and Traffic Authority of New South Wales by its delegate declares, with the approval of Her Excellency the Governor, that the land described in the schedule below is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act 1993.

D J Lorsch
 Manager, Statutory Processes,
 Roads and Traffic Authority of New South Wales

 SCHEDULE

ALL those pieces or parcels of land situated in the Liverpool City Council area, Parish of Cabramatta, and County of Cumberland, shown as Lot 116 Deposited Plan 1045185 and Lots 65 and 67 Deposited Plan 1044841, being parts of the land in Certificate of Title Volume 1101 Folio 115.

The land is said to be in the possession of the estate of William Edgar Harold Phillips.

(RTA Papers FPP 2M4672; RO F9/259.11035)

Other Notices

ABORIGINAL LAND RIGHTS ACT 1983

Notification of the Constitution of a Local
Aboriginal Land Council Area

PURSUANT to the power vested in me by section 49 (1) of the Aboriginal Land Rights Act 1983, I hereby constitute the area described in text below as the Baradine Local Aboriginal Land Council Area.

The Hon. ANDREW REFESHAUGE, M.P.,
Minister for Aboriginal Affairs

BARADINE LOCAL ABORIGINAL LAND COUNCIL AREA

Commencing at the junction of the generally southern boundary of the Parish of Denobollie and the generally north-eastern boundary of the County of Baradine; and bounded thence by a line south-westerly to a point on the eastern boundary of Portion 23, Parish of Coolangoola distant 440 metres north of the south-eastern corner of that portion; by a line north-westerly to a point on the northern boundary of Portion 7, Parish of Cumbil distant 280 metres west of the north-eastern corner of that portion; by the continuation of that line for a further 200 metres; by a line south-westerly to the south-western corner of that portion; by Etoo Creek downwards to the north-eastern corner of Portion 3, Parish of Euligal; by a line generally westerly to a point on the southern boundary of Portion 11 distant 1 220 metres west of the south-eastern corner of that portion; by a line north-westerly to a point on the southernmost southern boundary of Portion 1, Parish of Boorimah distant 940 metres west of the southernmost south-eastern corner of that portion; by a line north-easterly to a point on the western boundary of Portion 2 distant 400 metres north of the south-western corner of that portion; by the continuation of that line for a further 520 metres; by a line north-westerly to a point on the north-western boundary of Portion 48, Parish of Wangan distant 1 380 metres south-west of the northern corner of that portion; by a line south-westerly to the north-eastern corner of Portion 3; by the northern boundary of that portion and its prolongation westerly to the road from Pilliga to Baradine via Gwabegar; by that road southerly to Baradine Creek; by that creek upwards to its intersection with the Gwabegar Branch Railway; by a line south-westerly to Merriwee Creek; by a line north-westerly to the southern prolongation of the western boundary of Portion 2, Parish of Gwabegar; by a line south-westerly to a point on the western boundary of the Parish of Ceelnoy distant 2 200 metres north of the south-western corner of that parish, the eastern boundaries of the Parishes of Gidgenbar and Urawilkie southerly, part of the generally north-eastern boundary of the County of Leichhardt generally south-easterly, the generally northern boundaries of the Parishes of Goorianawa, County of Baradine, Gora and Bugaldie generally easterly, part of the generally south-western boundary of the Parish of Wittenbra generally south-easterly, the western and part of the northern boundaries of the Parish of Cooper, northerly and generally easterly, the western and northern boundaries of the Parish of Badham northerly and easterly and part of the generally north-eastern boundary of the County of Baradine, aforesaid, generally north-westerly to the point of commencement.

ADOPTION ACT 2000

Accreditation Order

THIS Accreditation Order is made under Schedule 3 to the Adoption Act 2000 and clause 5 of the Adoption Regulation 2003. In accordance with clause 5 of the Adoption Regulation 2003 I accredit Anglicare Adoption Services as an adoption agency under the Act.

I authorise Jane Rowan West, Principal Officer of Anglicare Adoption Services at 19a Gibbons Street Telopea NSW to undertake the following adoption services until an order is made under section 15 of the Adoption Act 2000:

- (i) the assessment of the suitability of a person or persons to adopt a child
- (ii) any decision to place a child with a person or persons to adopt the child, and
- (iii) the transfer of the care of the child to the person or persons wishing to adopt the child

NEIL SHEPHERD,
Director-General
Department of Community Services

ADOPTION ACT 2000

Accreditation Order

THIS Accreditation Order is made under Schedule 3 to the Adoption Act 2000 and clause 5 of the Adoption Regulation 2003. In accordance with clause 5 of the Adoption Regulation 2003. I accredit Barnardos Australia Find-a-Family Program as an adoption agency under the Act.

I authorise Lynne Patricia Moggach, Principal Officer of Barnardos Find-a-Family Adoption Program at 1st Floor, 60-64 Bay Street Ultimo, NSW, to undertake the following adoption services until an order is made under section 15 of the Adoption Act 2000:

- (i) the assessment of the suitability of a person or persons to adopt a child;
- (ii) any decision to place a child with a person or persons to adopt the child; and
- (iii) the transfer of the care of the child to the person or persons wishing to adopt the child.

NEIL SHEPHERD,
Director-General
Department of Community Services

ADOPTION ACT 2000

ACCREDITATION ORDER

THIS Accreditation Order is made under Schedule 3 to the Adoption Act 2000 and clause 5 of the Adoption Regulation 2003. In accordance with clause 5 of the Adoption Regulation 2003 I accredit Centacare Adoption Services as an adoption agency under the Act.

I authorise Angharad Elisabeth Candlin, Principal Officer of Centacare Adoption Services at 8 Jacob Street,

Bankstown, NSW to undertake the following adoption services until an order is made under section 15 of the Adoption Act 2000:

- (i) the assessment of the suitability of a person or persons to adopt a child;
- (ii) any decision to place a child with a person or persons to adopt the child; and
- (iii) the transfer of the care of the child to the person or persons wishing to adopt the child.

NEIL SHEPHERD,
Director-General
Department of Community Services

CHILDREN (PROTECTION AND PARENTAL RESPONSIBILITY) ACT 1997

Safer Community Compact — Order

I, the Honourable Bob Debus Attorney General of the State of New South Wales, in pursuance of section 39 (1) of the Children (Protection and Parental Responsibility) Act 1997, do, by this my Order, approve the Brewarrina Community Crime Prevention Plan as a Safer Community Compact for the purposes of Division 3 of Part 4 of that Act.

This Order takes effect on 14 February 2003 and remains in force until 13 February 2006.

Signed at Sydney, this 24 day of January 2003.

BOB DEBUS, M.P.,
Attorney General

CHILDREN (PROTECTION AND PARENTAL RESPONSIBILITY) ACT 1997

Safer Community Compact — Order

I, the Honourable BOB DEBUS, Attorney General of the State of New South Wales, in pursuance of section 39 (1) of the Children (Protection and Parental Responsibility) Act 1997, do, by this my Order, approve the Dubbo Crime Prevention Plan as a Safer Community Compact for the purposes of Division 3 of Part 4 of that Act.

This Order takes effect on 17 February 2003 and remains in force until 16 February 2006.

Signed at Sydney, this 30 day of January 2003.

BOB DEBUS, M.P.,
Attorney General

CONTAMINATED LAND MANAGEMENT ACT 1997, SECTION 15

Declaration of Investigation Area

Declaration Number 15011

THE Environment Protection Authority (“EPA”) declares the following land to be an investigation area under the Contaminated Land Management Act 1997 (“the Act”):

1. Land to which this declaration applies (the site)

Those parts of the land presently known as Lot 5 DP1037851 in the Parish of Putty comprising those areas marked as:

- Extent of area of potential impact around Area A;
- Extent of area of potential impact around Area B; and
- Extent of area of potential impact around Area C

on map “AJOO-067 Site Audit-Putty Saw Mill, Putty : Extent of Potential Impact Figure 8” and dated 24 April 2001 prepared by Chris Jewell and Associates Pty Ltd. A copy of the map is available for inspection at the EPA offices at 59-61 Goulburn Street, Sydney.

Note: This declaration does not include those areas of Lot 3 DP 1013968 (formerly Lot 12 DP786523) identified as Areas A, B and C in the declaration notified in *Government Gazette* No.125 at page 10742-43 on 22 September 2000. Lot 5 DP 1037851 was formerly part of Lot 3 DP1013968.

