



New South Wales

Water Sharing Plan for the Brunswick Unregulated and Alluvial Water Sources 2027

under the Water Management Act 2000

I, the Minister for Water, make the following plan under the *Water Management Act 2000*, section 50.

Minister for Water

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Water Sharing Plan for the Brunswick Unregulated and Alluvial Water Sources 2027

under the

Water Management Act 2000

Part 1 Introduction

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

1 Name of Plan

This Plan is the Water Sharing Plan for the Brunswick Unregulated and Alluvial Water Sources 2027.

2 Commencement

This Plan commences on 1 July 2027.

3 Water sources to which Plan applies

(1) This Plan applies to the following water sources identified on the Plan Map, being water sources within the Northern Rivers Water Management Area—

- (a) the Brunswick Surface and Alluvial Water Sources is comprised of the following water sources—
 - (i) Belongil Creek Water Source,
 - (ii) Kings Creek Water Source,
 - (iii) Lower Brunswick River Water Source,
 - (iv) Lower Marshalls Creek Water Source,
 - (v) Mullumbimby Creek Water Source,
 - (vi) Tallow Creek Water Source,
 - (vii) Tyagarah Creek Water Source,
 - (viii) Upper Brunswick River Water Source, and
 - (ix) Upper Marshalls Creek Water Source.
- (b) Brunswick River Coastal Floodplain Alluvial Groundwater Source.

(2) The Brunswick Surface and Alluvial Water Sources include—

- (a) surface water upstream of the mangrove limit,
- (b) groundwater contained in Cenozoic sediments, other than—
 - (i) groundwater contained in the Brunswick River Coastal Floodplain Alluvial Groundwater Source, and
 - (ii) groundwater to which the *Water Sharing Plan for the North Coast Coastal Sands Groundwater Sources 2016* applies.

(3) The Brunswick River Coastal Floodplain Alluvial Groundwater Source—

- (a) does not include surface water, and
- (b) includes groundwater contained in Cenozoic sediments, other than groundwater to which the *Water Sharing Plan for the North Coast Coastal Sands Groundwater Sources 2016* applies.

4 Management zones [and trading zones] to which Plan applies

Nil.

5 Extraction management units established by Plan—the Act, s 20(2)(a)

The following extraction management units are established—

- (a) the Brunswick River Catchment Extraction Management Unit, consisting of the following—
 - (i) Belongil Creek Water Source,
 - (ii) Kings Creek Water Source,
 - (iii) Lower Brunswick River Water Source,
 - (iv) Lower Marshalls Creek Water Source,
 - (v) Mullumbimby Creek Water Source,
 - (vi) Tallow Creek Water Source,
 - (vii) Tyagarah Creek Water Source,
 - (viii) Upper Brunswick River Water Source,
 - (ix) Upper Marshalls Creek Water Source.
- (b) the Brunswick River Coastal Floodplain Alluvial Extraction Management Unit, consisting of the Brunswick River Coastal Floodplain Alluvial Groundwater Source.

6 Interpretation

- (1) The Dictionary in Schedule 4 defines words used in this Plan.

Note— The *Interpretation Act 1987* contains definitions and other provisions affecting the interpretation and application of this Plan.

- (2) Unless otherwise specified in this Plan, a category of an access licence includes a reference to a subcategory of the access licence.
- (3) A reference to an access licence in a water source includes a reference to a water access licence with a share component specifying a water source.

7 Maps

- (1) A reference in this Plan to the Plan Map means the Water Sharing Plan for the Brunswick Unregulated and Alluvial Water Source Plan Map WSP036_Version 3, available on the Department's website.
- (2) A map that amends or replaces the Plan Map has effect only if this Plan is amended to give effect to it.

Part 2 Vision, objectives, strategies and performance indicators

8 Vision statement—the Act, s 35(1)(a)

The vision for this Plan is to contribute to the following—

- (a) the health and enhancement of the water sources to which this Plan applies and their water-dependent ecosystems,
- (b) the productive extraction of water for economic benefit,
- (c) the spiritual, social, customary and economic benefits of water to Aboriginal communities,
- (d) the social and cultural benefits to urban and rural communities resulting from water.

9 Objectives of Plan—the Act, s 35(1)(b)

The objectives of this Plan are to contribute to the following—

- (a) protecting and, where possible, enhancing and restoring the condition of the water sources to which this Plan applies and their water-dependent ecosystems,
- (b) maintaining and, where possible, improving access to water to optimise economic benefits for agriculture, water-dependent industries and local economies,
- (c) maintaining and, where possible, improving the spiritual, social, customary and economic values and uses of water by Aboriginal people,
- (d) providing access to water to support water-dependent social and cultural values,
- (e) preventing aquifer compaction and storage reduction resulting from groundwater extraction,
- (f) maintaining and, where possible improving water quality within target ranges for the water sources to which this Plan applies to support water-dependent ecosystems and social, cultural and economic values.

10 Strategies for reaching objectives—the Act, s 35(1)(c)

(1) The strategies for reaching the objectives of this Plan include the following—

- (a) on average, reserve water in excess of each long-term average annual extraction limit for the environment,
- (b) reserve a portion of natural flows to partially mitigate alterations to natural flow regimes in the water sources to which this Plan applies,
- (c) restrict the take of water from an in-river pool and an off-river pool when the volume of water in the pool is less than the volume of water that can be held by the pool when at full capacity,
- (d) reserve a portion of natural flows to maintain hydrological connectivity between the water sources to which this Plan applies and other connected water sources, including connectivity with tidal pools and estuaries,
- (e) manage the construction and use of water supply works to minimise impacts on in-stream ecosystems, high priority groundwater-dependent ecosystems and groundwater quality, groundwater-dependent culturally significant areas, basic landholder rights and town water supply,

- (f) manage the construction and use of water supply works to mitigate impacts on ecosystems, water quality, culturally significant areas, basic landholder rights, town water supply and other licence holders,
- (g) restrict or prevent water supply work approvals for in-river dams on third or higher order streams within specified water sources,
- (h) provide for trade of water allocations and share components subject to environmental constraints and local impacts,
- (i) provide a stable and predictable framework for sharing water among water users,
- (j) provide for flexibility of access to water,
- (k) manage access to water consistently with the exercise of native title rights and domestic and stock rights,
- (l) provide for water associated with Aboriginal cultural values and uses, and community development.

(2) Each strategy may contribute to achieving one or more of the objectives of this Plan.

11 Performance indicators—the Act, s 35(1)(d)

(1) The performance indicators used to measure the success of the strategies for reaching the objectives of this Plan are the changes or trends, during the term of this Plan, in the following—

- (a) groundwater levels,
- (b) the extent and condition of water dependent ecosystems,
- (c) economic benefits,
- (d) benefits to Aboriginal people,
- (e) social and cultural benefits,
- (f) water quality condition.

(2) The performance indicators must be monitored and evaluated in the way approved by the Minister.

11A Monitoring and evaluation

- (1) Monitoring and evaluation of this Plan's objectives, strategies and performance indicators must be undertaken in the way approved by the Minister.
- (2) By 30 June 2028, the Minister must publish a plan for monitoring, evaluation and reporting on this Plan that links with the objectives, strategies and performance indicators of this Plan.
- (3) By 31 October 2028, and annually thereafter, the Minister must publicly report on implementation of this Plan, including on progress against the monitoring, evaluation and reporting plan.
- (4) By no later than 12 months before this Plan expires, the Minister must publicly report on the results of the monitoring and evaluation undertaken according to the plan developed under subsection (2).

Part 3 Requirements for water

Division 1 Requirements for water to satisfy basic landholder rights— the Act, s 20(1)(b)

12 Domestic and stock rights

On the commencement of this Plan, the amount of water required to satisfy domestic and stock rights is estimated to be 634 ML/year distributed as follows—

- (a) 36 ML/year in the Belongil Creek Water Source,
- (b) 72 ML/year in the Brunswick River Coastal Floodplain Alluvial Groundwater Source,
- (c) 24 ML/year in the Kings Creek Water Source,
- (d) 66 ML/year in the Lower Brunswick River Water Source,
- (e) 25 ML/year in the Lower Marshalls Creek Water Source,
- (f) 65 ML/year in the Mullumbimby Creek Water Source,
- (g) 8 ML/year in the Tallow Creek Water Source,
- (h) 131 ML/year in the Tyagarah Creek Water Source,
- (i) 106 ML/year in the Upper Brunswick River Water Source, and
- (j) 101 ML/year in the Upper Marshalls Creek Water Source.

