

Water Sharing Plan for the Paterson Regulated River Water Source 2019

[2019-313]



New South Wales

Status information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced. See [Historical Notes](#)

Note.

This Plan ceases to have effect on 1.7.2029—see cl 3.

Editorial note

The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-rules (em-dashes). Text of the legislation is not affected.

This version has been updated.

Authorisation

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[2019-313]



New South Wales

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Water Sharing Plan for the Paterson Regulated River Water Source 2019



New South Wales

Part 1 Introduction

Notes.

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

1 Name of Plan

This Plan is the *Water Sharing Plan for the Paterson Regulated River Water Source 2019 (this Plan)*.

2 Nature and status Plan

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

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

3 Commencement

This Plan commences on 1 July 2019.

Notes.

- 1 This Plan replaces the *Water Sharing Plan for the Paterson Regulated River Water Source 2007*.
- 2 In accordance with section 43 of the Act, this Plan will have effect for 10 years from 1 July 2019. In accordance with section 43A of the Act, the Minister may extend this Plan for a further period of 10 years after it is due to expire.

4 Application of Plan

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

Notes.

- 1 **Water source** is defined in the Dictionary.
 - 2 The Hunter Water Management Area was constituted by Ministerial order made under section 11 of the Act and published in the NSW Government Gazette No 180 on 23 November 2001 at page 9389.
- (2) The water in the water source consists of—

- (a) the water between the banks of all rivers and parts of rivers from Lostock Dam water storage downstream to the determined tidal limit that have been declared by the Minister to be a regulated river, and
- (b) the unconsolidated alluvial sediments underlying the rivers referred to in paragraph (a), and
- (c) the unconsolidated alluvial sediments underlying the land that is within 40 metres of the top of the bank of all rivers referred to in paragraph (a).

Notes.

1 *Lostock Dam water storage*, *Minister* and *water storage* are defined in the Dictionary.

2 The *Hunter Water Management Area Regulated River Order No.2* was made by the Minister and published in the New South Wales Government Gazette No 82B of 26 June 2007 at page 3913, and as set out in paragraph 20 of Schedule 12 to the Act. An overview map of the Paterson Regulated River Water Source is at Appendix 1.

5 Interpretation

- (1) Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the regulations made under the Act have the same meaning in this Plan.
- (2) Words and expressions that are defined in the Dictionary at the end of this Plan have the meaning set out in that Dictionary.
- (3) Unless otherwise specified, a clause that applies to a category of access licence also applies to any subcategories of that category of access licence.
- (4) The Dictionary and Schedules to this Plan form part of this Plan.
- (5) A number in brackets following the name of a gauge is the gauge number.
- (6) Notes in the text of this Plan do not form part of this Plan.
- (7) Appendices to this Plan do not form part of this Plan.

Part 2 Vision, objectives, strategies and performance indicators

Notes.

1 This Part is made in accordance with section 35 (1) of the Act.

2 Monitoring, evaluation and reporting (*MER*) plans are being developed for the water source and will be available on the Departments website. The MER plans will describe the following—

- (a) guidelines and principles for developing broad and targeted objectives, strategies and performance indicators,
- (b) selection criteria used to identify target ecological populations and identify how they are managed under this Plan,
- (c) selection criteria for identifying priority monitoring locations for targeted objectives,
- (d) selection criteria used to identify external influences that may affect the success of achieving objectives or implementing strategies,
- (e) selection criteria used to determine how the objectives to protect or enhance will be measured for different target populations and performance indicators.

6 Acknowledgement

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

7 Vision statement

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

- (a) the health and enhancement of the water source and its water dependent ecosystems,
- (b) the productive and economically efficient use of water resources,
- (c) the social and cultural benefits to urban and rural communities that result from the sustainable and efficient use of water,
- (d) the spiritual, social, customary and economic benefits to Aboriginal communities that result from the sustainable and efficient use of water.

8 Environmental objectives

- (1) The broad environmental objective of this Plan is to protect and, where possible, enhance the ecological condition of the water source and its water dependent ecosystems (such as instream, riparian and floodplain ecosystems) over the term of this Plan.

Note. The ecological condition of the water source includes high ecological value aquatic ecosystems, target species, communities, populations and key ecosystem functions as defined in the Hunter Valley Surface Water Monitoring, Evaluation and Reporting Plan for Environmental Objectives.

- (2) The targeted environmental objectives of this Plan are as follows—

- (a) to protect and, where possible, enhance the following over the term of this Plan—

- (i) the recorded distribution or extent, and the population structure of, target ecological populations,

Notes.

1 Targeted objectives and Target ecological populations are defined in the Dictionary

2 Target ecological populations in the water source that may be managed by this Plan include, but are not limited to, known or predicted populations of the following—

- (a) native fish including Australian bass,
- (b) native vegetation including river oak and swamp oak communities,
- (c) high diversity hotspots and significant habitat for native fish, frogs, waterbirds and native vegetation.

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

Notes.

1 Target ecological outcomes in the water source include connectivity with downstream water sources to support movement of migratory fish and provide flows to the tidal pool downstream of the water source.

2 Connectivity may be within the water source, between the water source and water sources in the [Water Sharing Plan for the Hunter Unregulated and Alluvial Water Sources 2009](#).

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

Note. A water quality management plan may be developed for the water source. In the interim, target ranges will be based on the NSW Marine Estate Management Strategy and the Australian and New Zealand Guidelines for Fresh and Marine Water Quality. As at 1 July 2019, these

guidelines can be found at www.waterquality.gov.au/anz-guidelines.

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

Notes.

1 Part 10 of this Plan outlines the provisions for the Environmental Water Allowance (**EWA**). The NSW Environmental Water Holder makes decisions about the use of EWA water considering any advice of an Environmental Watering Advisory Group according to the provisions in this Plan.

2 The objectives and strategies of environmental watering events are guided by annual and long term priorities may also contribute to the broad and targeted environmental objectives of this Plan.

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

- (a) reserve all water in excess of the long-term average annual extraction limit for the environment,

Note. Part 3 reserves all water remaining above the 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 source,

Notes.

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

2 The provisions in clause 39 partially mitigate the alterations to medium and high flows in the natural flow regime of the water source.

3 The provisions in clause 46 partially mitigate the alterations to low flows in the natural flow regimes of the water source.

- (c) reserve a portion of natural flows to maintain hydrological connectivity between the water source and riparian zones, wetlands and floodplains connected to the water source,

Notes.

1 The provisions in clause 39 maintain hydrological connectivity by partially mitigating the alterations to medium and high flows in the natural flow regime of the water source.