2. Nature of the substances causing the contamination (the contaminants)

Contaminants pooling in Area A that may have migrated into the area of potential impact around Area A include:

- Petroleum hydrocarbons
- Monoaromatic hydrocarbons, including toluene, ethyl benzene and xylenes
- Polycyclic aromatic hydrocarbons
- Volatile chlorinated hydrocarbons; and
- Styrene

Contaminants in soil in Area B that may have migrated into the area of potential impact around Area B include:

- Petroleum hydrocarbons
- Monoaromatic hydrocarbons, including toluene, ethyl benzene and xylenes
- Polycyclic aromatic hydrocarbons

Contaminants in soil in Area C that may have migrated into the area of potential impact around Area C include:

- Copper
- Zinc

3. Reasons for the declaration

The EPA has reasonable grounds to believe that the site is contaminated with substances in such a way as to present a significant risk of harm for the following reasons:

- Elevated concentrations of toxic chemicals some of which are carcinogenic, are “pooling” in the burial pits in Area A and are present in elevated concentrations in Area B;
- Elevated concentrations of metals in soils could be associated with observed impacts on vegetation in Area C;
- There is a potential for off-site migration of these contaminants through the permeable sandy soil and also through cracks and fissures in the underlying sandstone into groundwater within the site; and
- groundwater in the vicinity of the site may be used for drinking water, irrigation and for livestock use.

4. Further action under the Act

The making of this declaration does not prevent the carrying out of a voluntary investigation of the area and any person may submit a voluntary investigation proposal for the area to the EPA. If the proposal satisfies the requirements of section 19 of the Act, the EPA may agree to the proposal and not issue an investigation order.

5. Submissions invited

The EPA advises that the public may make written submissions to the EPA on:

- Whether it should issue an investigation order in relation to the area, and/or
- Any other matter concerning the area.

Submissions should be sent in writing to

A/ Director Contaminated Sites
NSW EPA
PO Box A290
SYDNEY SOUTH 1232
or faxed to (02) 9995 5999

by no later than **7 March 2003**.

CAROLYN STRANGE
A/Director Contaminated Sites
(by delegation)
Date: 31 January 2003

NOTE:

Investigation order may follow

If investigation of the area or part of the area is required, the EPA may issue an investigation order under s.17 of the Act.

Variation/Revocation

This declaration may be varied by subsequent declarations. It remains in force until it is revoked. A declaration may only be revoked when the EPA does not have reasonable grounds to believe that land is contaminated in such a way as to present a significant risk of harm. (s.44 of the Act).

Information recorded by the EPA

Section 58 of the Act requires the EPA to maintain a public record. A copy of this investigation declaration will be included in the public record.

Information recorded by councils

Section 59 of the Act requires the EPA to inform the relevant local council, as soon as practicable, that this declaration has been made. The council is then required to note on its planning certificate issued pursuant to s.149 (2) of the Environmental Planning and Assessment Act that the land is currently within an investigation area. The EPA is required to notify council as soon as practicable when the declaration is no longer in force and the council is then required to remove the notation from the s.149 (2) certificate.

Voluntary investigation

The making of this declaration does not prevent the carrying out of a voluntary investigation of the site by any person.

ASSOCIATIONS INCORPORATION ACT 1984

Cancellation of incorporation pursuant to section 55A (3)

TAKE NOTICE that the incorporation of the following associations is cancelled by this notice pursuant to section 55A (3) of the Associations Incorporation Act 1984. Cancellation is effective as at the date of gazettal.

Coffs Harbour Multicultural Access and Resource Service (Mars) Incorporated
Liverpool Volleyball Association Incorporated
Healing Waters Incorporated

CHRISTINE GOWLAND,
Manager, Financial Analysis Branch
Registry of Co-operatives and Associations
Department of Fair Trading

5 February 2003.

DISTRICT COURT RULES 1973

Direction

BY this direction made under Part 51A rule 1(2) of the District Court Rules 1973, I specify Tamworth to be a prescribed place for the purpose of section 63A of the District Court Act 1973, for the week commencing 3 February 2003.

Dated this 22nd day of January 2003.

R. O. BLANCH,
Chief Judge

DISTRICT COURT RULES 1973

Direction

BY this direction made under Part 51A rule 1(2) of the District Court Rules 1973, I specify Nowra to be a prescribed place for the purpose of section 63A of the District Court Act 1973, for week commencing 3 March 2003.

Dated this 22nd day of January 2003.

R. O. BLANCH,
Chief Judge

DISTRICT COURT RULES 1973

Direction

BY this direction made under Part 51A rule 1(2) of the District Court Rules 1973, I specify Muswellbrook to be a prescribed place for the purpose of section 63A of the District Court Act 1973, for the week commencing 3rd March 2003.

Dated this 25th day of January 2003

R. O. BLANCH,
Chief Judge

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Office of the Commissioners of Inquiry for Environment and Planning

Notice of Commission of Inquiry

Proposed Chemical Storage and Distribution Facility,
Campbelltown City Local Government Area

THE Honourable Dr Andrew Refshauge, Deputy Premier, Minister for Planning, Minister for Aboriginal Affairs and Minister for Housing, pursuant to section 119 of the Environmental Planning and Assessment Act, has directed that a Commission of Inquiry be held with respect to all environmental aspects of the proposed construction and operation of a chemical storage and distribution facility at Lot 171, Swettenham Road, Minto as described in Development Application No. 367-11-2002-i lodged by Redox Chemicals Pty Ltd.

The Minister has appointed Commissioner Dr Mark Carleton to constitute the Commission of Inquiry.

The Commissioners of Inquiry are independent of Government and its departments/agencies and Council.

After considering the findings and recommendations of the Commission of Inquiry, the Minister will determine the matter. Each party appearing before the Inquiry will be advised of the Commission's findings and recommendations.

INQUIRY SESSIONS: The Inquiry will be held in the **Campbelltown Civic Centre, Queen Street, Campbelltown** and will be open to the public. It will be conducted in two sessions. The first session (primary submissions) will commence at **9:30am, Wednesday 12 March 2003** and continue as required. The second session (date to be advised at first session) is for the purpose of enabling parties to sum up their primary submissions and/or respond to submissions made by other parties to the first session.

LODGING SUBMISSIONS AND REGISTERING FOR APPEARANCE: Persons seeking to make a submission to the Commission of Inquiry are required to register by sending **FOUR COPIES** of their submission in writing, together with any supporting submissions to the Office of the Commissioners of Inquiry (GPO Box 3415, Sydney 2001) by **4:00pm, Thursday 27 February 2003**.

Submissions to the Inquiry are public documents and will be placed on public display.

Please indicate in your submission if you wish to appear before the Commission of Inquiry and the estimated time necessary to present your submission.

INSPECTING DOCUMENTS: Any person may inspect, by appointment, the Development Application, Environmental Impact Statement and its related documents from **10:00am, Thursday 30 January 2003** and submissions to the Inquiry from **10:00am, Tuesday 4 March 2003** at the following locations:

- Office of the Commissioners of Inquiry, Level 13, 301 George Street, Sydney;
- Campbelltown City Council, 91 Queen Street, Campbelltown; and
- Minto Community Library, Pembroke Road, Minto.

LODGING QUESTIONS: Questions directed to other parties' submissions must be in writing. Questions must be submitted to the relevant party and a copy to Ms Alex Rojas, Office of the Commissioners of Inquiry, **no later than 4:00pm, Tuesday 18 March 2003**.

RESPONSES: Responses to questions are required to be submitted in writing direct to the relevant party and a copy to Ms Rojas on a date to be advised at the Inquiry.

Further information on the preparation of submissions and conduct of the Inquiry is available on the Internet at <http://www.coi.nsw.gov.au> or from Ms Alex Rojas on (02) 9299 2904.

PAUL FREEMAN
Registrar

FORESTRY ACT 1916

PROCLAMATION

(L.S.) MARIE BASHIR, Governor

I, Professor MARIE BASHIR, A.C., Governor of the State of New South Wales in pursuance of the provisions of the Forestry Act 1916, and with the advice of the Executive Council, do, by this my Proclamation, declare that the land described in the Schedule hereto is dedicated as a State Forest.

Signed and sealed at Sydney, this eighth day of January 2003.

By Her Excellency's Command,

KIM YEADON, M.P.,
Minister for Forestry

GODSAVE THE QUEEN!

SCHEDULE

EASTERN DIVISION

*Land District of Port Macquarie;
Hastings Council Area;
Mid North Coast Forestry Region*

Burrawan State Forest No. 181, No. 6 Extension. An area of about 10.32 hectares in the Parishes of Burrawan and Queens Lake, County of Macquarie, being the land within Lot 1 in Deposited Plan 1045069. (9135).