13 Native title rights

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

- (a) the native title determination for the Bundjalung People of Byron Bay (National Native Title Tribunal reference NCD2019/001),
- (b) any other determination of native title, and
- (c) any Indigenous land use agreement.

Note 1— A native title holder is entitled, without the need for an access licence, or water use approval, to take and use water in the exercise of native title rights—see the Act, section 55.

Note 2— Native title rights may be exercised in accordance with the *Native Title Act 1993* of the Commonwealth.

14 Harvestable rights

On the commencement of this Plan, the amount of water required to satisfy harvestable rights is estimated to be 1,397 ML/year distributed as follows—

- (a) 205 ML/year in the Belongil Creek Water Source,
- (b) 0 ML/year in the Brunswick River Coastal Floodplain Alluvial Groundwater Source,
- (c) 144 ML/year in the Kings Creek Water Source,
- (d) 73 ML/year in the Lower Brunswick River Water Source,
- (e) 127 ML/year in the Lower Marshalls Creek Water Source,
- (f) 92 ML/year in the Mullumbimby Creek Water Source,

- (g) 41 ML/year in the Tallow Creek Water Source,
- (h) 327 ML/year in the Tyagarah Creek Water Source,
- (i) 180 ML/year in the Upper Brunswick River Water Source, and
- (j) 208 ML/year in the Upper Marshalls Creek Water Source.

Division 2 Requirements for water for extraction under access licences

15 Share components of access licences in the water sources—the Act, s 20(1)(c)

- (1) On the commencement of this Plan, the share components of domestic and stock access licences are estimated to be a total of 29 ML/year distributed as follows—
 - (a) 18 ML/year in the Kings Creek Water Source,
 - (b) 1 ML/year in the Lower Marshalls Creek Water Source,
 - (c) 1 ML/year in the Mullumbimby Creek Water Source,
 - (d) 1 ML/year in the Tyagarah Creek Water Source,
 - (e) 3 ML/year in the Upper Brunswick River Water Source,
 - (f) 5 ML/year in the Upper Marshalls Creek Water Source, and
 - (g) 0 ML/year in all other water sources.
- (2) On the commencement of this Plan, the share components of local water utility access licences are estimated to be a total of 0 ML/year.
- (3) On the commencement of this Plan, the share components of unregulated river access licences are estimated to be a total of 2,417.5 unit shares distributed as follows—
 - (a) 15 unit shares in the Kings Creek Water Source,
 - (b) 5 unit shares in the Lower Brunswick River Water Source,
 - (c) 208 unit shares in the Lower Marshalls Creek Water Source,
 - (d) 96 unit shares in the Mullumbimby Creek Water Source,
 - (e) 103 unit shares in the Tallow Creek Water Source,
 - (f) 1,060.5 unit shares in the Tyagarah Creek Water Source,
 - (g) 659 unit shares in the Upper Brunswick River Water Source,
 - (h) 271 unit shares in the Upper Marshalls Creek Water Source, and
 - (i) 0 unit shares in all other water sources.
- (4) On the commencement of this Plan, the share components of unregulated river (high flow) access licences are estimated to be a total of 0 ML/year.
- (5) On the commencement of this Plan, the share components of aquifer access licences are estimated to be a total of 110 unit shares distributed as follows—
 - (a) 23 unit shares in the Brunswick River Coastal Floodplain Alluvial Groundwater Source,
 - (b) 40 unit shares in the Lower Marshalls Creek Water Source,
 - (c) 5 unit shares in the Tyagarah Creek Water Source,
 - (d) 29 unit shares in the Upper Brunswick River Water Source,
 - (e) 13 unit shares in the Upper Marshalls Creek Water Source, and
 - (f) 0 unit shares in all other water sources.

Note— The total share components of access licences in the water sources may change during the term of this Plan as a result of—

- (a) the grant, surrender or cancellation of access licences in the water sources, or
- (b) the variation of local water utility licences under the Act, section 66, or

- (c) ongoing conversion of entitlements under the *Water Act 1912* to access licences under the Act, or
- (d) amendments to access licences under the Act, section 68A.

Part 4 Limits to the availability of water

Division 1 Available water determinations—the Act, s 20(2)(b)

16 Available water determinations

- (1) The sum of available water determinations made for an access licence must not be more than the following in a water year—
 - (a) for an access licence specifying the share component in ML/year—100% of the access licence share component,
 - (b) for an access licence specifying the share component as a number of unit shares—1 ML/unit share of the access licence share component.
- (2) Unless the Minister otherwise determines, at the start of each water year, available water determinations must be made as follows—
 - (a) for domestic and stock access licences—100%,
 - (b) for local water utility access licences—100%,
 - (c) for unregulated river access licences—1 ML/unit share,
 - (d) for unregulated river (high flow) access licences—1 ML/unit share,
 - (e) for aquifer access licences—1 ML/unit share.
- (3) This section is subject to sections 23 and 28.

Note— The Minister may, at any time, make available water determinations in relation to the availability of water for a category or subcategory of access licence—see the Act, section 59.

Division 2 Extraction limits—the Act, s 20(1)(a) and (e)

Subdivision 1 Preliminary

17 Operation of Division—the Act, s 8

For the Act, section 8(1A)(b) and (2), this Division—

- (a) sets out environmental water rules, and
- (b) commits water as planned environmental water by reference to the long-term average annual commitment of water resulting from compliance with the long-term average annual extraction limit.

18 Definitions

In this Division—

3-year average standard extraction means the average of the annual standard extractions for 3 consecutive water years most recently calculated for an extraction management unit.

annual higher flow extraction means the estimated volume of water taken under all higher flow extraction licences within the extraction management unit in a water year.

annual higher flow extraction limit means the annual higher flow extraction limit established by section 23.

annual standard extraction means the estimated volume of all water taken from an extraction management unit in a water year—

- (a) under an access licence, excluding extractions under a higher flow extraction licence, and
- (b) in the exercise of basic landholder rights.

reduced available water determinations means available water determinations that are less than the amount specified in section 16(2) for the category of licence in relation to which the determination is made.

standard LTAAEL means a standard long-term average annual extraction limit established by section 19.

Subdivision 2 Standard LTAAELs

19 Establishment of standard LTAAELs

- (1) The standard LTAAELs are as follows—
 - (a) for the Brunswick River Catchment Extraction Management Unit—8,106ML/year, and
 - (b) for the Brunswick River Coastal Floodplain Alluvial Extraction Management Unit—763ML/year.
 - (2) For the purposes of assessing compliance with the standard LTAAEL, it must be varied to—
 - (a) exclude the share components of the following—
 - (i) an access licence cancelled after the commencement of this Plan to grant a higher flow extraction licence,
 - (ii) any access licence that is acquired after the commencement of this Plan for or on behalf of the Commonwealth Environmental Water Holder or the Minister for Environment for an environmental purpose, and
 - (b) include the share components of former entitlements notified under the Act, Schedule 10, clause 20, since commencement of this Plan.
- Note—** The standard LTAAELs are taken to be varied by a change to the amount of water committed as licensed environmental water—see the Act, section 8F(2).
- (3) The Minister is to review the standard LTAAEL for the Brunswick River Catchment Extraction Management Unit to determine whether it represents a sustainable level of take (**the sustainable LTAAEL review**).
 - (4) In carrying out the sustainable LTAAEL review, the Minister is to consider the following, among any other matters the Minister considers relevant—
 - (a) the protection of water sources and their dependent ecosystems and species,
 - (b) the health of hydrologically connected water sources and their dependent ecosystems,
 - (c) future climate projections, including likely bounds of climate change and relevant impacts within the term of this Plan,
 - (d) the precautionary principle and the principles of adaptive management, including whether and how the LTAAEL should be adjusted in response to any projected change in water availability due to climate change,
 - (e) cultural, social and economic implications,

- (f) the protection of baseflow within the water source,
 - (g) advice from the Natural Resources Commission on the review method.
- (5) The Minister is to request the Natural Resources Commission to review and provide advice on the findings of the sustainable LTAAEL review.
- (6) Within 2 years of the sustainable LTAAEL review, the Minister must publish the sustainable level of take and consider what changes to water sharing rules are needed to achieve that sustainable level of take.

