



BOGAN SHIRE COUNCIL

Ordinary Business Paper

I hereby give notice that an Ordinary Council Meeting will be held on:

Date: Thursday, 23 October 2025

Time: 7.00pm

**Location: Bogan Shire Council
Council Chambers
81 Cobar Street
Nyngan**

**Derek Francis
General Manager**



Published Recording of Council Meeting

This Council Meeting is being recorded for publishing on Council's website as a public record. By speaking at the Council Meeting, you agree to being recorded and for this recording to be published. Please ensure that if and when you speak at this Council Meeting that you are respectful to others and use appropriate language at all times. Bogan Shire Council accepts no liability for any defamatory or offensive remarks made during the course of this Council Meeting.

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- 1 OPENING PRAYER**
- 2 REMEMBRANCES**
- 3 APOLOGIES**
- 4 DISCLOSURE OF INTERESTS**

5 CONFIDENTIAL MATTERS

Recommended that Council move into a closed session of Council with the public excluded, in accordance with the *Local Government Act 1993* section 10A(2).

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6 CONFIRMATION OF ORDINARY MINUTES**6.1 MINUTES OF ORDINARY MEETING - 25 SEPTEMBER 2025**

The minutes of the Ordinary Council Meeting held at the Bogan Shire Council, Council Chambers, 81 Cobar Street, Nyngan on 25 September 2025 have been circulated to Council.

Recommendation

That the minutes of the Ordinary Council Meeting held at the Bogan Shire Council, Council Chambers, 81 Cobar Street, Nyngan on 25 September 2025, be received and noted.

7 NOTICE OF MOTION

Nil

8 MAYORAL MINUTES

Nil

9 COMMITTEE MEETING MINUTES

Nil

10 GENERAL MANAGER'S REPORTS**10.1 GENERAL MANAGERS CHECKLIST****10.1 GENERAL MANAGERS CHECKLIST**

Item	Date	Minute No	Matter	Action Required	Officer	Status
1	21/12/2017	392/2017	Increase of train speed through Nyngan	Strong letter of concern and a request to address Council be sent to the relevant rail authorities and a copy to the local member.	GM	Refer below.
	23/11/2023	282/2023		That Council respond to Minister Aitchison, with a request that the train speed limit be reduced to 20km/hour, as Council is not in a position financially to provide rail crossing lights.		This matter was drawn to the attention of Minister Aitchison on 12/01/2024 during her visit to Nyngan. Further letters sent to Minister Aitchison and Roy Butler MP. Discussed with Minister Aitchison on 15/07/2024 during her visit to Nyngan. Letter received from Minister Aitchison. TNSW has requested a review of train speeds from UGL.

Item 10.1

Item	Date	Minute No	Matter	Action Required	Officer	Status
2	27/02/2025	012/2025	Nyngan Emergency Bore	That Council seek tenders for the Nyngan Emergency Bore project as now proposed by NSW Public Works with the following scope of works: i. Installation of a new bore, with power supply, in the vicinity of the current bore that meets the boundary proximity requirements of the Water Sharing Plan. ii. Installation of pipeline from the new bore site to Nyngan iii. Project design, project management and other associated costs.	DIS	A tender for the construction of the pipeline from the bore, along Old Warren Road has been published by Public Works. Investigation of a preferred route through Nyngan is in progress.
3	27/05/2021	126/2021	Addressing Local Job Vacancies	Council delays the launch of the marketing campaign until progress is made with	DPCS	Refer below.

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Item	Date	Minute No	Matter	Action Required	Officer	Status
				establishing more housing accommodation in Nyngan.		
	28/09/2023	207/2023		Council provides a budget of \$25,000 for production of videos for the relocation campaign.		Production of Employment video in progress. Production of Health and Education video in progress.
4	25/07/2024	144/2024	New Water Treatment Plant Site	That Council does not proceed with building the new Water Treatment Plant on the site adjacent to the substation at the end of Dandaloo Street. That Council constructs the new Water Treatment Plant on the Council owned land at the Raw Water Pump Station at the upper weir.	DIS	In Progress
5	24/10/2024	245/2024	Reclassification of Land – 8 Tabratong Street	That Council resolve to: 1. Lodge the Planning Proposal to Reclassify Public Land at 8 Tabratong Street Nyngan with the Department of Planning,	DDES	Update: COMPLETED

Item 10.1

Item	Date	Minute No	Matter	Action Required	Officer	Status
				Housing and Infrastructure for a Gateway Determination; and 2. Undertake community consultation in accordance with the Gateway Determination.		COMPLETED Update: Final Version of the Planning Proposal to be sent to the DPHI for the LEP amendment to be made.
6	27/07/2023	160/2023	School Exchange Program	The General Manager commence discussions around the future of the Tongling Exchange Program, with a report to Council.	GM	Discussions held with Acting Principal, Nyngan High School.
	25/07/2024	146/2024		That Council consider locations that may have economic/industry ties for the School Exchange Program, to enhance the student experience.		