FORESTRY ACT 1916

PROCLAMATION

(L.S.) MARIE BASHIR, Governor

I, Professor MARIE BASHIR, A.C., Governor of the State of New South Wales in pursuance of the provisions of the Forestry Act 1916, and with the advice of the Executive Council, do, by this my Proclamation, declare that the land described in the Schedule hereto is dedicated as a State Forest.

Signed and sealed at Sydney, this twenty second day of January 2003.

By Her Excellency's Command,

KIM YEADON, M.P.,
Minister for Forestry

GODSAVE THE QUEEN!

SCHEDULE

EASTERN DIVISION

*Land District of Bombala;
Bombala Council Area;
Monaro Forestry Region*

Craigie State Forest No. 1069, No. 2 Extension. An area of about 102.6 hectares in the Parish of Hayden, County of Wellesley, being the land within Portions 162 and 163 delineated on plan catalogued 848-1978 in the Department of Information Technology and Management, Sydney, TOGETHER WITH the land within Lot 1 in Deposited Plan 1045067, EXCLUSIVE OF the Crown roads 20.115 metres wide traversing that Lot. (7087).

GEOGRAPHICAL NAMES ACT 1966

Notice of Proposal to Assign Geographical Names
and Determine the Extent of Localities
within Balranald Shire

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names

Board hereby notifies that it proposes to assign geographical names listed below to the areas indicated on map GNB3732. The map may be viewed at Balranald Shire Council Office, Balranald PO, Balranald Tourist Information Centre, Euston PO and the office of the Geographical Names Board, Land and Property Information, Panorama Avenue, Bathurst.

The eleven bounded locality names proposed to be assigned, to be used as the address are:

Arumpo, Balranald, Booligal, Clare, Corrong, Euston, Hatfield, Ivanhoe, Kyalite, Mossgiel and Oxley.

Any person wishing to make comment upon this proposal may within one (1) month of the date of this notice write to the Secretary of the Board with that comment.

W. WATKINS,
Chairperson

Geographical Names Board
PO Box 143
BATHURST NSW 2795

GEOGRAPHICAL NAMES ACT 1966

Notice of Proposal to Amend a Suburb Boundary within Gosford City

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to amend the boundary between Narara and Somersby, increasing the extent of Somersby, as shown on map GNB3532/F. The map may be viewed at Gosford City Council Chambers, Gosford Library and the office of the Geographical Names Board, Land and Property Information, Panorama Avenue, Bathurst.

Any person wishing to make comment upon this proposal may within one (1) month of the date of this notice write to the Secretary of the Board with that comment.

W. WATKINS,
Chairperson

Geographical Names Board
PO Box 143
BATHURST NSW 2795

GEOGRAPHICAL NAMES ACT 1966

Notice of Proposal to Assign Geographical Names and Determine the Extent of Localities within Cabonne Council Area

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to assign geographical names listed below to the areas indicated on map GNB3691. The map may be viewed at Council Offices at Molong and Cudal, the Post Offices at Eugowra, Manildra, Cumnock and Yeoval, the Libraries at Molong, Manildra and Canowindra, Cargo General Store and the office of the Geographical Names Board, Land and Property Information, Panorama Avenue, Bathurst.

The fifty five bounded Locality names proposed to be assigned, to be used as the address are:

Amaroo, Baldry, Belgravia, Bocobra, Boomey, Boree, Borenore, Bowan Park, Byng, Cadia, Canobolas, Canowindra, Cargo, Clergate, Clifton Grove, Copper Hill, Cudal, Cumnock, Emu Swamp, Eugowra, Eulimore, Eurimbla, Four Mile Creek, Garra, Gooloogong, Gowan, Grega, Gumble, Guyong, Kangarooobie, Kerrs Creek, Larras Lee, Lewis Ponds, Lidster, Long Point, Mandagery, Manildra, March, Molong, Moorbel, Mullion Creek, Murga, Nashdale, Nangar, Nyrang Creek, Obley, Ophir, Spring Hill, Spring Terrace, Summer Hill Creek, Toogong, Vittoria, Winderera, Yeoval, Yullundry.

Any person wishing to make comment upon this proposal may within one (1) month of the date of this notice write to the Secretary of the Board with that comment.

W. WATKINS,
Chairperson

Geographical Names Board
PO Box 143
BATHURST NSW 2795

GEOGRAPHICAL NAMES ACT 1966

Notice of Proposal to Create a New Locality within Gosford City

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to create a new locality Cheero Point, reducing the extent of Mooney Mooney, as shown on map GNB3532/G. The map may be viewed at Gosford City Council Chambers, Gosford Library, the Peat Island Canteen and the office of the Geographical Names Board, Land and Property Information, Panorama Avenue, Bathurst.

Any person wishing to make comment upon this proposal may within one (1) month of the date of this notice write to the Secretary of the Board with that comment.

W. WATKINS,
Chairperson

Geographical Names Board
PO Box 143
BATHURST NSW 2795

GEOGRAPHICAL NAMES ACT 1966

Notice of Proposal to Create a New Locality and Amend Locality Boundaries within Kyogle Council Area

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to create the new locality New Park, reducing the extent of Kyogle, amend the boundaries between Geneva and West Wiangaree increasing the extent of Geneva, and amend the boundaries between Wyneden, Eden Creek and Upper Eden Creek, increasing the extent of Wyneden, as shown on map GNB3778/A. The map may be viewed at Kyogle Council Chambers, the Post Offices at Bonalbo, Kyogle and Woodenbong, and the office of the Geographical Names Board, Land and Property Information, Panorama Avenue, Bathurst.

Any person wishing to make comment upon this proposal may within one (1) month of the date of this notice write to the Secretary of the Board with that comment.

W. WATKINS,
Chairperson

Geographical Names Board
PO Box 143
BATHURST NSW 2795

GEOGRAPHICAL NAMES ACT 1966

Notice of Proposal to Amend Locality Boundaries within Shoalhaven City

PURSUANT to the provisions of section 8 of the Geographical Names Act 1966, the Geographical Names Board hereby notifies that it proposes to amend the boundaries between Nowra Hill, Mundamia and Bamarang, increasing the extent of Nowra Hill, as shown on map GNB3653/B. The map may be viewed at Shoalhaven City Council City Administrative Centre, Nowra Library and the office of the Geographical Names Board, Land and Property Information, Panorama Avenue, Bathurst.

Any person wishing to make comment upon this proposal may within one (1) month of the date of this notice write to the Secretary of the Board with that comment.

W. WATKINS,
Chairperson

Geographical Names Board
PO Box 143
BATHURST NSW 2795

GREYHOUND RACING ACT 2002

ORDER

I, JACK RICHARD FACE, Minister for Gaming and Racing, pursuant to Clause 6 (3) of schedule 6 of the Greyhound Racing Act 2002 do, by this my order, transfer the below mentioned assets, rights and liabilities of the Greyhound Racing Authority, to Greyhound Racing New South Wales.

- (1) The balance of unexpended or undistributed funds, as at midnight on 9 February 2003, in the following accounts:
 - Greyhound Racing Authority (NSW) Distribution Account
 - Greyhound Racing Authority (NSW) Greyhound Industry Development Fund
 - Group Insurance Suspense Accounts
- (2) In respect of the accounts listed in (1) above, as at midnight on 9 February 2003, any records, applications in progress, liabilities, agreements or any other rights relating to those accounts.
- (3) The right to receive TAB Limited distributions to the greyhound racing code, received each day from TAB Limited through NSW Racing Pty Ltd.
- (4) The rights to information and income derived from the record of racing performances of greyhounds at race and qualifying trial meetings. Such rights are subject to Greyhound Racing New South Wales making payment to the Greyhound Racing Authority for the cost of providing the relevant information, as determined by the Minister.

(5) All start-up and establishment costs incurred by the former Greyhound Racing Authority (constituted under the *Greyhound Racing Authority Act 1985*) on behalf of the new Greyhound Racing New South Wales (constituted under the *Greyhound Racing Act 2002*) prior to the date of empowerment (ie the date of the commencement of all the provisions of the *Greyhound Racing Act 2002*).

(6) The right to accommodation at premises owned by the Greyhound Racing Authority at 19 Queen Street, Auburn, and/or other premises that may be acquired by the Greyhound Racing Authority. Such right is subject to agreement as to the sharing of costs and for the duration of the existence of the Greyhound Racing Authority.

This order takes effect on and from midnight on 9 February 2003 and shall remain in effect unless varied by Ministerial Order.

Dated this 30th day of January 2003.