20 Calculation of annual standard extraction

As soon as practicable after the end of a water year, the annual standard extraction for each extraction management unit must be calculated for the water year.

Note—The determination of the volume of water taken from each extraction management unit excludes water committed as licensed environmental water—see the Act, section 8F(5).

21 Assessment of compliance with standard LTAAELs

- (1) As soon as practicable after the end of a water year, the 3-year average standard extraction for the Brunswick River Catchment Extraction Management Unit must be compared against the standard LTAAEL for the Brunswick River Catchment Extraction Management Unit.
- (2) There is noncompliance with the standard LTAAEL for the Brunswick River Catchment Extraction Management Unit if the 3-year average standard extraction for the Brunswick River Catchment Extraction Management Unit exceeds the standard LTAAEL for the Brunswick River Catchment Extraction Management Unit for the water year by 5% or more.
- (3) As soon as practicable after the end of a water year, the annual standard extraction for the Brunswick River Coastal Floodplain Alluvial Extraction Management Unit must be compared against the standard LTAAEL for the Brunswick River Coastal Floodplain Alluvial Extraction Management Unit.
- (4) There is noncompliance with the standard LTAAEL for the Brunswick River Coastal Floodplain Alluvial Extraction Management Unit if the annual standard extraction for the Brunswick River Coastal Floodplain Alluvial Extraction Management Unit exceeds the standard LTAAEL for the Brunswick River Coastal Floodplain Alluvial Extraction Management Unit for the water year by 5% or more.

22 Compliance with standard LTAAELs

- (1) This section applies to an extraction management unit if there is noncompliance with the standard LTAAEL for the extraction management unit.
- (2) On 1 July in the water year occurring immediately after a noncompliance is assessed (the *next water year*), reduced available water determinations, which are likely to result in extraction from the extraction management unit complying with the standard LTAAEL, must be made for one or both of the following categories of access licence—
 - (a) an unregulated river access licence,
 - (b) an aquifer access licence.
- (3) In the next water year, the total sum of all available water determinations made for the category of access licence for which a reduced available water determination is made

under subsection (2) must be less than the amount specified for the category of access licence in section 16.

- (4) Despite subsection (1), the Minister may make one or both of the reduced available water determinations described in subsections (2)(a) or (2)(b), if no assessment of compliance has been undertaken under section 21.
- (5) At the start of a water year, if a reduced available water determination is made under this section the Minister must publish a notice on the Department's website specifying the reasons why the reduced available water determination was made.

Subdivision 3 Annual higher flow extraction limits

23 Establishment of annual higher flow extraction limit

Nil.

24 Calculation of annual higher flow extraction

Nil.

25 Assessment of compliance with annual higher flow extraction limits

Nil.

26 Compliance with annual higher flow extraction limits

Nil.

Subdivision 4 Total daily extraction limits

27 Total daily extraction limits for certain water sources and categories of access licences

Nil.

Part 5 Rules for granting and managing access licences—the Act, s 20(2)(b)

28 Specific purpose access licences

- (1) A person may apply for an aquifer (Aboriginal community development) specific purpose access licence in the Brunswick River Coastal Floodplain Alluvial Groundwater Source if, at the time the relevant application is determined, the sum of the share components of all aquifer (Aboriginal community development) access licences in the Brunswick River Coastal Floodplain Alluvial Groundwater Source is no more than 100ML/year.

Note— A person may apply for a specific purpose access licence in circumstances where the regulations provide that an application for the licence may be made—see the Act, section 61(1)(a).

- (2) An application for a specific purpose access licence must not be made unless the share and extraction components of the access licence are the minimum amount required for the proposed use.
- (3) A person may apply for a specific purpose access licence of the subcategory Aboriginal cultural if—
- (a) the share component of the licence is no more than 10ML/year, and
 - (b) the licence is primarily for the taking of water by an Aboriginal person or Aboriginal community for personal, domestic or communal purposes, including the following—
 - (i) drinking and food preparation,
 - (ii) washing,
 - (iii) manufacturing traditional artefacts,
 - (iv) watering domestic gardens,
 - (v) cultural teaching,
 - (vi) hunting, fishing and gathering,
 - (vii) traditional food production,
 - (viii) purposes to achieve environmental outcomes,
 - (ix) recreational, cultural and ceremonial purposes, and
 - (c) any commercial benefit obtained by the taking or use of water is only ancillary or incidental to the purpose for which the water was taken.
- (4) In this section—

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

29 Amendment of access licences—the Act, section 68A

- (1) This section applies to an access licence affected by a change to the name or boundary of a management zone, water source, or water management area to which this Plan applies, whether the change is made on the commencement of this Plan or as an amendment to this Plan.
- (2) The Minister may amend the share component or extraction component, or both, of an access licence to which this section applies to change the following—

- (a) the water management area or water source to which the share component of the licence relates,
- (b) the management zones from which water may be taken in accordance with the extraction component of the licence.

Part 6 Operation of water allocation accounts and managing access licences

Division 1 Preliminary

30 Application of Part—the Act, s 8

- (1) For the Act, section 8(1A)(a) and (c) and (2), this Part—
- (a) sets out environmental water rules, and
 - (b) in Divisions 2–5—commits water as planned environmental water by reference to the water that is not committed after the commitments to basic landholder rights and for sharing and extraction under any other rights have been met, and
 - (c) in Divisions 3–5—commits water as planned environmental water by reference to the commitment of the physical presence of water in the water source.

Division 2 Accounting for water allocation accounts—the Act, s 21(c)

Note— The *Water Management (General) Regulation 2025*, section 20, also includes provisions regarding the debiting of water allocation accounts.

31 Water allocation account debiting

- (1) During a period of 3 consecutive water years, the volume of water debited from the water allocation account of a domestic and stock access licence or a local water utility access licence, other than access licence specified in subsection (3), must not be more than the sum of 300% of the share component of the licence plus the water allocations credited to the water allocation account during those 3 years from—
- (a) assignments under the Act, section 71T or 71V,
 - (b) recredits under the Act, section 76.
- (2) During a period of 3 consecutive water years, the volume of water debited from the water allocation account of an unregulated river access licence or an aquifer access licence, other than an access licence specified in subsection (3), must not be more than the sum of 3ML per unit share of the access licence plus the water allocations credited to the water allocation account during those 3 years from—
- (a) assignments under the Act, section 71T or 71V,
 - (b) recredits under the Act, section 76.
- (3) This section does not apply to—
- (a) an aquifer access licence in the Brunswick River Coastal Floodplain Alluvial Groundwater Source,
 - (b) a higher flow extraction licence.

32 Carryover of water remaining in water allocation account

Water allocations remaining in the water allocation account—

- (a) of an aquifer access licence in the Brunswick River Coastal Floodplain Alluvial Groundwater Source must not be carried over from one water year to the next water year,
- (b) of a higher flow extraction licence in a water source in the Brunswick River Catchment Extraction Management Unit must not be carried over from one water year to the next water year, or

- (c) otherwise — must be carried over from one water year to the next water year up to an amount equal to the following—
 - (i) for access licences with share components expressed as ML/year— 100% of the share component,
 - (ii) for access licences with share components expressed as a number of unit shares—1ML/unit share.

Division 3 Flow classes

33 Flow classes for specified water sources—the Act, s 21(a)

- (1) This Plan establishes the flow classes set out in Schedule 1 for the water sources specified.
- (2) In Schedule 1, the flow class applies in the following circumstances—
 - (a) for a flow reference point that specifies a river gauge— when the flow rate for the water source meets the specified flow class threshold for the water source as recorded at the specified flow reference point,
 - (b) for all other flow reference points— when the flow in the water source meets the specified flow class threshold for the water source as observed at the specified flow reference point.