Item	Date	Minute No	Matter	Action Required	Officer	Status
7	26/10/2023	247/2023	Before and After School Care, Nyngan	That the Before and After School Care matter be further pursued with the Department of Education, and if necessary, the Minister.	GM	Refer below.
	22/02/2024	009/2024		Issue of lack of Before and After School Care in Nyngan be referred to Local Member.		Correspondence sent to Local Member.
	25/07/2024	147/2024		That Council request the Local Member to make further contact with the Minister for Education about the lack of Before and After School Care in Nyngan.		Email sent to Local Member in August 2024. Contact, with reminder, made with Local Members Office October 2024. GM and DPCS met with officials of Department of Education to discuss community concerns. Local Member has written to Minister for Education and Early Learning and issued a press release.
8	23/11/2023	278/2023	Nyngan Year-Round Fishery	That Council provide in principle support for the development of a Memorandum of Understanding with DPI Fisheries for a managed	DIS	Department of Primary Industries and Regional Development have advised that preparation of a risk assessment

Item 10.1

Item	Date	Minute No	Matter	Action Required	Officer	Status
				fishery in the Nyngan off-river storages, with a further report to Council to consider a draft Memorandum of Understanding.		and draft Memorandum of Understanding is in progress.
9	27/06/2024	134/2024	Nyngan Community Homes	That Council request that Nyngan Community Homes Association presents a satisfactory Business Plan and shows it has the capacity to build planned homes on the land, Council will consider an appropriate arrangement to facilitate the provision of the land which was formerly the Palais Theatre, on the basis of that plan.	GM	Email forwarded to Nyngan Community Homes with Council resolution and to contact the General Manager if further information is required. Business Plan received from Nyngan Community Homes, 01/12/2024 with a request to address Council at a future meeting. Date to be determined in consultation with Mayor.
10	24/07/2025	166/2025	Vermont Hill Road	That Council: 1. Install signage on Vermont Hill Road at the boundary, and at Fords Road advising that 'Road not regularly maintained by Bogan Shire Council, May be	DIS	Update: COMPLETED

Item	Date	Minute No	Matter	Action Required	Officer	Status
				impassable to conventional vehicles, Use is at drivers risk". 2. Undertake basic works to the value of \$10,000 on the worst of the scours on Vermont Hill Road.		COMPLETED
11	22/05/2025	120/2025	Control of Pest Bird Species	- That Council publish information about the Indian Myna and control measures on social media and Council's website, to raise community awareness. - That Council apply for grant funding to promote community participation in managing Indian Myna populations within the Bogan LGA. - That Council survey local businesses to determine if there is interest in contributing funds and/or supporting practical efforts to assist in the	DDES	Updates: COMPLETED In progress COMPLETED

Item	Date	Minute No	Matter	Action Required	Officer	Status
				management of Indian Myna birds.		
12	27/03/2025	045/2025	Cobar Water Board Water Supply Agreement	That the General Manager enter into a lease agreement with the Cobar Water Board for Lot 1 DP803368 for a period of 10 years, at an agreed market related rental, with annual rent renew for the purposes of the installation of solar panels and a water pump station. This agreement is subject to a successful negotiation of a Water Supply Agreement with Cobar Water Board.	GM	In progress
13	26/06/2025	139/2025	Bogan Shire Youth and Community Centre R4R9 Grant	That the General Manager makes application to vary the approved Resources for Regions 9 Grant project for the Bogan Shire Youth and Community Centre to make provision for:	GM	Variation request submitted. UPDATE: Currently working with NSW Dept of Primary Industries and Regional Development to resolve

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Item	Date	Minute No	Matter	Action Required	Officer	Status
				a. Building works – wall protection, internal door installation b. Outdoor sports facilities – pickleball court and table tennis c. Deletion of a fire pit and addition of a BBQ.		queries around Council's Variation Request.
14	26/06/2025	148/2025	Nyngan Cemetery Unidentified Plots	That the General Manager provide a report to Council on the matter of unidentified cemetery plots at the Nyngan Cemetery.	DIS	Report to future Council Meeting.
15	24/07/2025	168/2025	Pangee Street Trees	That Council replace seven Pangee Street trees with Platanus Acerifolia (London Plane trees) this financial year and replace the other seven Pangee Street trees with Platanus Acerifolia (London Plane trees) next financial year.	DIS	Update: Pangee Street tree planting completed. COMPLETED
	25/09/2025	201/2025		That the remaining affected trees in Pangee Street be replaced immediately with Platanus Acerifolia (London Plane trees), within the existing budget.		Update: Pangee Street tree planting completed. COMPLETED