J RICHARD FACE, M.P.,
Minister for Gaming and Racing

HERITAGE ACT 1977

ERRATUM

THE notice published in the *Government Gazette* No. 220 of 15 November 2002, relating to Sewage Pumping Station 0042, Bennelong Road, Homebush Bay, Auburn should have read:

SHR No. 1346, Item Name Sewage Pumping Station 0042, Item Address Bennelong Road, Suburb Homebush Bay, LGA Auburn

LOCAL GOVERNMENT ACT 1993

ERRATUM

IN the notification appearing in *Government Gazette* number 25 dated 24 January 2003 page 535 under the heading "Dubbo Sewerage" and in the SCHEDULE under the sub-heading "Interest in Land" the following letters and figures describing Deposited Plan 627245 should be added to the acquisition notification following Lot 22:

"in Deposited Plan 627245"

JOHN ACQUILINA, M. P.,
Minister for Land and Water Conservation
and Minister for Fair Trading

NATIONAL PARKS AND WILDLIFE ACT 1974

ERRATUM

IN the Notice of Reservation of National Park reserving part of Paroo-Darling National Park dated 25 October 2002, folio 9190, County Werunda (Coonavitra) insert after exclusive of Barrier Highway 'and Travelling Stock Reserve No. 561 notified 27 August 1883.'

BRIAN GILLIGAN,
Director General

PASSENGER TRANSPORT ACT 1990

Determination – Section 28G(1)

Liverpool – Parramatta Transitway

Determination as Transitway Route of Liverpool –
Parramatta Transitway

I, MICHAEL DEEGAN, the Director-General of the Department of Transport, pursuant to Section 28G(1) of the Passenger Transport Act 1990, by this order determine as a transitway route to be known as the Liverpool – Parramatta Transitway Route, the route shown by line drawing on the diagram in Schedule 1, with effect from 16 February 2003.

MICHAEL DEEGAN,
Director-General of the Department of Transport

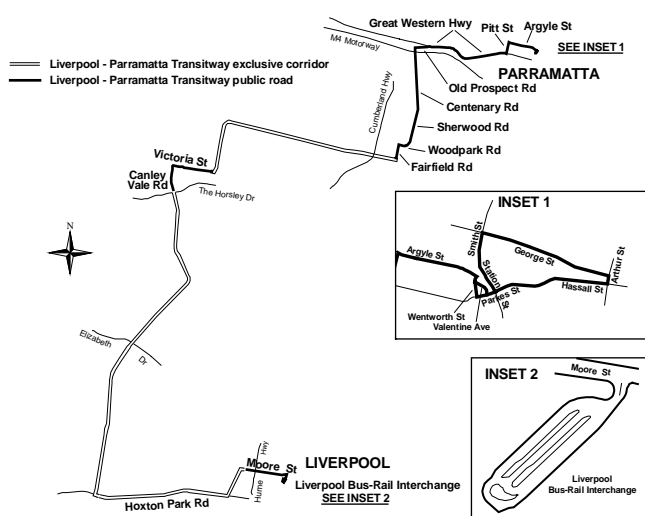
SCHEDULE 1

Diagram not to scale

Liverpool-Parramatta Transitway Route shown by line drawing.

PESTICIDES ACT 1999

Notice under Section 48 (4)

NOTICE is hereby given, pursuant to Section 48(4) of the Pesticides Act 1999, that I have granted an Aircraft (Pesticide Applicator) Licence, particulars of which are stated in the Schedule.

ALAN RITCHIE,
Manager Dangerous Goods
Environment Protection Authority
by delegation

SCHEDULE

Aircraft (Pesticide Applicator) Licence

Name and address of Licensee	Date of Granting of Licence
GLOBE PROMOTIONS PTY LTD AND EDSAL PTY LTD T/A: THOMSON AVIATION HANGAR 14 AIRPORT RD GRIFFITH NSW 2680	31 January 2003

POISONS AND THERAPEUTIC GOODS ACT 1966**PROCLAMATION**

MARIE BASHIR, Governor

I, Professor MARIE BASHIR, A.C., Governor of the State of New South Wales, with the advice of the Executive Council, on the recommendation of the Minister for Health and in pursuance of section 8 (6) of the Poisons and Therapeutic Goods Act 1966, do, by this my Proclamation, amend the Poisons List as set out in the Schedule hereunder with effect on the date of gazettal of this proclamation.

Signed and sealed at Sydney, this fifth day of February 2003.

By Her Excellency's Command,

CRAIG KNOWLES, M.P.,
Minister for Health

GODS SAVE THE QUEEN!

SCHEDULE

The Poisons List is hereby amended with immediate effect as follows:

- [1] Omit from Schedule 2 the excepted entries relating to the following substances:
 - ATROPA BELLADONNA
 - ATROPINE
 - DATURA spp.
 - DATURA STRAMONIUM
 - DATURA TATULA
 - DUBOISIA LEICHARDTII
 - DUBOISIA MYOPOROIDES
 - HYOSCINE
 - HYOSCYAMINE
 - HYOSCYAMUS NIGER
 - PSEUDOEPHEDRINE
- [2] Omit from Schedule 2 the additional entries relating to the following substances:
 - ATROPINE
 - BELLADONNA
 - DATURA spp.
 - DUBOISIA LEICHARDTII
 - DUBOISIA MYOPOROIDES
 - HYOSCINE
 - HYOSCYAMINE
 - HYOSCYAMUS
 - PSEUDOEPHEDRINE
 - STRAMONIUM
- [3] Omit from Schedule 3 the additional entry relating to the following substance:
 - PSEUDOEPHEDRINE
- [4] Omit from Schedule 4 the excepted entries relating to the following substances:
 - ATROPA BELLADONNA
 - DATURA STRAMONIUM

DATURA TATULA
 DUBOISIA LEICHARDTII
 HYOSCYAMUS NIGER
 PSEUDOEPHEDRINE

- [5] Omit from Schedule 4 the additional entries relating to the following substances:

BELLADONNA
 DUBOISIA LEICHHARDTII
 HYOSCYAMUS
 PSEUDOEPHEDRINE
 STRAMONIUM

- [5] Omit from Schedule 7 the additional entries relating to the following substances:

2-ACETYLAMINOFLUORENE
 AFLATOXINS
 4-AMINOBIIPHENYL
 ASBESTOS
 BENZIDINE
 BENZO(a)PYRENE
 BETANAPHTHYLAMINE
 BETAPROPIOLACTONE
 bis CHLOROMETHYL ETHER
 3,3'-DICHLORO BENZIDINE
 DIETHYL SULPHATE
 4-DIMETHYLAMINOAZOBENZENE
 DIPYRONE
 METHYL CHLOROMETHYL ETHER
 4-NITROBIIPHENYL
 N-NITROSODIMETHYLAMINE
 N,N-bis(2-CHLOROETHYL)-2-NAPHTHYLAMINE
 PHENACETIN
 QUINDOXIN
 O-TOLUIDINE
 TREOSULPHAN
 1,1,2-TRICHLOROETHANE
 VINYL BROMIDE

SYDNEY WATER ACT 1994

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Easements at Coniston in the Local Government Area of Wollongong City

SYDNEY WATER CORPORATION declares, with the approval of Her Excellency the Governor, that the interest in land described in the First Schedule hereto is acquired over the land described in the Second Schedule hereto and the interest in land described in the Third Schedule hereto is acquired over the land described in the Fourth Schedule hereto by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purpose of the Sydney Water Act 1994.

Dated at Sydney this fourth day of February 2003.

Signed for Sydney Water Corporation (Signed)
 by its Attorneys

WARREN FREDERICK WATKINS

JEFFREY FRANCIS COLENZO

who hereby state at the time of (Signed)
 executing this instrument have
 no notice of the revocation of)
 the Power of Attorney Registered
 No. 687 Book 4296 under the
 Authority of which this instrument
 has been executed.

SCHEDULE 1

Easement for Sewerage Purposes (Pressure Mains) more fully described in Memorandum 7158328D lodged at the Office of Land and Property Information NSW, Sydney

SCHEDULE 2

All that piece or parcel of land containing 929.7 m² in the Local Government Area of Wollongong City, Parish of Wollongong, County of Camden, and State of New South Wales, being part of Lot 101 in Deposited Plan 847615, and shown on Deposited Plan 1031204 as "PROPOSED EASEMENT FOR SEWER RISING MAIN 6 WIDE.