34 Minister may determine flow classes in certain circumstances

- (1) If the Minister is satisfied accurate flow data is not available from a gauge used to determine a flow class, the Minister may determine the flow class.
- (2) If the Minister determines a flow class, the Minister must cause a notice to be published on the Department’s website specifying the following—
 - (a) the flow class and flow class threshold determined by the Minister,
 - (b) the water source and management zone, if any, to which the flow class applies, and
 - (c) the day on which the flow class applies.
- (3) In determining the flow class, the Minister may consider the following—
 - (a) evidence of past and current flows,
 - (b) readings at other functioning upstream and downstream gauges.
- (4) A flow class published in a notice under this section is taken to be a flow class established by this Plan.

Division 4 Access rules for take of surface water—the Act, s 20(1)(a) and s 21(a)

Note—Discretionary conditions may also be imposed under sections 66(1)(b) and 100(1)(b) of the Act, in addition to mandatory conditions which are required to be imposed by the access rules in this Division.

35 General

- (1) Surface water must not be taken if there is no visible flow at the location from which the water would be taken, except from the following locations—
 - (a) an in-river pool, or
 - (b) an off-river pool, or

- (c) an in-river dam pool.
- (2) Surface water must not be taken from—
 - (a) an in-river pool that is below full capacity, or
 - (b) an off-river pool that is below full capacity, or
 - (c) an in-river dam pool unless the take is not inconsistent with a water supply work approval authorising the use of a water supply work for the purpose of taking water from the in-river dam pool.

36 Specific access rules

- (1) Surface water must not be taken under an access licence if flows are in the Very Low Flow Class as specified in Schedule 1.
- (2) Surface water must not be taken under an access licence in the Kings Creek Water Source or Mullumbimby Creek Water Source for more than 6 hours/day when flows recorded by the Brunswick River at Durrumbul (Sherrys Crossing) gauge (202001) are more than 2ML/day and no more than 4ML/day.
- (3) Surface water must not be taken under an access licence in the Upper Brunswick Water Source—
 - (a) during the months of June to October, unless the flows recorded by the Brunswick River at Durrumbul (Sherrys Crossing) gauge (202001) are more than 8ML/day,
 - (b) for more than 6 hours/day during the months of November to May, if the flows recorded by the Brunswick River at Durrumbul (Sherrys Crossing) gauge (202001) are more than 2ML/day and no more than 6ML/day, and until the flows are recorded by the Brunswick River at Durrumbul (Sherrys Crossing) gauge (202001) have been above 6ML/day for a continuous period of 24 hours.
- (4) Surface water must not be taken under an access licence in contravention of a cease-to-take condition specified in Schedule 3.

37 Exceptions

- (1) Section 35(2)(b) does not apply to the take of surface water from an off-river pool subject to a cease-to-take condition that permits the taking of water when the off-river pool is below full capacity.
- (2) Sections 35 and 36 do not apply to the take of surface water in the following circumstances—
 - (a) for the following purposes under an access licence specified in Schedule 2 if no more than 20 kl/day or a lower amount specified by the Minister is taken—
 - (i) fruit and vegetable washing,
 - (ii) cleaning of dairy plant and equipment for hygiene purposes,
 - (iii) poultry watering and misting,
 - (iv) cleaning of enclosures used for intensive animal production for hygiene purposes,
 - (b) for domestic consumption authorised under a domestic and stock access licence if no more than 1 kl/day for each household supplied by the access licence is taken,

- (c) from a runoff harvesting dam,
 - (d) under an access licence in relation to an aquifer interference activity for which a planning approval is in force if—
 - (i) the licence holder complies with the water management plans, if any, required under the planning approval in relation to the aquifer interference activity, and
 - (ii) in the Minister’s opinion, the licence holder is not reasonably capable of complying with the access rule concerned.
- (3) Section 36 does not apply to the take of surface water in the following circumstances—
- (a) from an off-river pool in a water source or management zone to which that section applies, or
 - (b) from an in-river dam pool formed by an in-river dam that is referred to in a water supply work approval.

Division 5 Access rules for take of groundwater—the Act, s 21(a)

38 General

Groundwater must not be taken using a water supply work located on waterfront land if—

- (a) there is no visible flow in the river at the location closest to the water supply work being used to take groundwater, or
- (b) the location in the river closest to the water supply work being used to take groundwater is an in-river pool, and the in-river pool is below full capacity.

Note— “waterfront land” has the same meaning as in the Dictionary to the Act.

39 Specific access rules

- (1) Groundwater must not be taken using a water supply work located on waterfront land—
- (a) if flows are in the Very Low Flow Class as specified in Schedule 1,
 - (b) under an access licence in the Kings Creek Water Source or the Mullumbimby Creek Water Source for more than 6 hours/day when the flows recorded by the Brunswick River at Durrumbul (Sherrys Crossing) gauge (202001) are more than 2ML/day and no more than 4ML/day,
 - (c) under an access licence in the Upper Brunswick Water Source—
 - (i) during the months of June to October, unless the flows recorded by the Brunswick River at Durrumbul (Sherrys Crossing) gauge (202001) are more than 8ML/day.
 - (ii) for more than 6 hours/day during the months of November to May, if the flows recorded by the Brunswick River at Durrumbul (Sherrys Crossing) gauge (202001) are more than 2ML/day and no more than 6ML/day, and until the flows recorded by the Brunswick River at Durrumbul (Sherrys Crossing) gauge (202001) have been above 6ML/day for a continuous period of 24 hours.

40 Exceptions

- (1) Sections 38 and 39 do not apply to the take of groundwater in the following circumstances—
- (a) under an access licence in the Brunswick River Coastal Floodplain Alluvial Groundwater Source,
 - (b) for the following purposes under an access licence specified in Schedule 2 if no more than 20 kl/day or a lower amount specified by the Minister is taken—
 - (i) fruit and vegetable washing,
 - (ii) cleaning of dairy plant and equipment for hygiene purposes,
 - (iii) poultry watering and misting,
 - (iv) cleaning of enclosures used for intensive animal production for hygiene purposes,
 - (c) for domestic consumption authorised under a domestic and stock access licence if no more than 1 kl/day for each household supplied by the access licence is taken,
 - (d) under an access licence in relation to an aquifer interference activity for which a planning approval is in force if—
 - (i) the licence holder complies with the water management plans, if any, required under the planning approval in relation to the aquifer interference activity, and
 - (ii) in the Minister’s opinion, the licence holder is not reasonably capable of complying with the access rule concerned.

Part 6A Rules for local water utility storages—the Act, s 21(a)

40A Water Supply Infrastructure

Nil.

Part 7 Construction and use of water supply works—the Act, s 21(b)

Note— An approval must not be granted in contravention of this Part—see the Act, section 95(3). An application to amend an approval relating to additional uses, works, activities or land must be assessed and determined in the same way as an application for a new approval, but only in relation to the additional uses, works, activities or land—see the Act, section 107(5). This does not affect works that can be constructed under a basic landholder right.

Division 1 Preliminary

41 Application of Part

- (1) Division 2 applies to surface water supply works.
- (2) Division 3 applies to groundwater water supply works.
- (3) In this Part, a reference to a water supply work located within a specified distance includes a reference to a water supply work proposed to be located within a specified distance.

Division 2 Surface water supply works

42 In-river dams

- (1) An in-river dam on a third or higher order stream must not be constructed within the following—
 - (a) Belongil Creek Water Source,
 - (b) Kings Creek Water Source,
 - (c) Lower Brunswick River Water Source,
 - (d) Lower Marshalls Creek Water Source,
 - (e) Mullumbimby Creek Water Source,
 - (f) Tallow Creek Water Source,
 - (g) Tyagarah Creek Water Source,
 - (h) Upper Brunswick River Water Source,
 - (i) Upper Marshalls Creek Water Source.
- (2) Subsection (1) does not apply to—
 - (a) an in-river dam that replaces an existing in-river dam where—
 - (i) the existing in-river dam is authorised by a water supply work approval, and
 - (ii) the in-river dam is to be built to impound water from the same water source and is located in the same location as the existing in-river dam, and
 - (iii) in the Minister’s opinion, the in-river dam impounds the same volume or less as the existing in-river dam and is not likely to result in a greater adverse impact than the existing in-river dam on the water source or to public health and safety,
 - (b) an in-river dam used for town water supply purposes.