Item 10.1

Item	Date	Minute No	Matter	Action Required	Officer	Status
16	28/08/2025	179/2025	Policy AP002 Payment of Expenses and Provisions of Facilities to the Mayor and Councillors	That the policy, AP002 Payment of Expenses and Provision of Facilities for Mayor and Councillors, be approved for public exhibition.		Update: Notice placed in the Nyngan Weekly Newspaper, that Policy AP002 Payment of Expenses and Provisions of Facilities to the Mayor and Councillors was on display on Councils Website and at the Bogan Shire Council Chambers until Friday 3 October 2024. No submissions were received. <u>Recommended</u> that Council resolve to adopt revised Policy AP002 COMPLETED

1. Attachments

Nil

2. Recommendation

That the report relating to the Monthly Checklist be received and those items marked as “Completed” be removed from the Checklist.

10.2 PLANNING AGREEMENT - CONSTELLATION MINE

1. Introduction

The purpose of this report is for Council to endorse the draft Constellation Project Planning Agreement (PA) for the purposes of public exhibition.

2. Background

Local Planning Agreements are typically negotiated between a developer and a Council. They govern the terms for developer contributions for the provision of public benefits to support communities.

These developer contributions typically cover things like improvements to infrastructure as well as community projects or sponsorships. It is a way of enabling Councils to negotiate more flexible outcomes in respect of development contributions than the standard provisions under the NSW Environmental Planning and Assessment Act 1979.

As Councillors would be aware, Aeris Resources is in the planning stages for developing a new mine site near Girilambone known as the Constellation Project.

Council's management has been in discussion with Aeris Resources about the terms of a draft PA based on the industry standard.

3. Discussion

Key terms for the PA include:

- Payment of Developer Contributions from Aeris Resources to Bogan Shire Council calculated as the final Estimated Development Cost multiplied by 1% spread over an 11 year period.
- The period referred to above assumes that mining operations and ore processing will cease within eleven years of commencement of payment of the Annual Development Contributions. If operations and processing extend beyond 11 years, then Annual Development Contributions will continue to be paid at an agreed rate.
- Development Contributions will be allocated by Council to Public Purpose Projects which may include infrastructure and/or community enhancement projects / Programs such as Bogan Shire Medical Centre Allied Health, Bogan Shire Youth and Community Centre Youth Programs and Bogan River Bushcare Programs.
- Whilst Council will seek input from Aeris Resources on the allocation of Contributions, ultimately Council will make the determination on how Contributions are to be spent during its annual budgeting process.
- Development Contributions are not to be used for funding road upgrades or road maintenance works associated with the Development. A separate Road User Agreement will stipulate the funds to be provided by the Developer necessary for both Development-related Road upgrades prior to the commencement of the Development as well as subsequent annual road maintenance.

Schedule 2 to the attached Agreement gives a plain language summary of the PA.

4. Attachments

1. BSC-Aeris Resources Planning Agreement for the Constellation Project

5. Recommendation

1. That Council endorse the draft Constellation Project Planning Agreement for the purposes of public exhibition.
2. That Council place the draft Constellation Project Planning Agreement on public exhibition for a period of at least 28 days, calling for and accepting submissions from the public on the draft Planning Agreement.

PLANNING AGREEMENT

Constellation Project
(SSD-41579871)

BETWEEN

Tritton Resources Pty Ltd

and

Bogan Shire Council

11 September 2025

Planning Agreement: Constellation Project

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Details

Parties

Name	Bogan Shire Council ABN 68 886 242 083
Short form name	BSC or Council
Notice details	Attention: The General Manager 81 Cobar Street P.O. Box 221 Nyngan 2825 NSW Email: admin@bogan.nsw.gov.au

Name	Tritton Resources Pty Ltd ACN 100 095 494
Short form name	Developer
Notice details	Attention: Aeris Resources Limited Level 6/120 Edward Street Brisbane 4000 QLD Email: info@erisresources.com.au

- A. The Developer has the benefit of the Development Consent.
- B. The Developer has agreed to pay the Development Contributions in relation to the Project on the terms of this Agreement.
- C. BSC agrees to administer the Development Contributions in accordance with this Agreement.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

The meaning of capitalised terms and the provisions relating to the interpretation of this Agreement are as follows:

Act means the *Environmental Planning and Assessment Act 1979* (NSW) as amended from time to time.