2 The provisions in clause 46 maintain hydrological connectivity by partially mitigating the alterations to low flows in the natural flow regimes of the water source.

- (d) reserve a share of water to support environmental watering events in streams, riparian zones, floodplains and wetlands connected to the water source,

Note. The provisions in Part 10 ensure that an environmental water allowance is maintained.

- (e) contribute to the management of critical environmental and water quality events in downstream connected water sources.

Notes.

1 Downstream connected water sources may include the water sources covered by the [Water Sharing Plan for the Hunter Unregulated and Alluvial Water Sources 2009](#).

2 The provisions in clause 46 provide connectivity between the water source and downstream connected water sources by ensuring a minimum flow is maintained at the end of the water source.

3 The provisions in clause 39 regulate the announcement of supplementary water events which may be used to provide connectivity between the water source and downstream connected water sources.

4 The environmental water allowance established in Part 10 may also be used to provide connectivity between the water source and downstream connected water sources.

- (4) The performance indicators used to measure success in reaching the broad environmental

objective in subclause (1) will be evaluated by determining the extent to which the combined outcomes of the targeted environmental objectives in subclause (2) have contributed to achieving the broad objective.

- (5) The performance indicators used to measure the success in achieving the targeted environmental objectives in subclause (2) are the changes or trends in the following—
- (a) the recorded range or extent of target ecological populations,
 - (b) the recorded condition of target ecological populations,
 - (c) measurements of hydrology that can be associated with supporting migratory fish movement,
 - (d) the recorded values of water quality measurements including salinity, turbidity, total nitrogen, total phosphorous, pH, water temperature and dissolved oxygen,
 - (e) the extent to which the provisions in Divisions 1 and 2 of Part 10 have facilitated effective environmental watering,
 - (f) the extent to which the strategies in subclause (3) have provided flow conditions of sufficient magnitude, frequency, timing and water quality to achieve targeted environmental objectives.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives of this clause, the following will be relevant—
- (a) the extent to which changes in the performance indicators can be attributed to the strategies and provisions in this Plan,
 - (b) the extent to which the strategies and provisions in this Plan have been implemented and complied with,
 - (c) the extent to which external influences on the water source have affected progress toward achieving the environmental objectives.

Note. External influences may include long and short-term climate trends, land use patterns and other factors.

9 Economic objectives

- (1) The broad economic objective of this Plan is to maintain access to water to optimise economic benefits for irrigation, water dependent industries and local economies.
- (2) The targeted economic objectives of this Plan are as follows—
- (a) maintain and, where possible improve, water trading opportunities for water-dependent economic activities,
Note. Trading is a generic term referring to dealings under Division 4 of Part 2 of Chapter 3 the Act.
 - (b) maintain or enhance access to water, up to the extraction limit, for agriculture, business and landholders,
 - (c) maintain water quality within target ranges for agriculture, business and landholders.

- (3) The strategies for reaching the targeted economic objectives of this Plan are as follows—
- (a) provide a stable and predictable framework for sharing water among water users,
- Note.** The individual account management provisions in Part 8 and priority of delivery provisions in clause 53 provide certainty in how water is to be shared between individual access licence holders and different categories of access licences.
- (b) provide for flexibility of access to water,
- Note.** The individual account management provisions in Part 8 provide flexibility that reflects the characteristics of the licence category.
- (c) manage extractions to the long-term average annual extraction limit and provide for managing extractions within that limit that recognises different climatic conditions in different years, including during drought,
- Note.** The application of the long-term average annual extraction limit and the assessment and compliance provisions in Part 6 manage extractions to different climatic conditions in different years.
- (d) provide for trade of water allocations and entitlements within the water source, subject to environmental and system constraints,
- Note.** The provisions in Part 9 permit a variety of dealings within environmental and system constraints, including assignment of rights under access licences and assignment of water allocations between access licences.
- (e) provide for supplementary water access, subject to announcements, to a portion of flows during supplementary water events,
- Note.** The provisions in clause 39 describe the access conditions during supplementary water events.
- (f) reserve a portion of natural flows to partially mitigate deterioration in water quality due to alterations to natural flow regimes.
- Note.** The provisions in clause 46 partially mitigate the alterations to low flows in the natural flow regime of the water source.
- (4) The performance indicators used to measure success in reaching the broad economic objective in subclause (1) will be evaluated by determining the extent to which the combined outcomes of the targeted economic objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure success in achieving the targeted economic objectives in subclause (2) are the changes or trends in the following—
- (a) the economic benefits of water extraction and use, including the movement of water to higher value uses,
- (b) the economic benefits of water trading including changes and trends in the following—
- (i) the change in the unit price of water that is subject to a dealing,
- (ii) the annual total volume of access licence share components subject to a dealing,
- (iii) the weighted average unit price of water traded within the water source,
- Note.** *Weighted average unit price* is defined in the Dictionary.

- (c) the recorded values of water quality measurements including salinity, sodium absorption ratio, harmful algal blooms, total nitrogen, total phosphorous, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives of this clause, the following will be relevant—
 - (a) the extent to which stakeholders have considered the operation of this Plan to be clearly explained and predictable,
 - (b) water made available during the term of this Plan through available water determinations and the grant of new access licences,
 - (c) the extent to which changes in the economic benefits of water extraction and use can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (d) external influences on the water source during the term of this Plan have affected progress towards achieving the broad objective.

Note. External influences may include trends in urban, agricultural and industrial development, energy costs, commodity prices, interest rates, technology advances and changes in policy or regulation.

10 Aboriginal cultural objectives

- (1) The broad Aboriginal cultural objective of this Plan is to maintain and, where possible, enhance the spiritual, social, customary and economic values and uses of water by Aboriginal people.
- (2) The targeted Aboriginal cultural objectives of this Plan are as follows—
 - (a) provide access to water in the exercise of native title rights,
 - (b) provide access to water for Aboriginal cultural use, including fishing,
 - Note.** Relevant native fish species will be identified in the MER plan for the water source.
 - (c) protect and, where possible enhance, identified water-dependent culturally significant areas, including important riparian vegetation communities,
 - (d) maintain water quality within target ranges to ensure suitability of water for Aboriginal cultural use.
- (3) The strategies for reaching the targeted Aboriginal cultural objectives of this Plan are the following—
 - (a) manage access to water consistently with the exercise of native title rights,
 - Note.** Clause 19 ensures the provision of water associated with any native title determinations.
 - (b) provide for water associated with Aboriginal cultural values and uses,
 - Note.** The provisions in Part 7 provide opportunities for Aboriginal people to access water by allowing the grant of access licences of the subcategory “Aboriginal cultural”.
 - (c) reserve a portion of natural flows to partially mitigate alterations to natural flow regimes in the water source,

Note. The provisions in clause 46 partially mitigate the alterations to low flows in the natural flow regime of the water source and the provisions in clause 39 partially mitigate the alterations to medium and high flows in the natural flow regime of the water source.