43 Wetlands

A water supply work must not be constructed within the following areas unless, in the Minister's opinion, there will be no more than minimal harm to the wetland concerned—

- (a) within 3km upstream of, or within, a declared Ramsar wetland,
- (b) within 200m upstream of, or within, coastal wetlands.

Division 3 Groundwater water supply works

44 Replacement groundwater work

(1) In this Division, *replacement groundwater work* means a water supply work that—

- (a) replaces a water supply work authorised by a water supply work approval (the *replaced water supply work*), and
- (b) is constructed to extract water—
 - (i) from the same water source as the replaced water supply work, and
 - (ii) from the same depth as the replaced water supply work, and
- (c) is located—
 - (i) within 20m of the replaced water supply work, and
 - (ii) if the replaced water supply work is located on waterfront land—at the same or a further distance away from the river, and
- (d) has an internal diameter or excavation footprint the same as or less than the replaced water supply work unless—
 - (i) if the replaced water supply work is no longer manufactured—the internal diameter of the water supply work will not exceed 120% of the internal diameter of the replaced water supply work, or
 - (ii) if the internal diameter of the replaced water supply work is less than 100mm—the internal diameter of the water supply work will not exceed 100mm.

(2) A water supply work that does not meet the requirements in subsection (1)(b)(ii) or (1)(c)(i) is taken to be a replacement groundwater work if, in the Minister's opinion, the water supply work is not likely to—

- (a) result in a greater adverse impact than the replaced water supply work on the following—
 - (i) a water source,
 - (ii) a high priority groundwater-dependent ecosystem,
 - (iii) public health and safety,
 - (iv) a groundwater-dependent culturally significant area, and
- (b) adversely affect the ability of another person to take water using an existing water supply work.

(3) In this section—

excavation footprint means the authorised dimensions of an unlined excavation constructed for the purposes of water supply only.

internal diameter means the diameter of the inside of the casing of a water bore.

45 Interference between water supply works

- (1) A water supply work must not be constructed within the following areas—
 - (a) 200m of a water supply work located on another landholding—
 - (i) authorised to take water solely for basic landholder rights from the same water source, or
 - (ii) nominated by another access licence to take water from the same water source.
 - (b) 100m of the boundary of the landholding on which the water supply work is located unless the owner of the landholding adjoining the boundary has provided written consent,
 - (c) 500m of a water supply work nominated by a local water utility access licence or a major utility access licence authorised to take water from the same water source unless the holder of the licence has provided written consent,
 - (d) 100m of a water supply work that is a government monitoring or observation bore.
- (2) Subsection (1) does not apply if—
 - (a) the water supply work is used only for basic landholder rights, or
 - (b) the water supply work is a replacement groundwater work, or
 - (c) the water supply work is for the purpose of monitoring, environmental remediation activities or emergency services, or
 - (d) in the Minister’s opinion, the construction and use of the water supply work at that location would result in no more than a minimal detrimental effect on the water available for take using an existing water supply work.

46 Contamination sources

- (1) A water supply work must not be constructed within the following areas—
 - (a) 500m of a contamination source,
 - (b) 250m of the edge of a plume associated with a contamination source,
 - (c) between 250m and 500m from the edge of a plume associated with a contamination source unless no change in groundwater level will occur within 250m of the edge of the plume.
- (2) Subsection (1) does not apply if, in the Minister’s opinion—
 - (a) the location of the water supply work is adequate to protect the water source, the environment, and public health and safety, or
 - (b) the water supply work is for the purpose of monitoring, environmental remediation activities or emergency services.
- (3) A water supply work must not be constructed within 250m of an on-site sewage disposal system unless the water supply work is—
 - (a) constructed with cement grout in the borehole annulus to a minimum depth of 20m from the ground surface, and

- (b) located at a sufficient distance from the on-site sewage disposal system to prevent migration of septic contamination in the aquifer.
- (4) The Minister may reduce the depth requirement in subsection (3)(a) if, in the Minister's opinion—
 - (a) adequate arrangements are in place to protect the water source, the environment, and public health and safety, or
 - (b) the water supply work is for the purpose of monitoring and environmental remediation activities.

47 Groundwater-dependent ecosystems

- (1) A water supply work must not be constructed within the following areas—
 - (a) waterfront land,
 - (b) 200m of a high priority vegetation groundwater-dependent ecosystem unless, in the Minister's opinion, there is not a high probability of groundwater dependence for the relevant ecosystem,
 - (c) 200m of a wetland.
- (2) Subsection (1) does not apply if—
 - (a) the water supply work is used only for basic landholder rights, or
 - (b) the water supply work is a replacement groundwater work, or
 - (c) the water supply work is for the purpose of monitoring, environmental remediation activities or emergency services, or
 - (d) in the Minister's opinion, the construction and use of the water supply work at that location is likely to cause no more than minimal harm to any water source or its dependent ecosystems.

48 Potential acid sulfate soils

- (1) A water supply work must not be constructed within an area classed as having a high probability of occurrence of acid sulfate soils on the Acid Sulfate Soil Risk Map.
- (2) Subsection (1) does not apply if the Minister is satisfied that the construction and use of the water supply work would not result in a significant risk of acidification of the water sources to which this Plan applies.
- (3) In this section—

Acid Sulfate Soil Risk Map means an Acid Sulfate Soil Risk Map authorised by the Department and published on the Department's website.

acid sulfate soils means naturally occurring sediments and soils containing iron sulphides, principally pyrite, or their precursors or oxidation products, whose exposure to oxygen leads to the generation of sulphuric acid, for example, by drainage or excavation.

49 Groundwater-dependent culturally significant areas

- (1) A water supply work must not be constructed within 200m of a groundwater-dependent culturally significant area.

Note— Groundwater-dependent culturally significant areas may be identified after the commencement of this Plan.

- (2) Subsection (1) does not apply if—

- (a) the water supply work is used only for basic landholder rights, or
- (b) the water supply work is a replacement groundwater work, or
- (c) the water supply work is for the purpose of monitoring, environmental remediation activities or emergency services, or
- (d) in the Minister's opinion, the construction and use of the water supply work at that location would result in no more than minimal harm to the relevant groundwater-dependent culturally significant area.

50 Water supply works used only for basic landholder rights

- (1) A water supply work used only for basic landholder rights must not be constructed within the following areas—
 - (a) 100m of a government monitoring or observation bore,
 - (b) 100m of a high priority vegetation groundwater-dependent ecosystem unless, in the Minister's opinion—
 - (i) there is not a high probability of groundwater dependence for the relevant ecosystem, or
 - (ii) the construction and use of the water supply work at that location is likely to cause no more than minimal harm to the high priority vegetation groundwater-dependent ecosystem,
 - (c) 100m of a groundwater-dependent culturally significant area unless, in the Minister's opinion, the construction and use of the water supply work at that location is likely to cause no more than minimal harm to the groundwater-dependent culturally significant area,
 - (d) 100m of a wetland.
- (2) Subsection (1) does not apply if the water supply work is a replacement groundwater work.
- (3) Subsection (1)(d) does not apply if, in the Minister's opinion, the construction and use of the water supply work at that location is likely to cause no more than minimal harm to the wetland concerned.

Part 8 Access licence dealing rules—the Act, s 20(1)(d)

Note— The access licence dealing principles established by the *Access Licence Dealing Principles Order 2004* prevail over the access licence dealing rules in this Part to the extent of an inconsistency.

51 General

Nil.

52 Conversion of access licence to new category dealings

A dealing under the Act, section 71O is prohibited unless the conversion is from an unregulated river access licence to an aquifer access licence in the same water source.

Note— The *Access Licence Dealing Principles Order 2004*, clause 11 regulates dealings under the Act, section 71O, including with respect to conversion factors.