Agreement means this Planning Agreement including any schedules.

Annual Development Contribution has the meaning given in clause 5.1(b).

Approval means any consent, modification, certificate, licence, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this Agreement.

Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal or agency.

BSC means Bogan Shire Council.

Business Day means any day except for a Saturday, Sunday, or bank or public holiday in New South Wales.

Commencement Date means the date on which this Agreement comes into operation in accordance with clause 4.

CPI means the All-Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics.

Development means the Constellation Project that is the subject of the Development Consent.

Development Application has the same meaning as in part 4 of the Act.

Development Consent means the Original Development Consent or any subsequent, and current, Modified Development Consent.

Development Contributions means the annual instalments to be made by the Developer in accordance with clause 5 of this Agreement.

End Date means the date when Mining Operations cease at the Project.

EDC means the Estimated Development Cost of the Project, calculated in accordance with section 6 of the *Environment Planning and Assessment Regulation 2021*.

EDC Report means a report prepared by an AIQS Quantity Surveyor or a RICS Chartered Quantity Surveyor for the Developer which identifies the total value of EDC for the Project, with the calculation covering the full scope of works intended for the Project.

Final EDC means the updated, final EDC Report tabled at the time the Final Investment Decision is made by the Developer;

Financial Close Date means the date all final internal and external approvals are obtained for the financing of the construction of the Project.

GST has the same meaning as in the GST Law.

GST Law has the same meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Interest Rate means the rate which Council resolves annually to be charged on overdue rates.

Land means the land detailed in Appendix 2 of the Development Consent.

Law means:

- (a) the common law including principles of equity;
- (b) the requirements of all statutes, rules, ordinances, codes, regulations, proclamations and by-laws; and
- (c) any Approval, including any condition or requirement under it.

LGA means the Local Government Area.

Mining Operations means extracting, mining, producing, improving, transporting, and handling of ores and tailings and disposing of tailings and despatching ores, concentrates, and other products from the Development, but does not include Rehabilitation.

Minister means the minister responsible for the administration of the Act.

Minor Modification means a modification that addresses a minor error, misdescription or miscalculation, or a modification that is of minimal environmental impact, being an application processed under section 4.55(1) or 4.55(1A) of the Act.

Modification Application means an application to modify the Development Consent that is not a Minor Modification.

Modified Development Consent means the Original Development Consent, as modified by a Modification Application.

Original Development Consent means the development consent issued by the Minister for Planning dated XXXXX in respect of the Development namely State Significant Development number SSD-41579871.

Party means a party to this Agreement, including their successors and assigns.

Planning Agreement has the same meaning as in section 7.1 of the Act.

Project means the Constellation Project that is the subject of the Development Consent.

Public Purpose has the meaning given in section 7.4(2) of the Act.

Register means the Torrens Title register maintained under the *Real Property Act 1900* (NSW).

Regulation means the *Environmental Planning and Assessment Regulation 2021* (NSW) as amended from time to time.

Rehabilitation as defined in, and in accordance with, the Development Consent.

Related Entity has the meaning given to 'related body corporate' in the *Corporations Act 2001* (Cth), but on the basis that 'subsidiary' has the meaning given to Subsidiary in this agreement and that 'body corporate' includes any trust, fund or other entity.

Resolution Institute means the Resolution Institute (ACN 008 651 232) or, in the event that the Resolution Institute ceases to exist or to provide mediation services, a professional dispute resolution organisation of equivalent standing.

Resolution Institute Mediation Rules means the mediation rules commencing on 8 September 2016 issued by the Resolution Institute, available at the following website: <https://resolution.institute/Web/Web/Public-In-Dispute/State-Adjudication/Mediation.aspx>, and any mediation rules which may replace these rules (howsoever described).

Road Use Agreement means an agreement between the Parties which sets out the basis on which Project-related roads will be upgraded by the Developer (at the Developer's cost), and the basis on which the Developer will contribute towards road maintenance.

Road Upgrade Works has the meaning given to that term in the Road Use Agreement.

Subsidiary has the meaning given to 'subsidiary' in the Corporations Act 2001 (Cth) but on the basis that:

- i. a trust may be a Subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share and the relevant 'board' for the purposes of section 46(a)(i) of the Corporations Act 2001 (Cth) will be the board of directors of the trustee of the trust; and
- ii. a corporation or trust may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation.

Tax Invoice has the same meaning as in the GST Law.

Term means the term of this Agreement, starting from the Commencement Date and ending on the End Date.

Total Development Contributions has the meaning given in clause 5.1(a).