- (d) reserve a portion of natural flows to maintain hydrological connectivity between the water source and riparian zones, wetlands and floodplains connected to the water source,

Note. The provisions in clause 39 and clause 46 contribute to maintaining the hydrological connectivity between the water source and wetlands connected to the water source by ensuring a portion of low, medium and high flows are protected.

- (e) minimise adverse impacts of water delivery on Aboriginal cultural values and uses.

Note. The provisions for water delivery and channel capacity constraints, priority of extractions for access licences and the environmental water allowance, rates of change to storage releases, supply of orders when remaining allocations are low and dam operation during floods and spills in Part 10 minimise the impact of water delivery on the community.

- (4) The performance indicators used to measure success in reaching the broad Aboriginal cultural objective in subclause (1) will be evaluated by determining the extent to which the combined outcomes of the targeted Aboriginal cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure success in reaching the targeted Aboriginal cultural objectives in subclause (2) will be evaluated as follows—
- (a) by comparing changes, or trends in, the use of water by Aboriginal people during the term of this Plan by measuring—
- (i) the extent to which native title rights are able to be exercised, consistently with any determination of native title, and
- (ii) the extent to which access to water has achieved Aboriginal cultural outcomes,
- (b) by comparing changes, or trends in, the recorded range or extent of target populations of native fish,
- (c) by comparing changes, or trends in, the recorded range or condition of target populations of riparian vegetation,
- (d) by considering the extent to which the protection of identified cultural assets can be attributed to the strategies in subclause (3) and provisions in this Plan,
- (e) by considering the extent to which Aboriginal people have considered the operation of this Plan to be beneficial to meeting their needs for water-dependent Aboriginal cultural uses and values,
- (f) by considering the extent to which changes in the use of water by Aboriginal people can be attributed to the strategies in subclause (3) and provisions in this Plan,
- (g) by comparing changes, or trends in, the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives of this clause, the

following will be relevant—

- (a) the extent to which Aboriginal people have considered the operation of this Plan to be clearly explained and predictable,
- (b) the extent to which Aboriginal people have considered the operation of this Plan to be beneficial to meeting their needs for water-dependent cultural uses and values,
- (c) water made available during the term of this Plan through available water determinations and the grant of new access licences,
- (d) the extent to which external influences on the water source have affected progress toward achieving the Aboriginal cultural objectives.

Note. External influences may include trends in Aboriginal cultural activity, urban, agricultural and industrial development, changes in long or short term climate, or changes in policy or regulation.

11 Social and cultural objectives

- (1) The broad social and cultural objective of this Plan is to maintain and, where possible, enhance the efficient and sustainable access to water to support critical human needs, and water-dependent values, culture, heritage and recreational uses.
- (2) The targeted social and cultural objectives of this Plan are to maintain and, where possible, enhance the following—
 - (a) access to water for critical human needs, town water supply and domestic and stock purposes,
 - (b) access to water for water dependent cultural, heritage and recreational uses, including recreational fishing,

Note. Relevant native fish species will be identified in the MER plan for the water source.
 - (c) water quality within target ranges for critical human needs, town water supply, domestic and stock purposes and water dependent cultural, heritage and recreational uses, including recreational fishing.
- (3) The strategies for reaching the targeted social and cultural objectives of this Plan are as follows—
 - (a) provide water access for critical human needs, town water supply, and for domestic and stock purposes,

Note. The provisions for the maintenance of water supply and replenishment flows in Part 10 ensure that water is available for critical human needs, town water supply and domestic and stock purposes.
 - (b) reserve a portion of natural flows to partially mitigate alterations to natural flow regimes in the water source,

Note. The provisions in clause 46 partially mitigate the alterations to low flows in the natural flow regime of the water source, and the provisions in clause 39 partially mitigate alterations to medium and high flows, by ensuring a portion are protected.
 - (c) reserve a portion of natural flows to maintain hydrological connectivity between the water source and riparian zones, wetlands and floodplains connected to the water source,

Note. The provisions in clause 39 and clause 46 contribute to maintaining the hydrological connectivity between the water source and wetlands connected to the water source by ensuring a portion of medium and high natural flows are protected.

- (d) minimise adverse impacts of water delivery on community values and uses.

Note. The provisions for water delivery and channel capacity constraints, priority of extractions for access licences and the environmental water account, rates of change to storage releases, supply of orders when remaining allocations are low and dam operation during floods and spills in Part 10 minimise the impact of water delivery on the community.

- (4) The performance indicators used to measure success in achieving the broad social and cultural objectives in subclause (1) will be evaluated by determining the extent to which the combined outcomes of the targeted social and cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure success in achieving the targeted social and cultural objectives in subclause (2) will be evaluated as follows—
- (a) by comparing changes, or trends in, the social and cultural uses of water during the term of this Plan by measuring—
- (i) the extent to which basic landholder rights and domestic and stock access licence requirements have been met, and
- (ii) the extent to which major utility and local water utility access licence requirements have been met,
- (b) by comparing changes, or trends in, the recorded range or extent of target populations of native fish that are important for recreational fishing,
- (c) by comparing changes, or trends in, the recorded takes of native fish that are important for recreational fishing within legal age and size classes,
- (d) by comparing changes, or trends in, the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives of this clause, the following will be relevant—
- (a) the extent to which stakeholders have considered the operation of this Plan to be clearly explained and predictable,
- (b) water made available during the term of this Plan through available water determinations and granting of new licences,
- (c) the extent to which changes in the social and cultural use of water can be attributed to the strategies in subclause (3) and provisions in this Plan,
- (d) the extent to which external influences on the water source during the term of this Plan have affected progress toward achieving the social and cultural objectives.

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

Part 3 Bulk access regime

12 Bulk access regime

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

13 Climatic variability

- (1) This Plan recognises the effects of climatic variability on river flow in the water source through provisions contained in Part 6—
 - (a) that manage the sharing of water within the limits of water availability on a long-term average annual basis, and
 - (b) that establish priorities according to which water allocations are to be adjusted as a consequence of any reduction in the availability of water due to an increase in the average annual extraction against the long-term average annual extraction limit, and
 - (c) that manage the sharing of water between categories of access licences on an annual basis through available water determinations.