53 Assignment of rights dealings

- (1) An assignment of rights under the Act, section 71Q is prohibited if the assignment is from an aquifer access licence that does not nominate a water supply work located on waterfront land to an access licence that does nominate a water supply work located on waterfront land.
- (2) The following assignments of rights under the Act, section 71Q between water sources are prohibited—
 - (a) an assignment to an access licence in a different extraction management unit,
 - (b) an assignment from an access licence in a water source to which this Plan does not apply,
 - (c) an assignment to an unregulated river access licence in the following—
 - (i) Belongil Creek Water Source,
 - (ii) Brunswick River Coastal Floodplain Alluvial Groundwater Source,
 - (iii) Lower Marshalls Creek Water Source,
 - (iv) Tallow Creek Water Source,
 - (v) Tyagarah Creek Water Source,
 - (vi) Upper Marshalls Creek Water Source,
 - (d) an assignment to an unregulated river access licence in the Kings Creek Water Source, unless the assignment is from an access licence in the Mullumbimby Creek Water Source, the Tyagarah Creek Water Source, the Lower Brunswick River Water Source or the Upper Brunswick River Water Source, and the assignment will not cause the total share components of unregulated river access licences in the Kings Creek Water Source to exceed 25 unit shares,
 - (e) an assignment to an unregulated river access licence in the Lower Brunswick River Water Source, unless the assignment is from an access licence in the Kings Creek Water Source, the Mullumbimby Creek Water Source or the Upper Brunswick River Water Source, and the assignment will not cause the total share components of unregulated river access licences in the Lower Brunswick River Water Source to exceed 5 unit shares,
 - (f) an assignment to an unregulated river access licence in the Mullumbimby Creek Water Source, unless the assignment is from an access licence in the Kings

Creek Water Source, the Upper Brunswick River Water Source or the Lower Brunswick River Water Source, and the assignment will not cause the total share components of unregulated river access licences in the Mullumbimby Creek Water Source to exceed 111 unit shares,

- (g) an assignment to an unregulated river access licence in the Upper Brunswick River Water Source, unless the assignment is from an access licence in the Kings Creek Water Source, the Mullumbimby Creek Water Source or the Lower Brunswick River Water Source, and the assignment will not cause the total share components of unregulated river access licences in the Upper Brunswick River Water Source to exceed 659 unit shares.

54 Amendment of share component dealings—change of water source

(1) The following dealings under the Act, section 71R are prohibited—

- (a) the cancellation of an access licence to grant an access licence in a water source in a different extraction management unit,
- (b) the cancellation of an access licence in a water source to which this Plan does not apply to grant an access licence in a water source to which this Plan applies,
- (c) the cancellation of an access licence to grant an access licence in the following—
 - (i) Belongil Creek Water Source,
 - (ii) Brunswick River Coastal Floodplain Alluvial Groundwater Source,
 - (iii) Lower Marshall Creek Water Source,
 - (iv) Tallow Creek Water Source,
 - (v) Tyagarah Creek Water Source,
 - (vi) Upper Marshalls Creek Water Source,
- (d) the cancellation of an unregulated river access licence to grant an unregulated river access licence in the Kings Creek Water Source, unless the cancellation of an unregulated river access licence is in the Mullumbimby Creek Water Source, the Tyagarah Creek Water Source, the Lower Brunswick River Water Source or the Upper Brunswick River Water Source, and the grant will not cause the total of unregulated river access licences share components in the Kings Creek Water Source to exceed 25 unit shares,
- (e) the cancellation of an unregulated river access licence to grant an unregulated river access licence in the Lower Brunswick River Water Source, unless the cancellation of an unregulated river access licence is in the Kings Creek Water Source, the Mullumbimby Creek Water Source or the Upper Brunswick River Water Source, and the grant will not cause the total share components of unregulated river access licences in the Lower Brunswick River Water Source to exceed 5 unit shares,
- (f) the cancellation of an unregulated river access licence to grant an unregulated river access licence in the Mullumbimby Creek Water Source, unless the cancellation of an unregulated river access licence is in the Kings Creek Water Source, the Upper Brunswick River Water Source or the Lower Brunswick River Water Source, and the grant will not cause the total share components of unregulated river access licences in the Mullumbimby Creek Water Source to exceed 111 unit shares,

- (g) the cancellation of an unregulated river access licence to grant an unregulated river access licence in the Upper Brunswick River Water Source, unless the cancellation of an unregulated river access licence is in the Kings Creek Water Source, the Mullumbimby Creek Water Source or the Lower Brunswick River Water Source, and the grant will not cause the total share components of unregulated river access licences in the Upper Brunswick River Water Source to exceed 659 unit shares.
- (2) The extraction component of a new access licence granted in accordance with the Act, section 71R does not carry over the extraction component from the cancelled access licence.

55 Amendment of extraction component dealings

Nil.

56 Assignment of water allocations dealings

- (1) An assignment of water allocations under the Act, section 71T from an aquifer access licence that does not nominate a water supply work located on waterfront land to an access licence that does nominate a water supply work located on waterfront land is prohibited.
- (2) An assignment of water allocations under the Act, section 71T to an access licence of a different category is prohibited.
- (3) The following assignments of water allocations under the Act, section 71T between water sources are prohibited—
 - (a) an assignment from an access licence in an extraction management unit to an access licence in another extraction management unit,
 - (b) an assignment from an access licence in a water source to which this Plan does not apply,
 - (c) an assignment to an access licence in the following—
 - (i) Belongil Creek Water Source,
 - (ii) Brunswick River Coastal Floodplain Alluvial Groundwater Source,
 - (iii) Lower Marshall Creek Water Source,
 - (iv) Tallow Creek Water Source,
 - (v) Tyagarah Creek Water Source,
 - (vi) Upper Marshalls Creek Water Source,
 - (d) an assignment to an unregulated river access licence in a water source specified in Table A, Column 1, unless—
 - (i) the assignment is from an unregulated river access licence in the corresponding water source specified in Column 2, and
 - (ii) the assignment would not cause the sum of the net annual water allocations credited to all water allocation accounts for unregulated river access licences in the water source specified to exceed the corresponding volume calculated in accordance with Column 3—

Table A

Column 1	Column 2	Column 3
Kings Creek Water Source	Mullumbimby Creek Water Source Tyagarah Creek Water Source Lower Brunswick River Water Source Upper Brunswick River Water Source	Where the available water determination is 100% — 25ML. Where the available water determination is less than 100%— 25ML multiplied by the sum of the available water determinations made for unregulated river access licences in the Kings Creek Water Source for the relevant water year at the time the application for an assignment of water allocations under the Act s 71T is determined.
Lower Brunswick River Water Source	Kings Creek Water Source Mullumbimby Creek Water Source Upper Brunswick River Water Source	Where the available water determination is 100%— 5ML Where the available water determination is less than 100%— 5ML multiplied by the sum of the available water determinations made for unregulated river access licences in the Lower Brunswick River Water Source for the relevant water year at the time the application for an assignment of water allocations under the Act s 71T is determined.
Mullumbimby Creek Water Source	Kings Creek Water Source Upper Brunswick River Water Source Lower Brunswick River Water Source.	Where the available water determination is 100% — 111ML. Where the available water determinations is less than 100%— 111ML multiplied by the sum of the available water determinations made for unregulated river access licences in the Mullumbimby Creek Water Source for the relevant water year at the time the application for an assignment of water allocations under the Act s 71T is determined.
Upper Brunswick River Water Source	Kings Creek Water Source Mullumbimby Creek Water Source Lower Brunswick River Water Source.	Where the available water determination is 100%— 659ML Where the available water determination is less than 100%— 659ML multiplied by the sum of the available water determinations made for unregulated river access licences in the Lower Brunswick River Water Source for the relevant water year at the time the application for an assignment of water allocations under the Act s 71T is determined.

57 Interstate access licence transfer and assignment of water allocations dealings

Dealings under the Act, sections 71U and 71V are prohibited.

58 Nominations of water supply works dealings

The following dealings under the Act, section 71W are prohibited—

- (a) an access licence under which groundwater may be taken being amended to nominate a water supply work authorised by its approval to be used to take surface water,
- (b) an access licence under which surface water may be taken being amended to nominate a water supply work authorised by its approval to be used to take groundwater,
- (c) an aquifer access licence that does not nominate a water supply work located on waterfront land being amended to nominate a water supply work located on waterfront land,
- (d) an access licence located in a water source to which this Plan applies being amended to nominate a water supply work located in a water source to which this Plan does not apply.