1.2 Interpretation

In this Agreement, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Agreement, and a reference to this Agreement includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (f) a reference to time is to Sydney, NSW, Australia time;
- (g) a reference to a party is to a party to this Agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;

- (k) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (l) any agreement, representation, warranty or indemnity by two or more Parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (m) any agreement, representation, warranty or indemnity in favour of two or more Parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it; and
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed, or the event must occur on or by the next Business Day.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

2. Planning Agreement under the Act

The Parties agree that this Agreement is a Planning Agreement governed by Subdivision 2 of Division 7.1 of Part 7 of the Act.

3. Application of this Agreement

This Agreement applies to the Development, the Land within the BSC LGA, the Development Consent and evidences the Developer's compliance with relevant condition(s) of the Development Consent.

4. Operation of this Agreement

- (a) Subject to clause 4(b), this Agreement operates and binds the Parties from the date of this Agreement, being the date this Agreement is executed in accordance with section 203 of the Regulation.
- (b) The Parties agree that clause 5 will not operate or bind the parties unless and until the Developer achieves the Financial Close Date. The Developer must notify the Council of the Financial Close Date, within five (5) Business Days of it occurring.
- (c) At the time the Developer gives notice under clause 4(b), the Developer must provide Council with the EDC Report. Council agrees to keep the EDC Report confidential, and not disclose the EDC Report without the prior written consent of the Developer.
- (d) Relatedly, the Developer agrees to provide a separate Road Use Agreement and a separate Workforce Accommodation Strategy. The contents of said documents are to be to Council's written satisfaction.

5. Development Contributions

5.1 Total Development Contributions

- (a) The **Total Development Contributions** to be paid by the Developer to BSC under this Agreement will be calculated in accordance with the following formula:

$$\text{Total Development Contributions} = 1\% \times \text{Final EDC};$$

- (b) The Annual Development Contributions shall be calculated as the Total Development Contributions divided by eleven years (that is, the expected operational life of the Project).
- (c) Clauses 5.1 (a) and 5 (b) assume that the Project will cease Mining Operations within eleven years of commencement of payment of the Annual Development Contributions. If the Project continues Mining Operations beyond 11 years, then Annual Development Contributions will continue to be paid at the same rate, or an agreed rate consistent with the provisions of Clause 12, until Mining Operations cease. The final year's payment will be on a pro rata basis.

5.2 Payment of Development Contributions

The Developer must pay to the Council:

- (a) The first Annual Development Contribution within 30 days of the commencement of the Road Upgrade Works as required by Council, which is the Roads Authority for local roads (**First Payment**). The Developer is to provide 30 days written notice to Council prior to the commencement of the Road Upgrade Works;
- (b) The second instalment of the Annual Development Contributions shall be paid on the anniversary of the First Payment;
- (c) The remainder of the Development Contributions shall be paid in annual instalments on each anniversary date of the First Payment, until the End Date. The final year's payment will be on a pro rata basis. One or more annual instalments may be brought forward for a specific Public Purpose project in the circumstances whereby both Parties agree;
- (d) The Developer will pay the Annual Development Contributions within 30 days of receiving a Tax Invoice from BSC. The contributions are deemed to be paid when cleared funds are deposited by means of electronic funds transfer into the bank account nominated by BSC; and
- (e) The Development Contributions will be allocated by Council to Public Purpose projects, including community enhancement projects and Council's designated Work Programs such as the Allied Health, Youth Worker and Bushcare programs. For clarity, the Development Contributions are not to be used for funding road upgrades or road maintenance works associated with the Development. A separate Road Use Agreement will address that topic.

5.3 Interest on unpaid amounts

If the Developer fails to pay any amount of the Development Contributions within 30 Business Days of the relevant due date for payment, the Developer must also pay to BSC interest on that amount. Interest is payable on the daily balance of amounts due from the due date for payment of those amounts until all outstanding amounts (including interest on those amounts) have been paid to BSC. The rate to be applied to each daily balance is the Interest Rate.

5.4 Administration of the Fund

- (a) Council, as part of its management of the Development Contributions will:
 - (i) consider those local Public Purpose projects, community enhancement projects and Council's designated work programs such as the Allied Health, Youth Worker and Bushcare programs that may warrant the allocation of funding. It will also monitor progress and the performance of the funded projects and prepare annual reports;
 - (ii) seek input from the Developer as to appropriate allocation and expenditure of the Development Contributions; and

- (iii) allocate the Development Contributions as deemed appropriate.

5.5 Public Recognition

- (a) The Council must publicly and positively acknowledge the payment of the Development Contributions by the Developer and the Developer's role in funding Public Purpose projects.
- (b) The form of public acknowledgment required by this clause 5.5 is to be agreed by the Council and the Developer (acting reasonably).