Note. Other statutory tools are available to manage for climatic variability within a water source, for example, temporary water restrictions under section 324 of the Act.

Part 4 Environmental water provisions

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

14 General

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

Note. In accordance with the Act, planned environmental water is water that is committed by management plans for fundamental ecosystem health or other specified environmental purposes, either generally or at specified times or in specified circumstances and that cannot, to the extent committed, be taken or used for any other purpose.

15 Commitment and identification of planned environmental water

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

- (1) the physical presence of water in the water source,
- (2) the long-term average annual commitment of water as planned environmental water,
- (3) the water that is not committed after the commitments to basic landholder rights and for sharing and extraction under any other rights have been met.

16 Establishment and maintenance of planned environmental water

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

(a) the physical presence of water resulting from the following—

(i) the environmental flow provisions specified in Part 10,

Note. The provisions in Part 10 ensure a minimum flow target will be maintained.

(ii) the environmental water allowance provisions specified in Part 10,

Note. The provisions in Part 10 establish an environmental water allowance in Lostock Dam which can be used to make releases for environmental purposes in the Paterson River.

(iii) the limitations on access to flows for supplementary water access licences specified in Part 8,

(b) the long-term average annual commitment of water as planned environmental water, resulting from compliance with the long-term average annual extraction limit in Part 6,

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

(2) The planned environmental water established under subclause (1) (a) is maintained by the environmental water allowance and release provisions in Part 10 and the limitations on access to flows for supplementary water access licences in Part 8.

(3) The planned environmental water established under subclause (1) (b) is maintained by the provisions specified in Part 6.

- (4) The planned environmental water established under subclause (1) (c) is maintained by the provisions specified in Part 6 and Part 8.

Note. The provisions in Part 6 ensure that there will be water remaining in the water source over the long term by maintaining compliance with the long-term average annual extraction limit. The provisions in Part 6 also provide for lower available water determinations when either of the limits has been assessed to have been exceeded.

Part 5 Requirements for water

Division 1 General

17 General

- (1) This Part identifies the requirements for water in the exercise of basic landholder rights (Division 2) and for extraction under access licences (Division 3) in the water source.
- (2) The volumes of water specified in this Part represent, as at the commencement of this Plan, the requirements for water to satisfy basic landholder rights and the total volumes or unit shares specified in the share components of access licences in the water source.
- (3) This Plan recognises that requirements for water in connection with basic landholder rights and the total share components of access licences in the water source may change during the term of this Plan.

Notes.

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

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

2 Basic landholder rights may increase as provided for under the Act. This Plan manages changes in basic landholder rights and total share components of all access licences through provisions in Part 6 that manage the sharing of water within the limits of water availability.

3 Inherent water quality and land use activities may make the water in some areas unsuitable for human consumption. Water should not be consumed without first being tested and, if necessary, appropriately treated. Testing and treatment is the responsibility of the water user.

Division 2 Requirements for water for basic landholder rights

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

18 Domestic and stock rights

On commencement of this Plan, the water requirements of persons entitled to domestic and stock rights are estimated to total 548 megalitres per year (*ML/year*).

Notes.

1 Domestic and stock rights are set out in section 52 of the Act and must be exercised in accordance with any mandatory guidelines established under the Act for the taking and use of water for domestic consumption or stock watering.

2 Under section 331 of the Act, the Minister may direct the holder of a domestic and stock right to take specified measures to protect the environment, to preserve basic landholder rights or to overcome a threat to public health.

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

19 Native title rights

The requirement for water to satisfy native 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 under any determination of native title.

Notes.

- 1 The Plan may be amended if there is a native title determination in accordance with the *Native Title Act 1993* of the Commonwealth by which water is required.
- 2 Native title rights may be exercised in accordance with the *Native Title Act 1993* of the Commonwealth, including section 211 of that Act.

Division 3 Requirements for water under access licences

Note. This Division sets out the total volumes or unit shares in the share components of access licences in the water source as at 1 April 2019. The actual volume of water available from year to year will depend on climate, access licence priority and the provisions in this Plan.

20 Share components of domestic and stock access licences

On commencement of this Plan, the share components of domestic and stock access licences total 49 ML/year.

21 Share components of regulated river (high security) access licences other than regulated river (high security) (town water supply) access licences

On commencement of this Plan, the share components of regulated river (high security) access licences other than regulated river (high security) (town water supply) access licences total 190 unit shares.

22 Share components of regulated river (high security) (town water supply) access licences

On commencement of this Plan, the share components of regulated river (high security) (town water supply) access licences total 75 ML/year.

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

On commencement of this Plan, the share components of regulated river (general security) access licences total 9,565 unit shares.

24 Share components of supplementary water access licences

On commencement of this Plan, the share components of supplementary water access licences total 756 unit shares.

Part 6 Limits to the availability of water

Division 1 Long-term average annual extraction limit

25 Calculation of the long-term average annual extraction limit

- (1) Subject to subclause (2), the long-term average annual extraction limit for the water source is 11,175 ML/year.
- (2) The long-term average annual extraction limit is to be varied by any change to the amount of

water committed as licensed environmental water as determined under section 8F of the Act.

Note. The volume identified in subclause (1) of 11,175 ML/year is equal to the sum of estimated basic landholder rights requirements and access licence share components at the commencement of the first water sharing plan for the water source made under the Act.

26 Calculation of average annual extraction

- (1) The Minister is to calculate the average annual extraction following the end of each water year based on the following—
 - (a) all water extractions under all categories of access licences,
 - (b) all water extractions pursuant to domestic and stock rights and native title rights.
- (2) In calculating the volume, the Minister must exclude planned environmental water provided for in Division 1 and 2 of Part 10.

Note. *Water year* is defined in the Dictionary.

27 Assessment of compliance with the long-term average annual extraction limit

- (1) Assessments of the three year rolling average calculated under subclause (2) and long-term average annual extraction against the long-term average annual extraction limit are to be conducted as set out in this clause.
- (2) Following the end of each water year, the Minister is to calculate the average annual extraction from the water source over the preceding three years (the *three year rolling average*).
- (3) If the three year rolling average exceeds the long-term average annual extraction limit specified in clause 25, then an assessment of long-term average annual extraction against the long-term average annual extraction limit is to be undertaken using the hydrologic computer model that, at the time, is approved by the Minister for assessing long-term water extractions from the water source over the modelled period.
- (4) For the purpose of subclause (3), long-term average annual extraction is to be calculated over the duration of available climate records using the hydrological computer model approved by the Minister.
- (5) To assess the current long-term average annual extraction limit under clause (3), the model will be set to represent as closely as possible all water use development, water supply system management and other factors affecting the quantity of long-term average annual extraction from the water source at the time of the assessment.