Note—The *Access Licence Dealing Principles Order 2004*, clause 20, and the *Water Management (General) Regulation 2025*, section 27, regulate dealings under the Act, section 71W, including with respect to amending an access licence to nominate works in another water source or location.

Part 9 Mandatory conditions—the Act, s 17(c)

Division 1 General

59 Definitions

In this Part—

logbook means a written record, kept in hard copy or electronic form.

Minimum Construction Requirements for Water Bores in Australia means the document titled Minimum Construction Requirements for Water Bores in Australia, ISBN 978-0-646-81881-8, published by the National Uniform Drillers Licensing Committee, 2020.

water account debit means a water allocation that is taken, assigned under the Act, section 71T or 71V, or otherwise debited or withdrawn from a water allocation account.

Division 2 Access licences

60 General conditions

Each access licence must be subject to the following mandatory conditions—

- (a) the total volume of water taken or assigned under an access licence must not be more than the maximum water account debit permitted under section 31,
- (b) the access rules for the taking of water specified in Part 6, Divisions 4 and 5 that are relevant to the access licence,
- (c) before water is taken under an access licence, the licence holder must confirm a cease-to-take condition does not apply,
- (d) unless otherwise specified, any written notice required to be given to the Minister must be sent to the email address for enquiries specified on the Department's website,
- (e) other conditions required to implement the provisions of this Plan, including a condition requiring compliance with section 61.

61 Record-keeping conditions

The licence holder must keep any information required to be recorded in a logbook prior to application of the mandatory metering equipment condition for 5 years from the date to which that information relates.

Note—*Water Management (General) Regulation 2025*, Part 5 Division 6 imposes mandatory conditions in relation to records kept in accordance with conditions imposed by this section.

Division 3 Water supply work approvals

62 General conditions

Each water supply work approval must be subject to the following mandatory conditions—

- (a) if the water supply work is approved for the purpose of monitoring, an environmental remediation activity or emergency services—the work must be used only for that purpose,

- (b) before a water supply work is used to take water, the approval holder must confirm a cease-to-take condition does not apply,
- (c) unless otherwise specified, any written notice required to be given to the Minister must be sent to the email address for enquiries specified on the Department's website,
- (d) other conditions required to implement the provisions of this Plan, including conditions requiring compliance with section 63.

63 Record-keeping conditions

- (1) This section does not apply to a water supply work approval if the work is used only for the purpose of taking water under basic landholder rights.
- (2) The licence holder must keep any information required to be recorded in a logbook prior to application of the mandatory metering equipment condition for 5 years from the date to which that information relates.

Note—*Water Management (General) Regulation 2025*, Part 5 Division 6 imposes mandatory conditions in relation to records kept in accordance with conditions imposed by this section.

Division 4 Water supply work approvals for groundwater

64 Application of Division

Nil.

65 Water supply work construction conditions

- (1) This section sets out conditions required to be imposed on a water supply work approval for a work taking groundwater.
- (2) The holder of a water supply work approval must ensure the water supply work to which the approval relates is constructed as follows—
 - (a) the water supply work must be constructed in the location authorised in the approval,
 - (b) water must be taken through the water supply work only from the water source and management zone (if any) specified in the access licence that nominates the water supply work,
 - (c) the water supply work must be sealed off from all other water sources,
 - (d) construction of a water bore must comply with the construction standards for the type of bore, as prescribed in the *Minimum Construction Requirements for Water Bores in Australia*,
 - (e) construction and use of the water supply work must prevent contamination of the aquifer and between aquifers,
 - (f) construction and use of the water supply work must prevent the flow of saline water between aquifers.
- (3) If contaminated water is encountered during the construction of a water supply work, other than a water supply work constructed to monitor or remediate contaminated water, the holder of a water supply work approval must—
 - (a) within 48 hours of becoming aware of the contaminated water, give the Minister written notice, and

- (b) take all reasonable steps to minimise contamination and environmental harm, and
 - (c) ensure the contaminated water is sealed off by inserting casing to a depth sufficient to exclude the contaminated water from the water supply work, and
 - (d) place an impermeable seal in the borehole annulus, when and as directed by the Minister, and
 - (e) comply with other requirements, if any, specified by the Minister.
- (4) The holder of a water supply work approval must provide details of the water supply work to the Minister in the approved form—
 - (a) within 60 days of completion of the construction of the water supply work, or
 - (b) if the approval is for the amendment of an existing water supply work—within 60 days after the issue of the amended water supply work approval.
- (5) The holder of a water supply work approval must ensure—
 - (a) the construction of the water supply work if any, is completed within 3 years of the approval being granted, and
 - (b) the water supply work is not used unless construction is completed within the 3 year period.
- (6) If a water supply work is not constructed within the 3 year period, the approval for the water supply work expires.
- (7) A water supply work approval for a replacement groundwater work must impose conditions giving effect to section 44(1)(b)–(d).

Note— For the definition of *replacement groundwater work*—see section 44.

66 Water quality condition

- (1) This section sets out a water quality condition required to be imposed on a water supply work approval for a work taking groundwater.
- (2) The approval holder must, if directed by the Minister by written notice, provide a report in the form specified in the notice detailing the quality of water obtained using the water supply work within the time frame, if any, specified in the notice.

67 Water bore decommissioning condition

- (1) This section sets out a condition required to be imposed on a water supply work approval for a water bore taking groundwater.
- (2) An approval holder must, at least 60 days before decommissioning a water bore, give written notice to the Minister of the intention to decommission the water bore in the approved form.
- (3) The written notice must include a work plan for the decommission.
- (4) The work plan must be prepared in accordance with the Minimum Construction Requirements for Water Bores in Australia.
- (5) The Minister may, within 60 days of receiving notice under this section, give a direction that the water bore—
 - (a) must not be decommissioned, or
 - (b) must be decommissioned in accordance with the requirements specified in the direction.

- (6) The approval holder must not decommission the water bore if the Minister has given a direction that the water bore must not be decommissioned.
- (7) In decommissioning the water bore, the approval holder must comply with—
 - (a) the work plan, and
 - (b) if the Minister has given a direction—the requirements specified in the direction.
- (8) The approval holder must, no later than 60 days after decommissioning the water bore, give the Minister written notice of—
 - (a) the decommissioning of the water bore, and
 - (b) the name of the driller who decommissioned the water bore.

Part 10 Amendment of this Plan—the Act, s 17(d)

68 Amendments

(1) This Plan may be amended as follows—

- (a) to extend the application of this Plan to a water source or water management area, or to modify or remove a water source or water management area to which this Plan applies,
- (b) to add, remove or modify a management zone, including the water sources to which a management zone applies and the boundaries of the zone,
- (c) to add, remove or modify the access rules that apply to the take of water from in-river pools, off-river pools and in-river dam pools,
- (d) to add, remove or modify the flow classes and flow reference points in response to changes in water availability as a result of climate change,
- (e) to add, remove or modify the access rules in response to alternative gauging being identified.
- (f) to replace Part 4, Division 2 to establish extraction limits, including to achieve the sustainable level of take arising from a review under section 19,
- (g) to give effect to, or in connection with, a determination of native title under the *Native Title Act 1993* of the Commonwealth,
- (h) to vary the amount of recharge reserved as planned environmental water in the Brunswick River Coastal Floodplain Alluvial Groundwater Source as a result of recharge studies undertaken or assessed as adequate by the Minister,
- (i) to modify the long-term average annual extraction limits for the Brunswick River Coastal Floodplain Alluvial Groundwater Source as a result of recharge studies undertaken or assessed as adequate by the Minister,
- (j) to add provisions relating to the following—
 - (i) total daily extraction limits,
 - (ii) individual daily extraction components,
- (k) to add or modify provisions relating to the following—
 - (i) the management of waters in coastal sands,
 - (ii) managed aquifer recharge,
 - (iii) the interception of water before it reaches a stream or aquifer by plantations or other means,
 - (iv) the management of aquifer interference activities, including the granting of aquifer interference approvals,
 - (v) stormwater harvesting,
- (l) to protect water-dependent Aboriginal cultural assets or groundwater-dependent culturally significant areas, including as follows—
 - (i) by identifying water-dependent Aboriginal cultural assets,
 - (ii) by establishing new flow classes or access rules,
 - (iii) by restricting the construction and use of water supply works,

- (iv) by establishing new access licence dealing rules,
 - (m) to add, modify or remove a definition,
 - (n) to modify Schedule 2 or 3 to add or remove an access licence,
 - (o) to make amendments consequential on an amendment to the Act or regulations,
 - (p) to provide additional protection to ecologically significant wetlands as a result of a review of wetland protection in inland NSW.
 - (q) to give effect to any recovery plan or threat abatement plan made under the *Fisheries Management Act 1994*.
- (2) This Plan may be amended to make consequential amendments necessary to give effect to an amendment authorised by subsection (1).