6. Indexation of Development Contributions

The Development Contributions will be increased by CPI, with the amount increased in accordance the following formula:

$$A = B \times C/D$$

Where:

A = the current Development Contribution instalment payable.

B = the Annual Development Contribution.

C = the CPI most recently published before the date of payment for the current Development Contribution.

D = the CPI most recently published before the Financial Close Date.

7. Security of this Agreement

7.1 Registration of this Agreement

- (a) Unless otherwise required by law, the Parties agree that this Agreement will not be registered on the Register in respect of the Land pursuant to section 7.6 of the Act.

7.2 Disposal by the Developer of its interest in the Development

- (a) Subject to clause 7.2(b) the Developer must not without the consent of the Council (which consent shall not be unreasonably withheld or delayed) assign, transfer or otherwise deal with the Developer's rights, duties or obligations under this Agreement.
- (b) The Council agrees that the Developer may assign, transfer or otherwise deal with the Developer's rights, duties or obligations under this agreement to:
 - (i) a Related Entity of the Developer or a partnership comprised of Related Entities of the Developer;
 - (ii) a joint venturer or partner of the Developer in respect of the Development; or
 - (iii) any third party, subject to the Developer proving to the reasonable satisfaction of the Council that such party is able to comply with the Developer's obligations under this Agreement (and to avoid any doubt the consent of the Council is not required if the third party has, or is a related body corporate of a company (within the meaning of the *Corporations Act 2001* (Cth)) which has, experience with mining projects or other similar infrastructure projects or if the third party has been given an approval under the *Mining Act 1992* to hold an authority related to the Development),

without the consent of the Council.

- (c) The Developer shall be released and discharged from any obligations under this agreement on and from the date of the assignment, and the performance of the terms of this Agreement from the date of the assignment, and from all claims and demands in connection with this agreement that arise after the date of the assignment in the event of the Developer assigning the Developer's rights and obligations under this agreement, provided always that the Developer is responsible for any action, claim or demand with respect of the performance of this agreement for any period prior to and including the date of the assignment.

8. Application of sections 7.11 and 7.12 of the Act

- (a) The application of sections 7.11 and 7.12 and Subdivision 4 of Division 7.1 of the Act to the Development is not excluded.
- (b) However, the Parties agree benefits payable under this Agreement have been taken into consideration in determining that separate development contributions under section 7.11 and section 7.12 are not required for this Development Application and Council agrees not to seek any additional development contribution.

9. Dispute Resolution

9.1 No arbitration or court proceedings

If a dispute arises out of this Agreement (**Dispute**), a Party must comply with this clause 8 before starting arbitration or court proceedings (except proceedings for interlocutory or other urgent relief).

9.2 Notification

- (a) A Party claiming a Dispute has arisen must give the other Party to the Dispute notice setting out details of the Dispute. The Dispute Notice must:
 - (i) be in writing;
 - (ii) include or be accompanied by reasonable particulars of the Dispute including:
 - (A) a brief description of the circumstances in which the Dispute arose;
 - (B) references to any provisions of this document acts, errors or omissions of any person, relevant to the Dispute; and
 - (C) where applicable, the financial quantum in dispute and if not precisely known, the best estimate available.

9.3 Parties to resolve Dispute

During the 30 days after a notice is given under clause 9.2 (or longer period if the Parties to the Dispute agree in writing), each Party to the Dispute must use its reasonable efforts to resolve the Dispute. If the Parties cannot resolve the Dispute within that period, they must refer the Dispute to a mediator if one of them so requests.

9.4 Mediation

- a) If the Parties cannot resolve the Dispute within the 30 days, they must refer the Dispute to an accredited mediator if one of them so requests and the Parties must mediate the Dispute in accordance with the Resolution Institute Mediation Rules.
- b) If the Parties do not agree on a mediator, either Party may request the Chair of the Resolution Institute select the mediator and determine the mediator's remuneration, the costs of which must be borne equally by the Parties.

- c) The Parties commit to adopting a spirit of goodwill and compromise, with an equal sharing of power, to reach a resolution within 60 days.

9.5 Confidentiality

Any information or documents disclosed by a Party under this clause 9:

- (a) must be kept confidential; and
- (b) may only be used to attempt to resolve the Dispute.

9.6 Costs Incurred in Disputation

Unless otherwise agreed between the Parties:

- (a) each Party to a Dispute must pay its own costs of complying with this clause 9; and
- (b) the Parties to the Dispute must equally pay the costs of any mediator appointed under this clause 9.