SCHEDULE 3

Easement for Access Purposes more fully described in Memorandum 7158333L lodged at the Office of Land and Property Information NSW, Sydney

SCHEDULE 4

All that piece or parcel of land containing 49.3 m² in the Local Government Area of Wollongong City, Parish of Wollongong, County of Camden, and State of New South Wales, being part of Lot 101 in Deposited Plan 847615, and shown on Deposited Plan 1031204 as "PROPOSED EASEMENT FOR ACCESS 4.8 WIDE.

All of the above parcels of land are said to be in the possession of Wollongong City Council.

[Sydney Water reference: 459565F1]

TRANSPORT ADMINISTRATION ACT 1988

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land for the purposes of the State Rail Authority of New South Wales
 THE State Rail Authority of New South Wales, with the approval of Her Excellency the Governor, declares that the sub surface stratum land described in the Schedule hereto is acquired by compulsory process under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the State Rail Authority, as authorised by the Transport Administration Act 1988 being for underground rail facilities in connection with the Parramatta Rail Link.

The Minister responsible for the State Rail Authority of New South Wales is satisfied that the State Rail Authority of New South Wales requires immediate vacant possession of the land described in the Schedule.

Dated this 17th day of January 2002.

HOWARD LACY,
Chief Executive

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SCHEDULE

All that subsurface stratum of land situate at Lindfield in the Local Government Area of KuRingGai, Parish of Gordon, County of Cumberland and State of New South Wales, being Lot 1 in Deposited Plan 1047429 having an area of 1036 square metres or thereabouts and said to be in the possession of LE Ormerod, S. T. & S. Y. Yip and C & P Davis.

All that subsurface stratum of land situate at Lindfield in the Local Government Area of KuRingGai, Parish of Gordon, County of Cumberland and State of New South Wales, being Lot 1 in Deposited Plan 1047529 having an area of 6282 square metres or thereabouts and said to be in the possession of B Gill, Frederick William Hamilton, KuRingGai Council, Helen Cooper, Ann Saragas, T Burrell & S Byrnes, I & I Yourlo and Robert Shaw Smith.

All that subsurface stratum of land situate at Lindfield in the Local Government Area of KuRingGai, Parish of Gordon, County of Cumberland and State of New South Wales, being Lot 1 in Deposited Plan 1047640 having an area of 2900 square metres or thereabouts and said to be in the possession of J O Lygo, I S Gair, Anne Roma Foley, S. R. Baggs and A. M. Sargood and G M Stanbury.

All that subsurface stratum of land situate at Lindfield in the Local Government Area of KuRingGai, Parish of Gordon, County of Cumberland and State of New South Wales, being Lot 1 in Deposited Plan 1047634 having an area of 1.266 hectares or thereabouts and said to be in the possession of Soon Lin Lee & Tok Hua Tan, R & J Knox, W & A Holdsworth, G Taylor, N Handsaker, R A Egan, R Littlejohn & N Seeto, A J Caradus, C A Caradus, A & D Newton, C D & J D Sheehy, D Cheong, S & N Webber, Yidan Huang, I & D Givorshner, The State of New South Wales and KuRingGai Council.

All that subsurface stratum of land situate at Lindfield in the Local Government Area of KuRingGai, Parish of Gordon, County of Cumberland and State of New South Wales, being Lot 1 in Deposited Plan 1048014 having an area of 3795 square metres or thereabouts and said to be in the possession of Clara Kwok Ha Chan Lee, P & F Smith, S H & C Lai, K & M Lau, M Hmelnitsky, W F & S Yap and KuRingGai Council.

All that subsurface stratum of land situate at Lindfield in the Local Government Area of KuRingGai, Parish of Gordon, County of Cumberland and State of New South Wales, being Lot 1 in Deposited Plan 1047983 having an area of 4990 square metres or thereabouts and said to be in the possession of Michelle YuPin Fan, C & M Wan, Martyn Hagan, Mark Sprey & Irena Shapiro, A & M Szabo, X ing Min Xu & Min Hua Huang and KuRingGai Council.

SRA Reference: 013092.

PRL Reference: 37715.

WORKCOVER

WorkCover to open in Nowra

WORKCOVER will open a new office in Nowra as a result of the relocation of the Shellharbour office and will be open for business as of 10 February 2003. The full range of WorkCover services will continue to be offered at our new location.

Office hours will remain the same: 8.30am – 4.30pm.

Our new address: Government Offices, Level 1,
55 O'Keefe Avenue, NOWRA 2541

Our new Telephone No is: (02) 4428 6700

Our new Facsimile No is: (02) 4422 4997

4. The IATA documentation must remain with the dangerous goods shipment while being transported in Australia by road or rail to or from the airport;
5. The documentation must include words in or to the effect of "An Australia-wide exemption, number EXEM01/78, from compliance with the requirement of shipping documentation for transport by road and by rail has been issued by the NSW Environment Protection Authority. For further information please contact Australian Air Express on telephone xxxxx or at the following address – yyyyyy.";
6. A copy of this exemption must be produced to any authorised officer or police officer when so requested;
7. This exemption applies to land transport operations throughout Australia in accordance with a decision of the Competent Authorities Panel on 6 September 2001 pursuant to the provisions of Regulation 15.10(1)(c) of the Regulations;
8. This exemption will remain in effect until the sixth edition of the ADG Code ceases to have legal effect in the relevant jurisdiction;
9. The exemption issued to Australian Air Express by the Environment Protection Authority (EPA) on 16 March 2001 is hereby revoked; and
10. Except as detailed above, all road and rail transport operations must be in accordance with the requirements of the Road and Rail Transport (Dangerous Goods) Act 1997. The Act requires compliance with the ADG Code, the Road Transport Reform (Dangerous Goods) (NSW) Regulations, the Rail Transport (Dangerous Goods) (NSW) Regulations and the procedures proposed by Airsafe Transport Training in its letter to the Environment Protection Authority on 28 August 2000.

<i>File No</i>	<i>Company / Organisation</i>	<i>Description Conditions (if any)</i>	<i>Issue Date dd/mm/yyyy</i>	<i>Expires dd/mm/yyyy</i>	<i>Regulation Reference</i>	<i>CAP Reference</i>	<i>Geographic Coverage</i>
921	Food Science Australia	Exemption to transport Carbon Monoxide with Food and Food Packaging for Experimental Purposes	12/12/2001	31/01/2003	9.1 (20-Road Regs)		NSW

This exemption:

- (1) is valid until 31 January 2003; and
- (2) applies to semi-trailers carrying shipments of chilled food (green salad in sealed plastic containers and/or pasta salad in sealed containers) and securing a D-size (1.8 m³ of gas or 2.4kg) cylinder within the food space, for the purposes of on-road trials; and
- (3) applies when the transit safety protection systems detailed in your submission to the NSW Environment Protection Authority (EPA) dated 20 November 2001 are properly implemented and maintained; and
- (4) applies to transport operations in NSW.

This exemption is subject to the following conditions:

- (i) A log of the vehicle and its intended routes, trips and other relevant data must be maintained and made available for inspection by the NSW EPA, if requested; and
- (ii) A written report on the efficiency of the operational systems including any failures of any of the safety measures, details of vehicle breakdowns and appropriate action taken, public safety concerns, driver's specific concerns, details of accidents (if any) or incidents involving Carbon Monoxide, food and food packaging, and emergency action taken must be provided to the EPA by 1 June 2002, and by 31 January 2003; and
- (iii) All proposed vehicles and operations must comply with all other requirements of the Australian Dangerous Goods Code (6th edition) and NSW Road and Rail Transport (Dangerous Goods) (Road) legislation.
- (iv) A copy of this exemption must be carried with each vehicle to which this exemption applies.
- (v) A copy of this exemption must be shown to any authorised officer or Police officer when so requested.

548	Dulux and its prime contractors	Exemp in relation to transport of incompatible goods road vehicles		05/07/2002	31/01/2003	9.4, 9.5, 9.6, 9.7-Road Regs	NSW
		(1) This exemption applies while transporting Jelly Beans and dangerous goods of Classes 6 and 8 within NSW; and					
		(2) This exemption applies to Dulux Australia 15 Gow St, Padstow NSW, and the above transport companies when those companies are operating as Prime Contractors of Dulux Australia, 15 Gow St, Padstow, to transport Jelly Beans and dangerous goods of Classes 6 and 8 together; and					
		(3) Jelly Beans are to be packed in a sealed plastic bag which has been placed inside a sealed tin. The sealed tins are to have tamper-proof tapes over the seal to indicate that the goods are as packed by the Jelly Bean supplier; and					

- (4) A copy of this exemption letter is to be carried on all vehicles when transporting Jelly Beans and dangerous goods of Class 6 and 8 together; and
- (5) This exemption letter shall be produced to an Authorised Dangerous Goods Officer or a Police Officer when required by that officer; and
- (6) This exemption is valid until 31 January 2003.