Schedule 1 Flow classes

section 33

Column 1	Column 2	Column 3	Column 4
Water source	Flow class	Flow class threshold (ML/day)	Flow reference point
Kings Creek Water Source	Very Low Flow Class	2 ML/day or less	Brunswick River recorded by Durrumbul (Sherrys Crossing) gauge 202001
	A Class	More than 2 ML/day	
Lower Marshalls Creek Water Source	Very Low Flow Class	No visible flow	Tweed Valley Way crossing of Yelgun Creek
	A Class	Visible flow	
Mullumbimby Creek Water Source	Very Low Flow Class	2 ML/day or less	Brunswick River recorded by Durrumbul (Sherrys Crossing) gauge 202001
	A Class	More than 2 ML/day	
Tyagarah Creek Water Source	Very Low Flow Class	No visible flow	Woodford Lane (old Pacific Highway) crossing of Tyagarah Creek
	A Class	Visible flow	
Upper Brunswick River Water Source	Very Low Flow Class	2 ML/day or less from November to May	Brunswick River recorded by Durrumbul (Sherrys Crossing) gauge 202001
		8ML/day or less from June to October	
	A Class	More than 2 ML/day from November to May More than 8 ML/day from June to October	
Upper Marshalls Creek Water Source	Very Low Flow Class	No visible flow	The Pocket Road crossing of Marshalls Creek near Walkers Lane
	A Class	Visible flow	

Schedule 2 Access licences exempt from specified access rules

sections 37(2)(a), 40(1)(a)

Column 1	Column 2
Licence	Water Source
WAL 6144	Upper Brunswick River Water Source
WAL 8210	Upper Brunswick River Water Source
WAL 6149	Upper Brunswick River Water Source
WAL 39483	Upper Marshalls Creek Water Source
WAL 39493	Upper Marshalls Creek Water Source

Schedule 3 Access licences and approvals subject to cease-to-take condition of a former entitlement

sections **Error! Reference source not found.**

Column 1	Column 2	Column 3
Licence	Water Source	Access Rules
WAL 39477 (30CA309160)	Upper Marshalls Creek Water Source	Water must not be taken when flows passing through the box culvert pipe, located at the Pocket Road crossing near the southern boundary of Lot 1 DP 123296, Parish of Billinudgel, County of Rous, are less than 50 millimetres in depth.
WAL 39469 (30CA309104)	Tyagarah Creek Water Source	Water must not be taken when flows passing through the culvert pipes, located approximately 100 metres downstream of the Pacific Highway near the southwestern corner of Lot 25 DP 85823, Parish of Brunswick, County of Rous, are less than 100 millimetres in depth.
WAL 39474 (30CA309102)	Tyagarah Creek Water Source	Water must not be taken when flows passing through the culvert pipes, located approximately 100 metres downstream of the Pacific Highway near the southwestern corner of Lot 25 DP 858323, Parish of Brunswick, County of Rous, are less than 100 millimetres in depth.

Schedule 4 Dictionary

higher flow extraction—see section 18.

3-year average standard extraction—see section 18.

Acid Sulfate Soil Risk Map—see section 48.

annual higher flow extraction—see section 18.

annual higher flow extraction limit—see section 18.

annual standard extraction—see section 18.

borehole annulus means the space between the bore casing and the wall of the borehole.

cease-to-take condition means a term or condition of an access licence or a water supply work approval that prohibits the take of water in a particular circumstance.

Cenozoic sediments means deposits of sand, mud and other materials (including landfill) accumulated during the Cenozoic Era.

coastal wetlands means land identified as coastal wetlands on the Coastal Wetlands and Littoral Rainforests Area Map.

Coastal Wetlands and Littoral Rainforests Area Map has the same meaning as in *State Environmental Planning Policy (Resilience and Hazards) 2021*.

Note— The Coastal Wetlands and Littoral Rainforests Area Map is available on the NSW Planning Portal website.

Contamination source means—

- (a) a site declared to be significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*,
- (b) a site notified to the Environment Protection Authority under the *Contaminated Land Management Act 1997*, section 60.

declared Ramsar wetland has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth.

excavation footprint—see section 44(3).

extraction management unit means an extraction management unit established under section 5.

flood-runner means a stream or part of a stream that only flows during a flood.

former entitlement has the same meaning as in the Act, Schedule 10, clause 2.

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

Government monitoring or observation bore means a bore owned or operated by or on behalf of the Minister, the Ministerial Corporation, the Department or WaterNSW and used for observation or monitoring purposes.

groundwater means water occurring beneath the ground surface in the saturated zone, being the area below the water table where all soil spaces, pores, fractures and voids are filled with water.

groundwater-dependent culturally significant area means an area determined by the Minister to be a groundwater-dependent culturally significant area.

groundwater-dependent ecosystem means an ecosystem that has its species composition and natural ecological processes wholly or partially determined by groundwater.

high priority vegetation groundwater-dependent ecosystem means a high priority groundwater-dependent ecosystem identified on the High Priority Groundwater-Dependent Ecosystem Map.

High Priority Groundwater-Dependent Ecosystem Map means the Water Sharing Plan for the Brunswick Unregulated and Alluvial Water Source 2026 High Priority Groundwater-Dependent Ecosystem Map (GDE007_Version2).

Note— The High Priority Groundwater-Dependent Ecosystem Map is available on the Department's website.

higher flow extraction licence means—

- (a) an unregulated river (B Class) or (C Class) access licence,

- (b) an access licence subject to a condition with the effect of prohibiting the take of water unless flows are above the A Class.

in-river dam means a dam located in a river.

in-river dam pool means the water impounded by an in-river dam, but does not include water in an in-river pool.

in-river pool means a natural pool, lagoon or lake within a river or stream, but does not include—

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

internal diameter—see section 44(3).

kl/day means kilolitres per day.

logbook—see section 59.

mangrove limit has the same meaning as in the DIPNR Survey of tidal limits and mangrove limits in NSW estuaries 1996 to 2005, 1 September 2006, published on the Department's website.

Minimum Construction Requirements for Water Bores in Australia—see section 59.

minor stream has the same meaning as in the *Water Management (General) Regulation 2025*.

ML/unit share means megalitres per unit share.

ML/year means megalitres per year.

off-river pool means a natural pool, lagoon or lake that is not within a river or stream, regardless of stream size, and located on—

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

Plan Map— see section 6.

planning approval means—

- (a) a development consent under the *Environmental Planning and Assessment Act 1979*, Part 4, or
- (b) a State significant infrastructure approval under that Act, Part 5, or
- (c) a transitional Part 3A project approval under that Act, Schedule 6A.

Note— The *Environmental Planning and Assessment Act 1979*, Schedule 6A has been transferred to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

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

reduced available water determinations—see section 18.

replacement groundwater work—see section 44.

runoff harvesting dam means a dam on a hillside or minor stream which collects and stores rainfall runoff.

standard LTAAEL—see section 18.

surface water means all water naturally occurring on the surface of the land, including all rivers, lakes and wetlands, within the boundaries of the water sources shown on the Plan Map.

the Act means the *Water Management Act 2000*.

third or higher order stream means a stream identified as a third or higher order stream, as determined in accordance with the system set out in the *Water Management (General) Regulation 2025*.

visible flow means the continuous perceptible downstream movement of water.

water account debit—see section 59.

water year means a period of 1 year commencing on 1 July.

wetland means either of the following—

- (a) coastal wetlands,
- (b) a declared Ramsar wetland.