9.7 Termination of process

- (a) A Party to a Dispute may terminate the dispute resolution process by giving notice to each other after it has complied with clauses 9.1 to 9.3.
- (b) Clauses 9.5 and 9.6 survive termination of the dispute resolution process.

9.8 Breach of this clause

If a Party to a Dispute breaches this clause 9, the other Party to the Dispute does not have to comply with those clauses in relation to the Dispute.

10. Enforcement

- (a) Without limiting any other remedies available to the Parties, this Agreement may be enforced by any Party in any Court of competent jurisdiction, subject to clause 9.
- (b) Nothing in this Agreement prevents:
 - (i) a Party from bringing proceedings in the Land and Environment Court of New South Wales to enforce any aspect of this Agreement or any matter to which this Agreement relates; and
 - (ii) BSC from exercising any function under the Act or any other Act or Law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

11. Termination

- (a) This Agreement remains in force until:
 - (i) terminated by operation of Law; or
 - (ii) the end of the Term;
 - (iii) the Parties agree in writing to terminate this Agreement.
- (b) In the event of termination of this Agreement, any funds that have been paid by the Developer as Development Contributions prior to termination:
 - (i) can continue to be expended in accordance with the terms of this Agreement; and
 - (ii) are not refundable by BSC to the Developer.

12. Modification of the Development Consent

- (a) In the event that a Modification Application is granted such that the Development Consent that applies to the Project is the Modified Development Consent, the Developer must provide BSC with an updated calculation of the EDC, prepared by an AIQS Certified Quantity Surveyor or a RICS Chartered Quantity Surveyor, applicable to the modified project and table proposed Annual Development Contributions based on the updated EDC. The Parties will then agree on any changes to the Annual Development Contributions for the modified project and these will be those paid for the duration of Mining Operations of the modified project.
- (b) BSC agrees that if the Development Consent is the subject of a Minor Modification (as defined herein), then the Development Contributions will not be increased (except for CPI Adjustments).

13. Costs of Negotiating and Preparing the Planning Agreement

The Developer will be responsible for the reasonable costs incurred by the Council in negotiating, drafting and executing this Agreement, to a maximum amount of \$10,000 (exclusive of GST) to be paid into such bank account as Council specifies in writing to the Developer within 30 days of the receipt of a Tax Invoice from BSC by the Developer.

14. No Fetter

14.1 Discretion

This Agreement is not intended to operate to fetter, in any manner, the exercise of any statutory power or discretion of BSC, including but not limited to any statutory power or discretion of BSC relating to the assessment and determination of any Development Application for the Development (all referred to in this Agreement as a **Discretion**).

14.2 No fetter

No provision of this Agreement is intended to constitute any fetter on the exercise of any Discretion. If, contrary to the operation of this clause, any provision of this Agreement is held by a court of competent jurisdiction to constitute a fetter on any Discretion, the Parties agree:

- (a) they will take all practical steps, including the execution of any further documents to ensure the objective of this clause is substantially satisfied;
- (b) in the event that clause 1.1(a) cannot be achieved without giving rise to a fetter on the exercise of a Discretion, the relevant provision is to be severed and the remainder of this Agreement has full force and effect; and
- (c) to endeavour to satisfy the common objectives of the Parties in relation to the provision of this Agreement, which is to be held to be a fetter to the extent that is possible, having regard to the relevant court judgment.

15. Notices

15.1 Notices

Any notice given under or in connection with this Agreement (**Notice**):

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be addressed as follows and delivered to the intended recipient by email, by hand or, by prepaid post at the address below, or at the address last notified by the intended recipient to the sender after the date of this Agreement:

Name **Bogan Shire Council**
 Attention:
 The General Manager
 81 Cobar Street
 P.O. Box 221
 Nyngan 2825 NSW
 Email: admin@bogan.nsw.gov.au

Name **Tritton Resources Pty Ltd**
 Attention:
 Aeris Resources Limited
 Level 6/120 Edward Street
 Brisbane 4000 QLD
 Email: info@acrisresources.com.au

- (c) is taken to be given and made:
- (i) in the case of email, when a delivery or read receipt notice is received by the sender;
 - (ii) in the case of delivery by post, seven Business Days after the date of posting (if posted to an address in the same country) or ten Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of hand delivery, when delivered.
- (d) if under clause 1.1(c) a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 4pm (local time), it is taken to have been given or made at the start of business on the next Business Day in that place.

16. GST

16.1 Defined GST terms

In this clause 16, words and expressions which are not defined in this Agreement, but which have a defined meaning in the GST Law have the same meaning as in the GST Law.