Note. *Water use development* and *water supply system* are defined in the Dictionary.

- (6) There is non-compliance with the long-term average annual extraction limit if the long-term average annual extraction exceeds the long-term average annual extraction limit by 3% or more, as assessed under subclause (3).

Division 2 Compliance with extraction limit

28 Action following non-compliance

- (1) If an assessment under clause 27 (3) demonstrates non-compliance with the long-term average annual extraction limit, then the Minister is to take one or more of the following actions for the water year after the assessment—
 - (a) make an available water determination for supplementary water access licences under clause 34 of less than 1 megalitre (*ML*) per unit share,
 - (b) make an available water determination for regulated river (general security) access licences under clause 33 of less than 1 ML per unit share.

Notes.

1 Unless new access licences are issued, non-compliance with the long-term average extraction limit due to increased licence extraction can only occur if the access licence holders are failing to comply with their access licence conditions. In these circumstances, the appropriate management response is to undertake compliance action against those licences under the offence provisions of the Act rather than to reduce available water determinations in accordance with this clause.

2 Action under this clause will have effect for the water year following the assessment under clause 27 (3), which will be two water years after the non-compliance occurred.

- (2) An action under subclause (1) is to be taken to the extent the Minister considers necessary to return the long-term average annual extraction in the water source to the long-term average annual extraction limit.
- (3) The Minister must not take action under subclause (1) (b) unless the Minister has made an available water determination for supplementary water access licences of zero for the purposes of subclause (1) (a).
- (4) Before taking action under subclause (1), the Minister may consult with water user representatives on the following—
 - (a) the data used for the calculations under Division 1,
 - (b) the proposed actions under this Division.

Division 3 Available water determinations

29 General

- (1) Available water determinations for access licences are to be expressed as one of the following—
 - (a) for an access licence specifying the share component in ML/year—a percentage of the access licence share component,
 - (b) for an access licence specifying the share component as a number of unit shares—ML per unit share of the access licence share component.
- (2) The sum of available water determinations made for access licences must not exceed the following in any 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 per unit share of the access licence share component.

30 Available water determinations for domestic and stock access licences

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

31 Available water determinations for regulated river (high security) (town water supply) access licences

Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 100% of the access licence share component is to be made for regulated river (high security) (town water supply) access licences.

32 Available water determinations for regulated river (high security) access licences

(1) This clause does not apply to regulated river (high security) (town water supply) access licences.

(2) Unless the Minister otherwise determines and subject to subclause (3), at the commencement of each water year an available water determination is to be made for regulated river (high security) access licences of 1 ML per unit share.

Note. If the available water determination made for regulated river (high security) access licences is less than 1 ML per unit share, the Minister may conduct further assessments of available water resources and may make further available water determinations subject to subclause 29 (2).

(3) The Minister must not make an available water determination under subclause (2) unless sufficient water is available for the following—

- (a) to meet the provisions in Divisions 1 and 2 of Part 10,
- (b) to meet the requirements for basic landholder rights,
- (c) to make available water determinations totalling 100% of access licence share components for domestic and stock access licences,
- (d) to make available water determinations totalling 100% of the access licence share component for regulated river (high security) (town water supply) access licences,
- (e) to provide for existing water allocations in regulated river (general security) access licence water allocation accounts, and
- (f) to account for water losses associated with holding and delivering the water—
 - (i) to be made available to regulated river (high security) access licences under subclause (2), and
 - (ii) referred to in paragraphs (a)–(e) above.

33 Available water determinations for regulated river (general security) access licences

(1) Unless the Minister otherwise determines and subject to subclause (2), at the commencement of each water year an available water determination is to be made for regulated river (general

security) access licences of 1 ML per unit share.

Note. If the available water determination made for regulated river (general security) access licences is less than 1 ML per unit share, the Minister may conduct further assessments of available water resources and may make further available water determinations subject to subclause 29 (2).

- (2) The Minister must not make an available water determination under subclause (1) unless sufficient water is available for the following—
 - (a) to make available water determinations totalling 1 ML per unit of share component for regulated river (high security) access licences in accordance with clause 31, in that water year and the following water year,
 - (b) to account for water losses associated with holding and delivering the water to be made available to regulated river (general security) access licences under subclause (1).

34 Available water determinations for supplementary water access licences

At the commencement of each water year, the Minister is to make an available water determination for supplementary water access licences of 1 ML per unit share of the access licence share component, unless a lower amount is determined under clause 28.

Note. The taking of water under a supplementary water access licence is subject to Division 2 of Part 8.

Part 7 Rules for granting access licences

Notes.

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

35 Rules for granting access licences

- (1) The Minister must not grant a specific purpose access licence unless satisfied that the share and extraction components of the access licence are the minimum required for the proposed use.
- (2) A person may make an application for a regulated river (high security) (Aboriginal cultural) access licence only if the share component of the proposed access licence is no greater than 10 ML/year.
- (3) The Minister may only grant a regulated river (high security) (Aboriginal cultural) access licence for the taking of water by an Aboriginal person or Aboriginal community for any personal, domestic or communal purpose, including drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teaching, hunting, fishing, gathering, and for recreational, cultural and ceremonial purposes.

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

Part 8 Operation of water allocation accounts and managing access licences

Notes.

- 1 Section 85 of the Act and the regulations provide for the keeping of water allocation accounts for access licences. The provisions in this Part restrict the water that may be taken under, or assigned from, an access licence over a specified period of time, and the unused water allocations in water allocation accounts that may be carried over from one water year to the next. These restrictions are in addition to any other limits on access licences for the taking or assignment of water. It is an offence under

section 60C of the Act to take water under an access licence for which there is no or insufficient water allocation.

2 The provisions in this Part apply to the following—

- (a) the Minister in managing water allocation accounts,
- (b) the access licence holder, as required by mandatory conditions imposed on the access licence under Part 11.