<i>File No</i>	<i>Company / Organisation</i>	<i>Description Conditions (if any)</i>	<i>Issue Date dd/mm/yyyy</i>	<i>Expires dd/mm/yyyy</i>	<i>Regulation Reference</i>	<i>CAP Reference</i>	<i>Geographic Coverage</i>
745	Rail Infrastructure Corporation and agents	Shipping documents, segregation and stowage	13/03/2002	11.2(1) 11.4(1)		CA1/45	Australia

This exemption:

1. Is an exemption from the provisions of Regulations 11.2 (1) and 11.4 (1) of the Regulations which refer to dangerous goods shipping documentation complying with Chapter 11 of the sixth edition of the ADG Code;
2. Applies to the Rail Infrastructure Corporation and its agents;
3. Applies to the transport of dangerous goods in an aggregate quantity not exceeding 1000 on rail maintenance vehicles operated by or on behalf of Rail Infrastructure Corporation;
4. Applies to the use of an alternative form of shipping documentation being pre-printed dangerous goods shipping documentation in or to the effect of attachment A, as modified to detail the correct organisation name;
5. Is subject to the condition that a copy of this exemption is carried on any vehicle to which this exemption applies;
6. Is subject to the condition that a copy of this exemption must be shown to any authorised officer or Police officer when so requested.
7. Will remain in effect until the sixth edition of the ADG Code ceases to have effect in the jurisdiction; and
8. Applies to operations throughout Australia in accordance with a decision of the Competent Authorities Panel on 4 September 2001 pursuant to the provisions of Regulation 15.10(1)(c) of the Regulations.
9. Cancels the exemption dated 27 June 2000 issued by the EPA to Rail Services Australia.

697	Boral Transport Ltd 13.2.7(1)-ADG	Bitumen tanker - heating in transit	29/05/2001		13.7-Road Regs,		NSW
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This exemption:

- (1) will remain in effect until the sixth edition of the ADG Code ceases to have the legal effect in NSW; and
- (2) applies to bitumen tankers with flame supervision and heating in transit safety protection systems detailed in your submission dated 27 April 1999; and
- (3) applies to transport operations in NSW.

This exemption is subject to the following conditions:

- (i) A log of the vehicle and its intended routes, trips and other relevant data must be maintained and made available for inspection by the NSW EPA, if requested; and
- (ii) A written report on the efficiency of the operational systems including any failures of any of the safety measures, details of vehicle breakdowns and appropriate action taken, public safety concerns, driver's specific concerns, details of accidents (if any) or incidents involving bitumen, and emergency action taken, must be provided to the EPA by 31 December 2002 and then at intervals of 2 years until the exemption lapses; and
- (iii) All proposed vehicles and operations must comply with all other requirements of the Australian Dangerous Goods Code (6th edition) and NSW Road and Rail Transport (Dangerous Goods) (Road) legislation.
- (iv) A copy of this exemption must be carried with each vehicle to which this exemption applies.
- (v) A copy of this exemption must be shown to any authorised officer or Police officer when so requested.

Notes: The above decisions have been made by the NSW Environment Protection Authority (EPA) under the Road and Rail Transport (Dangerous Goods) Act 1997. Under the Road Transport Reform (Dangerous Goods) (NSW) Regulations (the Road Regulations) and the Rail Transport (Dangerous Goods) (NSW) Regulations (the Rail Regulations) made under that Act, certain decisions are to be published in the Government Gazette.

“ADG Code” means the Australian Dangerous Goods Code.

“File No” is the NSW Environment Protection Authority reference number.

“Regulation Reference” is the relevant clause of the Road Regulations and the Rail Regulations. The Road Regulations are technically identical to the Commonwealth Road Transport Reform (Dangerous Goods) Regulations and the Rail Regulations are identical to the Commonwealth Rail Rules printed in the sixth edition of the Australian Dangerous Goods Code. These Commonwealth documents are the basis of national uniform road and rail legislation for the transport of dangerous goods and have been adopted in all Australian States and Territories.

“CAP” is the Competent Authorities Panel convened under the uniform national dangerous goods road and rail legislation.

Duration of decision. If there is no date in the “Expires” column and no expiry date detailed in the conditions relating to this decision, the decision will remain in effect until changed by the EPA.

TENDERS

Department of Public Works and Services SUPPLIES AND SERVICES FOR THE PUBLIC SERVICE

TENDERS for the undermentioned Period Contracts, Supplies and Services, required for the use of the Public Service, will be received by the Department of Public Works and Services, Level 3, McKell Building, 2-24 Rawson Place, Sydney, NSW 2000, up til 9.30 am on the dates shown below:

6 February 2003

IT 01/2774 LEARNINGWARE PLATFORM. DOCUMENTS: \$220.00 PER SET

19 February 2003

035/3000 DISPOSABLE DRAPES. DOCUMENTS: \$110.00 PER SET

025/7271 RELOCATION OF DEMOUNTABLE BUILDINGS. DOCUMENTS: \$110.00 PER SET

0202990 NSW TRAINING MARKET 2003 TENDER. DOCUMENTS: \$0.00 PER SET

20 February 2003

IT 02/2954 PROVISION OF MAINTENANCE SERVICES FOR VOICE CUSTOMER PREMISES EQUIP.
DOCUMENTS: \$220.00 PER SET

ITT 037/2067 SITE TELECOMMUNICATIONS CABLING SERVICES. DOCUMENTS: \$55.00 PER SET

26 February 2003

0203274 EMPLOYEE ASSISTANCE SERVICES FOR NSW FIRE BRIGADES. DOCUMENTS: \$110.00 PER SET

4 March 2003

S0218928 SECONDARY RESOURCE USE OF PRE-TREATED MUNICIPAL SOLID WASTE. DOCUMENTS:
\$220.00 PER SET

TENDER DOCUMENT FEE

Tender documents for inspection and purchase, and application forms for Expression of Interest are available at the address above. Where charges apply for tender documents, they are not refundable, cheques and credit cards (Bankcard, Mastercard and Visa) only are acceptable, payable to Department of Public Works and Services. NO CASH payments will be accepted. Documents can be Express Posted on request at an extra cost. Non attendance of mandatory site meetings will render tenders informal.

Further Information is available on the Internet (<http://www.dpws.nsw.gov.au/tenders>).

Government Printing Service TENDERS FOR PRINTING

TENDERS will be received up to 9.30 am on the date specified for the undermentioned printing. Envelopes containing tenders must be addressed to: Government Printer Unit 5 Block V 391 Park Road REGENTS PARK NSW 2143, and have legibly endorsed upon the face thereof the items and description of the printing for which the tender is submitted.

Tender Closing Monday the 10th February 2003

Job No: 34753 Tenders are invited for the Marketing Collateral Tender for the Department of Ageing, Disability and Homecare. Tender consists of letterheads through to 700,000 copies of their Seniors Guide Booklets and other affiliated material (all material to be produced in this tender is printed matter).

Full details are available from Gavin Potter 9743 8777.

PRIVATE ADVERTISEMENTS

COUNCIL NOTICES

BLACKTOWN CITY COUNCIL

Roads (General) Regulation 1994

Renaming of Public Road – Biscay Grove

NOTICE is hereby given that the Blacktown City Council, in pursuance of Division 2 of the abovementioned Regulation, has changed the name of the street previously known as Atlantic Place to Biscay Grove. IAN REYNOLDS, General Manager, Blacktown City Council, Administrative Centre, 62 Flushcombe Road, Blacktown, NSW 2148. [0097]

CABONNE COUNCIL

Roads Act 1993, Section 162

Renaming of Existing Public Road – West Road

NOTICE is hereby given that Cabonne Council, in pursuance of section 162 of the Roads Act 1993, has renamed the road described hereunder:

Description of Road	New Name
The road off Gumble-Manildra Road, west to the southern boundary of Lot 4, DP 536262, Parish of Manildra, formerly known as Yelland's Road.	West Road.