Division 1 Accounting for water allocation accounts

36 Credits to and debits from an individual water allocation account

- (1) Subject to subclause (3), for any access licence other than a supplementary water access licence, the Minister must debit the volume of water extracted by the water supply works nominated by the access licence from the water allocation account for that access licence.
- (2) The Minister may establish a water order debiting protocol that specifies the circumstances under which access licence holders may be debited as set out in subclause (3).
- (3) For any regulated river (high security) access licence or regulated river (general security) access licence, the Minister may, in accordance with a water order debiting protocol, debit the greater of the following from the water allocation account for that access licence—
 - (a) the volume of water extracted by water supply works nominated by the access licence,
 - (b) the water ordered for extraction under the access licence.
- (4) For any supplementary water access licence, the Minister must, in accordance with any applicable supplementary water announcement, debit the volume of water extracted by the water supply works nominated by the access licence from the water allocation account for that access licence.

37 Limits on water allocation accounts and carryover

- (1) The Minister must not carry over from one water year to the next water year water allocations remaining in the water allocation account of an access licence of any of the following categories—
 - (a) domestic and stock access licence,
 - (b) regulated river (high security) access licence,
 - (c) supplementary water access licence.
- (2) The Minister must carry over from one water year to the next water year water allocations remaining in the water allocation account of a regulated river (general security) access licence, subject to the volume carried over not exceeding 0.1 ML per unit of the access licence share component.
- (3) If a regulated river (general security) access licence is converted to a regulated river (high security) access licence under clause 40, the volume of water in the regulated river (general security) access licence water allocation account that is in excess of the share component of the new regulated river (high security) access licence must not be credited to the new regulated river (high security) access licence water allocation account.

Division 2 Supplementary water events

Notes.

1 This Division is made under section 70 of the Act.

2 **Supplementary water event** is defined in the Dictionary.

38 Taking of water under supplementary water access licences

The holder of a supplementary water access licence may only take water in accordance with supplementary water event announcements made by the Minister that are relevant to that licence.

39 Announcement of supplementary water event

- (1) The Minister may announce a supplementary water event in the water source in accordance with the rules specified in this clause.
- (2) A supplementary water event must not commence until flows in the water source at the Paterson River downstream of Lostock Dam gauge (210021) have exceeded 40 megalitres per day (**ML/day**) for at least 12 hours and—
 - (a) the source of the flow is flow over the Lostock Dam spillway, or
 - (b) a discharge through the control valves in the immediately preceding period has prevented flow over the spillway, or
 - (c) a discharge through the control valves has been made in excess of water required to meet the following—
 - (i) the environmental water provisions of this Plan,
 - (ii) domestic and stock rights and native title rights,
 - (iii) access licences other than supplementary water access licences,
 - (iv) water losses associated with the delivery of water to meet the requirements of paragraphs (i) to (iii).
- (3) A supplementary water event must cease when flows in the water source at the Paterson River downstream of Lostock Dam gauge (210021) have decreased below 40 ML/day.
- (4) The maximum volume of water that may be taken during a supplementary water event by supplementary water access licences is equal to—

$$(A \times B) - C$$

where—

A is the total daily flow at the Paterson River downstream of Lostock Dam gauge (210021) during the supplementary water event.

B is 0.5.

C is the volume of water required to satisfy the following during the supplementary water event—

- (i) the environmental provisions in Divisions 1 and 2 of Part 10,

- (ii) domestic and stock rights and native title rights requirements,
 - (iii) water orders placed by higher priority access licences, and
 - (iv) water losses associated with the delivery of water in accordance with subclauses (i) to (iii).
- (5) If required, the Minister must limit extraction under the announcement, to ensure subclause (4) is met.
- Note.** Current assessment of pump capacity indicates that there is little risk of the 50% extraction cap being breached. If any further assessment shows that there is significant risk of this occurring, additional rules may be put in place.
- (6) An announcement must include the following—
- (a) the start or end date, or both, of the supplementary water event,
 - (b) the amount of water that may be taken by each holder of a licence to which the announcement applies (for example, in ML per unit share).

Part 9 Access licence dealing rules

Notes.

- 1 Access licence dealings in the water source are subject to the provisions of the Act, the regulations, any access licence dealing principles established by order made under section 71Z of the Act and the access licence dealing rules established under this Part.
- 2 As at 1 July 2019 the [Access Licence Dealing Principles Order 2004](#) applies. Access licence dealing principles prevail over the access licence dealing rules in this Plan to the extent of any inconsistency, as provided under section 71Z (3) of the Act.
- 3 An application for a dealing may be refused or conditions imposed on an access licence or water supply work approval at the time of a dealing to give effect to the provisions of this Plan.
- 4 This Part may be amended if individual daily extraction components are imposed on access licences in the water source.

40 Conversion of access licence to new category dealings

- (1) Dealings under section 71O of the Act are prohibited unless the conversion is from—
- (a) a regulated river (general security) access licence to a regulated river (high security) access licence, or
 - (b) a regulated river (high security) access licence to a regulated river (general security) access licence.
- (2) A dealing under subclause (1) is subject to—
- (a) the application of a conversion factor and a limit on the amount of access licence share component that can be converted, in accordance with access licence dealing principles established by the Minister under section 71Z of the Act, and
 - (b) the total of all regulated river (general security) access licence share components not exceeding 9,565 unit shares.

Note. Initial assessments indicate that 1 ML of regulated river (high security) access licence share component should result from the conversion of 1.5 ML of regulated river (general security) access licence share component.

41 Assignment of rights dealings

Dealings under section 71Q of the Act between access licences with share components that specify different water sources are prohibited.

42 Amendment of share component dealings (change of water source)

Dealings under section 71R of the Act are prohibited for the grant of a new access licence in the water source or the cancellation of an access licence in the water source.

43 Assignment of water allocations dealings

- (1) A dealing under section 71T of the Act is prohibited if the dealing involves an assignment of water allocation to a supplementary water access licence from an access licence of any other category.

Note. As at 1 July 2019, dealings under section 71T of the Act involving the assignment of water allocations from a supplementary water access licence to an access licence of any other category are also prohibited under clause 17 of the [Access Licence Dealing Principles Order 2004](#).

- (2) Dealings under section 71T of the Act between access licences with share components that specify different water sources are prohibited.

44 Interstate access licence transfer and assignment of water allocations

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

45 Nomination of water supply work dealings

Dealings under section 71W of the Act involving an access licence in the water source nominating a water supply work outside of NSW are prohibited.

Part 10 System operation rules

Division 1 Environmental flow rules

46 Environmental flow rules

- (1) Subject to subclause (2), the operator must manage the water supply system in the water source to ensure that target environmental flows exceed those specified in Column 2 of Table A at the Paterson River at Gostwyck gauge (210079) for the dates specified in Column 1 of Table A.