Authorised by resolution of Council at its meeting held on 4th November, 2002. G. L. P. FLEMING, General Manager, Cabonne Council, PO Box 17, Molong, NSW 2866. [0081]

FAIRFIELD CITY COUNCIL

Roads Act 1993, Section 116

Proposed Traffic Calming Scheme – Stanbrook Street and Marlborough Street, Fairfield Heights

NOTICE is hereby given that Council proposes to implement a traffic-calming scheme in Stanbrook and Marlborough Streets, Fairfield Heights. It is proposed to construct: (1) Slow points in Stanbrook Street. (2) A pedestrian refuge in Stanbrook Street at its intersection with The Boulevarde. (3) Roundabouts at the intersections of Marlborough Street with Station Street and Stanbrook Streets. Council is now seeking comments on these proposals from residents and interested organisations within the area. Submissions in writing, either by way of support or objection to these proposals, must reach Council no later than Friday, 7th March, 2003 (please quote Council's reference G10-07-880 in reply). Further information can be obtained by contacting Council's Traffic and Road Safety Branch on (02) 9725 0261. ALAN YOUNG, City Manager, Fairfield City Council, PO Box 21, Fairfield, NSW 2165. [0082]

MULWAREE SHIRE COUNCIL

Local Government Act 1993

Sale of Land

TAKE notice that pursuant to Division 5 of the Local Government Act 1993 (NSW), Mulwaree Shire Council intends to sell the land at 195 Taylors Creek Road, Tarago, NSW 2580. The land is to be sold by public auction at Goulburn Soldiers Club, 15 Market Street, Goulburn, NSW 2580 on 24th May, 2003 at 12.00 p.m. Enquiries regarding the sale of the land can be directed to David Simons, Solicitor, Forbes Dowling, Lawyers, Level 6, 26 College Street, Sydney, NSW 2000, tel.: (02) 8374 7410, Fax: (02) 9360 3543 or to the agent handling the sale, Graeme Welsh, Graeme Welsh Real Estate, 271 Auburn Street, Goulburn, NSW 2580, tel.: (02) 4822 5737, fax: (02) 4822 5738. DAVID SIMONS, Solicitor for Mulwaree Shire Council, c.o. Forbes Dowling, Lawyers, Level 6, 26 College Street, Sydney, NSW 2000. [0083]

OBERON COUNCIL

Roads Act 1993, Section 162

Naming of Public Road – Lawrences Road

NOTICE is hereby given that the Oberon Council, in pursuance of section 162 of the Roads Act 1993, proposes to name the roads as shown in the Schedule hereunder.

Description	New Road Name
Road that runs adjacent to 2039 Beaconsfield Road, O'Connell, Parish of Baring.	Lawrences Road.

Authorised by resolution of Council on 10th September, 2002.

BRUCE FITZPATRICK, General Manager, Oberon Council, Council Chambers, Oberon, NSW 2787. [0084]

SHELLHARBOUR CITY COUNCIL

Roads Act 1993, Section 10

Dedication of Land as Public Road

THE Council of the City of Shellharbour dedicates the land described in the Schedule below as public road under section 10 of the Roads Act 1993. B. A. WEIR, General Manager, Shellharbour City Council, PO Box 155, Shellharbour Square, Shellharbour City Centre, NSW 2529.

SCHEDULE

All that piece or parcel of land situated in Shellharbour City Council area, Parish of Terragong and County of Camden shown as Lot 1, Deposited Plan 1038941; Lot 2, Deposited Plan 1038941; Lot 4, Deposited Plan 1038941 and Lot 5, Deposited Plan 1038941. [0100]

WYONG SHIRE COUNCIL

Land Acquisition (Just Terms Compensation) Act 1991

Notice of Compulsory Acquisition of Land

THE Wyong Shire Council (a water supply authority) with the approval of the Governor declares pursuant to section 30 (1) of the Land Acquisition (Just Terms Compensation) Act 1991, that the land described in the Schedule below is acquired by compulsory process. Pursuant to section 318 (1) of the Water Management Act 2000, this acquisition is taken to be for an authorised work and Wyong Shire Council (a water supply authority) is taken to be the Constructing Authority for the purposes of the Public Works Act 1912. J. S. DAWSON, General Manager, Wyong Shire Council, PO Box 20, Wyong, NSW 2259.

SCHEDULE

All that piece or parcel of land being Lot 2 in DP 1039752 containing an area of 342.8 square metres and Lot 3 in DP 1039752 containing an area of 1913 square metres. [0085]

COPMANHURST SHIRE COUNCIL

Local Government Act 1993, Section 713

Sale of Land for Overdue Rates and Charges

NOTICE is hereby given to the persons named hereunder that the Council of the Shire of Copmanhurst has resolved, in pursuance of section 713 of the Local Government Act 1993, to sell the land described hereunder of which the persons named are known to the Council to be the owners or to have interest in the land on which the amount of rates and charges stated in each case, as at 31st October, 2002 is due:

Owner(s) or person(s) having interest in the land	Description of subject land	Amount of rates and charges (including extra charges) overdue for more than five (5) years (\$)	Amount of all other rates and charges (including extra charges) payable and unpaid (\$)	Total (\$)
(a)	(b)	(c)	(d)	(e)
CINNABAR PTY LIMITED.	Lot 1, section 3; Lot 5, section 1, DP 758409. Off Coaldale Road, Upper Fineflower, 2469.	4,746.23	3,325.56	8,071.79
Estate R. PHEMISTER.	Lots 11 and 12, section 12, DP 758290, 38 Grafton Street, Copmanhurst, 2460	6,618.86	5,057.49	11,676.35
C. A. ALLISON, J. T. HARNISCHMACHER.	Lot 137, DP 713686, Old Tenterfield Road, Kippenduff, via Rappville, 2469	1,149.03	2,837.59	3,986.62
P. J. HOLGATE.	Lots 138 and 139, DP 713686, 1729 Old Tenterfield Road, Kippenduff, via Rappville, 2469.	2,967.34	3,878.46	6,845.80
G. J. FURNELL, R. M. WILKINSON.	Lot 86, DP 262687, 189 Hunters Road, Ewingar, via Tabulam, 2469.	706.20	2,448.43	3,154.63

In default of payment to the Council of the amount stated in Column (e) above and any other rates (including extra charges) becoming due and payable after publication of the notice, or an arrangement satisfactory to the Council, land will be offered for sale by public auction by Kim Dahl Real Estate at the Council Chambers, 42 Victoria Street, Grafton on Thursday, 29th May, 2003 at 1.00 p.m. Dated 4th February, 2003. G. B. COWAN, General Manager, Copmanhurst Shire Council, PO Box 434, Grafton, NSW 2460. [0102]

URALLA SHIRE COUNCIL

Local Government Act 1993, Section 713

Sale of Land for Unpaid Rates

NOTICE is hereby given to the persons named hereunder that Uralla Shire Council proposes to sell the land described hereunder for unpaid rates and charges:

Owner(s) or person(s) having interest in the land	Description of subject land	Amount of rates and charges (including extra charges) overdue for more than five (5) years (\$)	Amount of all other rates and charges (including extra charges) payable and unpaid (\$)	Total (\$)
(a)	(b)	(c)	(d)	(e)
Dianne Wilma WALL.	Rate Assessment No. 481 being Lots 8 and 9, section 18, DP 758181, 14 Souter Street, Bundarra. Area: 4,047 square metres (vacant land).	\$340.44	\$4,052.64 (rates and charges) \$ 888.82 (interest)	\$4,387.06 (rates and charges) <u>\$ 894.84</u> (interest) <u>\$5,281.90</u>
James Danvers LEECE, David Turner PEARSON, William CRAPP, James NORTHY, Peter DEAN.	Rate Assessment No. 3142 being Lot 1, DP 910210, Thunderbolts Way, Rocky River. Area: 607 square metres (vacant land).	N/A sold by virtue of S.713 (2) (b)	\$932.51 (rates and charges) \$120.06 (interest)	\$ 932.51 (rates and charges) <u>\$ 120.06</u> (interest) <u>\$1,052.57</u>

If all rates and charges payable (including overdue rates and charges) are not paid to the Council or an arrangement satisfactory to the Council is not entered into by the rateable person before the time fixed for the sale, the Council will proceed with the sale. The auctioneer is John Wooldridge Real Estate, 48A Bridge Street, Uralla, tel.: (02) 6778 3066. The auction which was originally set down for Easter Saturday has been rescheduled and will be held at the Council Chambers, 32 Salisbury Street, Uralla on Saturday, 17th May, 2003 at 10.00 a.m. For enquiries contact Council on tel.: (02) 6778 4606. R. G. FULCHER, General Manager, Uralla Shire Council, PO Box 106, Uralla, NSW 2358. [0086]

ESTATE NOTICES

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of RONALD WALTER BRAITHWAITE, late of 16 Huntingdale Avenue, Beverly Hills, in the State of New South Wales, who died on 5th July, 2001 must send particulars of his claim to the executor, c.o. Colin J. Duff, Solicitor, 7 Morts Road, Mortdale, within one (1) calendar month from publication of this notice. After that time the executor may distribute the assets of the estate having regard only to the claims of which at the time of distribution he has notice. Probate was granted in New South Wales on 3rd May, 2002. COLIN J. DUFF, Solicitor, 7 Morts Road, Mortdale, NSW 2223 (DX 11307, Hurstville), tel.: (02) 9570 2022. [0087]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of MARY WILLIAMS, late of Cardinal Gilroy Village, Barcom Street, Merrylands, in the State of New South Wales, who died on 29th June, 2002 must send particulars of his claim to the executor, Anthony Edward Tenney, c.o. Maclarens, Solicitors, 232 Merrylands Road, Merrylands, within one (1) calendar month from publication of this notice. After that time the executor may distribute the assets of the estate having regard only to the claims of which at the time of distribution he has notice. Probate was granted in New South Wales on 23rd December, 2002. MACLARENS, Solicitors, 232 Merrylands Road, Merrylands, NSW 2160 (DX 25406, Merrylands), tel.: (02) 9682 3777. [0088]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of JOHN COLLONEA CLARKE, late of Rosebery, in the State of New South Wales, company director, who died on 3rd August, 2002 must send particulars of his claim to the executors, Janice Chaplin and Arthur John Forrest, c.o. Pryor Tzannes & Wallis, Solicitors, 1005 Botany Road, Mascot, within one (1) calendar month from publication of this notice. After that time the executors may distribute the assets of the estate having regard only to the claims of which at the time of distribution they have notice. Probate was granted in New South Wales on 6th November, 2002. PRYOR TZANNES & WALLIS, Solicitors, 1005 Botany Road, Mascot, NSW 2020 (DX 164, Sydney), tel.: (02) 9669 6333. [0089]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of JOHN RYAN, late of Farm 351 Yeo Road, Leeton, in the State of New South Wales, retired, who died on 9th August, 2002 must send particulars of his claim to the executrices, Anne Audrey Ryan and Alexandra Elizabeth Barker, c.o. Olliffe & McRae, Solicitors, PO Box 874, Griffith, NSW 2680, within one (1) calendar month from publication of this notice. After that time the executrices may distribute the assets of the estate having regard only to the claims of which at the time of distribution they have notice. Probate was granted in New South Wales on 13th January, 2003. OLLIFFE & McRAE, Solicitors, PO Box 874, Griffith, NSW 2680 (DX 5901, Griffith), tel.: (02) 6962 1744. [0090]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of ANNE JOSEPHINE CURRAN, late of Peshurst, in the State of New South Wales, home duties, who died on 14th October, 2002 must send particulars of his claim to the executor, Michael Curran, c.o. CKB Partners, Lawyers and Consultants, Level 11, 167 Macquarie Street, Sydney, within one (1) calendar month from publication of this notice. After that time the executor may distribute the assets of the estate having regard only to the claims of which at the time of distribution he has notice. Probate was granted in New South Wales on 2nd January, 2003. CKB Partners, Lawyers and Consultants, Level 11, 167 Macquarie Street, Sydney, NSW 2000 (DX 604, Sydney), tel.: (02) 9232 2622. [0091]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of ERNEST JAMES MOBBS, late of 3 Fernvale Avenue, West Ryde, in the State of New South Wales, who died on 7th December, 2002 must send particulars of his claim to the executors, c.o. John S. Fordham, Solicitor, 12 Station Street, West Ryde, within one (1) calendar month from publication of this notice. After that time the executors may distribute the assets of the estate having regard only to the claims of which at the time of distribution they have notice. Probate was granted in New South Wales on 24th January, 2003. JOHN S. FORDHAM, Solicitor, 12 Station Street, West Ryde, NSW 2114 (DX 27551, West Ryde), tel.: (02) 9858 1533. [0092]

NOTICE of intended distribution of estate.—Any person having any claim upon the estate of HENRY PETER McFARLANE, late of Kincumber, in the State of New South Wales, retired moulder, who died on 13th July, 2002 must send particulars of his claim to the executor, c.o. John G. Burton & Associates, 16 Adelaide Street, East Gosford, within one (1) calendar month from publication of this notice. After that time the executor may distribute the assets of the estate having regard only to the claims of which at the time of distribution he has notice. Probate was granted in New South Wales on 13th December, 2002. JOHN G. BURTON & ASSOCIATES, Solicitors, 16 Adelaide Street, East Gosford, NSW 2250 (DX 7263, Gosford), tel.: (02) 4323 4899. [0101]

COMPANY NOTICES

NOTICE of members' voluntary winding up.—FRANVEY INVESTMENTS PTY LIMITED (In liquidation), ACN 008 482 157.—Notice is hereby given that in accordance with section 495 of the Corporations Law, at an extraordinary general meeting of the abovenamed company held at Level 16, 14 Martin Place, Sydney on 24th January, 2003 the following was passed as a special resolution: "That the company be wound up voluntarily and that Keith Lindsay Hope, Accountant of Level 1, 34 Slade Road, Bardwell Park be appointed liquidator for the purpose of winding up". Dated this 24th day of January 2003. K. L. HOPE, Accountant, Level 1, 34 Slade Road, Bardwell Park, NSW 2207, tel.: (02) 9597 2511. [0093]

NOTICE of final meeting.—REMIBAY PTY LIMITED (In voluntary liquidation), ACN 003 758 432.—Notice is hereby given that pursuant to section 509 of the Corporations Law, the final meeting of members of the company will be held at 9-15 Barnes Street, Cootamundra on the 4th day of March 2003 at 10.00 a.m., for the purpose of the liquidator laying before the meeting an account of the winding up and the giving of any explanation thereof. Dated this 24th day of January 2003. M. McNAMARA, Liquidator, c.o. Dawson & Partners, Chartered Accountants, 9-15 Barnes Street, Cootamundra, NSW 2590, tel.: (02) 6942 1711. [0094]

NOTICE of voluntary liquidation.—R. J. TAYLOR TIMBER CONSULTING PTY LIMITED (In voluntary liquidation), ACN 073 394 564.—Notice is hereby given that at a general meeting of members, duly convened and held at the offices of Pringle Moriarty & Co., Chartered Accountants, Suite 12c, 44 Oxford Road, Ingleburn on Friday, 31st January, 2003 at 11.00 a.m., the following resolution was passed as a special resolution: "That the company be wound up voluntarily and that Stanley Moriarty of Suite 12c, 44 Oxford Road, Ingleburn be appointed liquidator for the purposes of the winding up". S. MORIARTY, Liquidator, c.o. Pringle Moriarty & Co., Suite 12c, 44 Oxford Road, Ingleburn, NSW 2565, tel.: (02) 9605 1344. [0095]

NOTICE of voluntary winding up.—IAN E. COLE PTY LIMITED (In liquidation), ABN 47 002 583 039.—Notice is hereby given that at an extraordinary general meeting of the abovenamed company, duly convened and held at 208A Attunga Road, Yowie Bay on 3rd February, 2003 at 8.00 a.m., the following special resolution was duly passed: “That the company be wound up voluntarily and that Garry Sullivan of 387 Port Hacking Road, Caringbah be appointed liquidator”. Dated at 208A Attunga Road, Yowie Bay this 3rd day of February 2003. ANNE COLE, Director and Chairman of Meeting. SULLIVAN DEWING, Chartered Accountants, 387 Port Hacking Road South, Caringbah, NSW 2229, tel.: (02) 9526 1211. [0098]

NOTICE of members’ voluntary winding up.—SOBOZI PTY LIMITED, ACN 002 823 056.—Notice is hereby given that on 30th January, 2003 a members’ resolution was passed that the company be wound up voluntarily and that Paul Gregory Jessop be appointed liquidator. P. G. JESSOP, Liquidator, 18 Teal Court, Merimbula, NSW 2548, tel.: (02) 6495 3378. [0099]

OTHER NOTICES

NOTICE of retirement of partner.—SMARTER CLOTHING.—Notice is hereby given that on 1st November, 2002 Simon Leslie de Rosa retired from the partnership previously subsisting between himself and Patrick Richard Byrne carrying on the business of sale of corporate clothing from premises at 23 Renwick Street, Leichhardt under the firm name and style of “Smarter Clothing”. All debts due to and owing by the said firm will be received and paid respectively by the said Patrick Richard Byrne and Elizabeth Margaret Byrne who will continue to carry on the said business in partnership under the said name and style of “Smarter Clothing”. Dated 9th January, 2003. SIMON LESLIE DE ROSA, PATRICK RICHARD BYRNE, ELIZABETH MARGARET BYRNE. [0096]

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