Table A—Daily flow targets for the Paterson River at Gostwyck gauge (210079)

Column 1	Column 2
Dates for which flow threshold applies	Target Environmental Flow for the Paterson River at Gostwyck gauge (210079) (ML/day)
1 December to 28/29 February	10
1 March to 31 May	20
1 June to 31 August	19
1 September to 30 November	10

Note. The flows specified in Table A represent the 95th percentile daily flow at Gostwyck plus an additional operational volume that is required from 1 September to 28/29 February.

- (2) The target environmental flow specified in subclause (1) will be considered to be met if the average daily flow as measured at the Paterson River at Gostwyck gauge (210022) is within

25% of the target environmental flow for that day, provided that any deficit of flow—

- (a) does not occur for more than 7 consecutive days or for more than 10 days in total per month, and
 - (b) is redressed by ensuring target environmental flows are exceeded by an amount equal to the deficit, later in the same month or in the next month in which it is possible to do so.
- (3) Any exceedance of the target environmental flow for that day resulting from tributary inflows, reduced demand or operator error cannot be used to redress any deficit of flow under subclause (2) (b).
 - (4) Any exceedance of the target environmental flow for that day by more than 25% cannot be used to redress any deficit of flow under subclause (2) (b).

Division 2 Environmental water allowance

47 Accounts for the environmental water allowance

- (1) The operator must maintain the environmental water allowance for environmental purposes in the water source, as set out in this Division.

Note. *Operator* is defined in the Dictionary.

- (2) The operator must keep an account of water credited to, and debited from, the environmental water allowance.

48 Release rules for the environmental water allowance

- (1) The Minister may establish procedures that specify the circumstances under which the operator may not release water from the environmental water allowance.
- (2) Unless the operator otherwise determines in accordance with procedures established by the Minister under subclause (1), the operator is to release water from the environmental water allowance on the request of the NSW Environmental Water Manager, in accordance with annual and long term priorities.

Notes.

1 *NSW Environmental Water Manager* is defined in the Dictionary.

2 The environmental water allowance should not be used for flushing of saline water to the benefit of tidal pool users.

49 Credits, debits and carryover of the environmental water allowance

- (1) At the commencement of the water year, the operator is to credit the environmental water allowance with 2,000 ML.
- (2) The operator must not carry over any water remaining in the environmental water allowance from one water year to the next water year.
- (3) The operator is to debit the environmental water allowance with the lesser of the volume of water requested to be released by the NSW Environmental Water Manager under clause 48 and the actual amount the operator releases.

Division 3 Consultation

50 Consultation

The NSW Environmental Water Manager may consult with any government agency or an Environmental Water Advisory Group (*EWAG*) established by the Minister for the water source, or both, and consider any relevant advice, before taking action under Division 1 of this Part.

Notes.

1 The EWAG for the water source was formerly known as the Environmental Contingency Allowance Committee.

2 As at 1 July 2019, the Minister has conferred the lead role in managing environmental water allowances established under water sharing plans to the NSW Office of Environment and Heritage (*OEH*). OEH also administers and supports EWAGs to inform the management of environmental water allowances and licensed environmental water. For more information on EWAGs, see *Cooperative management of environmental water to improve river and wetland health in NSW (2014)*, available at www.environment.nsw.gov.au.

Division 4 General system operation rules

51 Maintenance of water supply

- (1) In this clause, the period of lowest accumulated inflows to the water source is identified by flow information held by the Department when the first water sharing plan for the water source made under the Act came into force.
- (2) The operator must operate the water supply system in such a way that water can be supplied during a repeat of the period of lowest accumulated inflows to the water source, to meet the following—
 - (a) the annual water requirements of persons exercising domestic and stock rights and native title rights,
 - (b) an available water determination for domestic and stock access licences of 100% of share components,
 - (c) an available water determination for regulated river (high security) (town water supply) access licences of 100% of share components,
 - (d) an available water determinations for regulated river (high security) access licences of 1 ML per unit share,
 - (d) the environmental flow provisions in Division 1 of this Part,
 - (e) the environmental water allowance provisions in Division 2 of this Part.
- (3) For the purposes of subclause (2), the operator must set aside sufficient volumes of water from inflows into the water source and in reserves held in Lostock Dam water storage.

Note. *Reserves* is defined in the Dictionary.

52 Water delivery and channel capacity constraints

In managing the water supply system, the operator must consider, determine and specify the water delivery and channel capacity constraints throughout the water source in accordance with procedures established by the Minister, taking into account each of the following—

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

Note. Operation of the system at the commencement of this Plan is constrained by maximum release capacity from Lostock Dam of 720 ML/day.

53 Priority of delivery for access licences and environmental water allowance water

- (1) This clause does not apply to supplementary water access licences.
- (2) If constraints identified in clause 52 or other supply capability constraints result in an inability to supply all water orders, basic landholder rights and the delivery of environmental water allowance water, the following rules of priority apply—
 - (a) the operator is to give first priority to the requirements for water to satisfy basic landholder rights,
 - (b) once the requirements in (a) have been met, the operator is to supply water to domestic and stock access licences and regulated river (high security) access licences that have placed orders for water, in that order,
 - (c) once the requirements in (b) have been met, unless otherwise directed by the Minister, any remaining supply capability is to be shared between regulated river (general security) access licences that have placed an order for water and environmental water allowance deliveries that have been requested, in accordance with a method determined by the operator.
- (3) The operator is to consult with water user representatives, the NSW Environmental Water Manager and relevant government agencies, as the Minister considers appropriate, before determining the method in subclause (2) (c).

Notes.

1 **Supply capability** is defined in the Dictionary.

2 This clause may be amended if individual daily extraction components are imposed.

54 Rates of change to storage releases

In changing the rate of the release of water from a water storage or other water supply system structure, the operator must consider relevant environmental matters, damage to river banks and public safety.

55 Supply of orders when remaining allocations are low

- (1) The operator may group water orders and periodically release water if the operator determines that the total remaining volume of water in access licence allocation accounts has reduced to a level where the continuous delivery of water orders would involve unacceptably high delivery losses.
- (2) The operator is to consult with water user representatives before grouping water orders and releasing water in accordance with subclause (1).

56 Dam operation during floods and spills

- (1) The operator must operate Lostock Dam during times of flood and spilling of water from that dam—
 - (a) in a manner that maintains the safety of dam infrastructure, and
 - (b) subject to subclause (a), as follows—
 - (i) leaving the storages as full as possible after the flood or spilling of water,
 - (ii) ensuring that the general rate of increase of outflow does not exceed the rate of increase of inflow,
 - (iii) seeking to minimise downstream flood damage.

Part 11 Mandatory conditions

Note. Mandatory conditions relating to metering equipment and recording of information are imposed by the [Water Management \(General\) Regulation 2018](#). Clauses in this Plan that provide for mandatory conditions to be imposed in relation to metering will be removed from this Plan consistent with the timeframes for the roll out of the metering and reporting mandatory conditions that are prescribed in Part 10 and Part 11 of the [Water Management \(General\) Regulation 2018](#).

Division 1 General

57 Requirement to notify

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

Division 2 Access licences

58 Mandatory conditions on access licences

- (1) Each access licence must have mandatory conditions to give effect to the following—
 - (a) upon becoming aware of a breach of any condition of the access licence, the access licence holder must—
 - (i) notify the Minister as soon as practicable, and
 - (ii) if the notification under subparagraph (i) is not in writing, confirm this notification in writing within seven days of becoming aware of the breach,
 - (b) the taking of water in accordance with the access licence may only occur if the resulting debit to the access licence account does not exceed the volume of water allocation remaining in the licence account.
- (2) Each access licence, other than a supplementary water access licence, must have mandatory conditions requiring that the access licence holder must not take water unless it has been ordered in accordance with procedures established by the Minister.
- (3) Each domestic and stock access licence must have a mandatory condition that water may only be taken for the purpose of domestic consumption or stock watering as defined in section 52 of the Act.

- (4) Each supplementary water access licence must have a mandatory condition that gives effect to Division 2 of Part 8.
- (5) Without limiting subclauses (1) to (4), an access licence must have mandatory conditions as required to implement the provisions of this Plan.

Division 3 Water supply work approvals

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

59 General conditions

- (1) Water supply work approvals must have mandatory conditions, if applicable, to give effect to the provisions of this Division.
- (2) The water supply work must not be used to take water under an access licence unless in compliance with the relevant access rules for the taking of water as specified in Part 8.
- (3) Upon becoming aware of a breach of any condition of the approval, the approval holder must—
 - (a) notify the Minister as soon as practicable, and
 - (b) if the notification under paragraph (a) was not in writing, confirm this notification in writing within seven days of becoming aware of the breach.
- (4) Flow measurement devices must be installed and maintained on all works used for extraction of water under an access licence and must be of a type and maintained in a manner, which is acceptable to the Minister.
- (5) Water extraction, water management infrastructure and cropping details must be provided on request, in the form and in accordance with procedures established by the Minister.
- (6) The taking of water may only occur in accordance with the conditions applying to the access licence that will have its water allocation account debited for that take.
- (7) Subclauses (4) to (6) do not apply to approvals for water supply works held by WaterNSW provided the approval is not nominated by an access licence.
- (8) Subclause (4) ceases to have effect in relation to an approval subject to a mandatory metering equipment condition on the day the condition applies to the approval.
- (9) Subclause (4) ceases to have effect on 1 December 2023.
- (10) Without limiting subclauses (1) to (6), water supply work approvals must have mandatory conditions as required to implement the provisions of this Plan.

Notes.

1 Mandatory metering equipment condition is defined in clause 228 of the [Water Management \(General\) Regulation 2018](#).

2 Clause 230 of the [Water Management \(General\) Regulation 2018](#) provides that the mandatory metering equipment condition applies to existing and new water supply works required to have a meter and installed from 1 April 2019, and to other approvals in the water source from 1 December 2023.

Part 12 Amendment of this Plan

Note. This Part sets out amendments authorised by this Plan.

60 General

- (1) An amendment authorised by the Plan is taken to include any consequential amendments required to be made to this Plan to give effect to that particular amendment.

Note. For example, if Part 1 is amended to add a new management zone, this may require amendments to other parts of this Plan to include provisions for that management zone.

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

61 Amendments relating to Part 1

Part 1 may be amended to add, modify or remove a river or section of river to or from the water source providing that—

- (a) any amendment is consistent with any applicable regulated river order, and
- (b) the Minister is satisfied that there will be no impact on environmental water, or on the available water to any access licence in the water source.

62 Amendments relating to environmental flow rules

- (1) The environmental flow rules in this Plan may be amended based on further studies of the environmental requirements of the estuary.
- (2) Any variation to the environmental flow rules in clause 46 must not result in an increase in the total annual volume of water being delivered to the environment.

63 Amendments relating to the environmental water allowance

- (1) This Plan may be amended to vary the amount of water credited to the environmental water allowance at the commencement of the water year and the carryover provisions for the environmental water allowance based on further studies on the appropriate use and amount of water required for the releases under the environmental water allowance.
- (2) Any variation to the environmental water allowance made under subclause (1) should not result in the environmental water allowance being greater than 2000 ML.

Note. This clause allows for the volume of the environmental water allowance to be decreased if studies result in a reduction to the environmental water allowance. Carryover provisions may be introduced to allow for banking of the environmental water allowance to provide for a maximum of 2000 ML being available in any year.

64 Amendments relating to individual daily extraction components

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

65 Dictionary

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

Dictionary

Note. Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the regulations have the same meaning in this Plan.

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

Lostock Dam water storage as defined in the Hunter Water Management Area Regulated River Order (Government Gazette No 82B of 26 June 2007), as set out in item 20 (2) of Schedule 12 of the Act.

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

Minister means the Minister administering the Act.

ML means megalitres.

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

NSW Environmental Water Manager means the NSW Government department or agency with the conservation role for water-dependent assets. This responsibility extends to managing the NSW environmental water portfolio.

Note. As at 1 July 2019, the NSW Environmental Water Manager is the NSW Office of Environment and Heritage.

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

Note. As at 1 July 2019, this is WaterNSW.

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

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

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

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

targeted objectives are specific outcomes that can be achieved by the strategies in this Plan, and can be directly measured so that success or failure to achieve the objective can be quantified. Targeted objective outcomes are used to evaluate progress towards achieving the broad objectives of this Plan.

the Act means the *Water Management Act 2000*.

water source means the Paterson Regulated River Water Source within the Hunter Water Management Area.

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

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

water use development means all privately owned water management structures, and all aspects of farm, industry, town and private household development that affect the volumes of water taken from the water source, and the management practices that are applied in relation to them.

water year means a period of 12 months commencing on 1 July and ending on 30 June.

weighted average unit price means the total price (dollars per ML) of all units sold divided by the number of units sold.

Appendix 1 Overview map of the Paterson Regulated River Water Source

Paterson Regulated River Water Source within the Hunter Water Management Area

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments

Water Sharing Plan for the Paterson Regulated River Water Source 2019 (313). LW 1.7.2019. Date of commencement, 1.7.2019, cl 3.