16.2 GST to be added to amounts payable

If GST is payable on a taxable supply made under, by reference to or in connection with this Agreement, the Party providing the consideration for that Taxable Supply must also pay the GST Amount as additional consideration. This clause does not apply to the extent that the consideration for the Taxable Supply is expressly agreed to be GST inclusive, unless otherwise expressly stated, prices or other sums payable or consideration to be provided under or in accordance with this Agreement are exclusive of GST.

16.3 Tax invoice

If a Party is liable for GST on any payments made under this Agreement, the other Party must issue a Tax Invoice (or an adjustment note) to the liable party for any GST payable under this Agreement within seven days of a written request. The Tax Invoice (or adjustment note) must include the particulars required by the GST Law to obtain an input tax credit for that GST.

16.4 GST obligations to survive termination

This clause 16 will continue to apply after expiration of termination of this Agreement.

17. General**17.1 Relationship between Parties**

- (a) Nothing in this Agreement will be construed or interpreted as:
 - (i) Constituting the relationship between the parties as that of a partnership, joint venture or fiduciary relationship; or
 - (ii) except as expressly provided, makes a Party an agent of another Party for any purpose.
- (b) A Party cannot in any way or for any purpose:
 - (i) bind another Party; or
 - (ii) contract in the name of another Party.
- (c) If a Party must fulfil an obligation and that Party is dependent on another Party, then that other Party must do each thing reasonably within its power to assist the other in the performance of that obligation.

17.2 Time for doing acts

- (a) If the time for doing any act or thing required to be done or a notice period specified in this Agreement expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5pm on the specified day, it is taken to have been done on the following Business Day.

17.3 Further acts

Each Party must promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the arrangements recorded in this Agreement.

17.4 Variation

A provision of this Agreement can only be varied by a later written document executed by or on behalf of all Parties.

17.5 Counterparts and electronic execution

- (a) This Agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument. An executed counterpart may be delivered as a scanned pdf file attached to an email.
- (b) This Agreement is binding on the parties on the exchange of executed counterparts. A copy of an original executed counterpart sent by email:
 - (i) must be treated as an original counterpart;
 - (ii) is sufficient evidence of the execution of the original; and

(iii) may be produced in evidence for all purposes in place of the original.

- (c) A party may sign this Agreement electronically and bind itself accordingly. In addition, the intention is to print it out when so signed so that where a party prints it out, the first print-out by a party after all signatories who are signing have done so, will also be an executed original counterpart of this Agreement. Each signatory confirms that their signature appearing in this Agreement, including any such print-out (irrespective of which party printed it), is their personal signature.
- (d) A party which has executed a counterpart of this Agreement or its solicitor may exchange it with another party by sending a copy of that original executed counterpart by email to that other party or its solicitor and if requested by that other party or its solicitor must promptly deliver that original by hand or post. Failure to make that delivery does not affect the validity of this Agreement.

17.6 Entire Agreement

The contents of this Agreement constitute the entire Agreement between the Parties and supersede any prior negotiations, representations, understandings or arrangements made between the Parties regarding the subject matter of this Agreement, whether orally or in writing.

17.7 Invalidity

- (a) A word or provision must be read down if:
 - (i) this Agreement is void, voidable, or unenforceable if it is not read down;
 - (ii) this Agreement will not be void, voidable or unenforceable if it is read down; and
 - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
 - (iv) despite the operation of clause 1.1(a), the provision is void, voidable or unenforceable if it is not severed; and
 - (v) this Agreement will be void, voidable or unenforceable if it is not severed.
- (c) The remainder of this Agreement has full effect even if clause 17.7(iv) or 17.7(v) applies.
- (d) Clause 17.7(b) does not apply where the provision to be severed would materially adversely affect the nature or extent of a party's obligations under this Agreement.

17.8 Waiver

A right or remedy created by this Agreement cannot be waived except in writing signed by the Party entitled to that right. Delay by a Party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a Party of a right operate as a subsequent waiver of the same right or of any other right of that Party.

17.9 Governing law and jurisdiction

- (a) The Laws applicable in New South Wales govern this Agreement.
- (b) The Parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

17.10 Representations and warranties

The parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

17.11 Explanatory Note

The explanatory note exhibited with this Agreement and attached at Schedule 2 must not be used to assist in construing this Agreement.

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Schedule 1

Requirements under Section 7.4 of the Act

The Parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of the Planning Agreement complying with the Act.

Requirement under the Act	This Planning Agreement
Planning instrument and/or development application – [Section 7.4 (1)]. The Developer has:	
(a) sought a change to an environmental planning instrument	No
(b) made, or proposes to make, a development application	Yes
(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies	No
Description of the land to which this Planning Agreement applies- [Section 7.4 (3)(a)]	See the definition of “Land” in clause 1.1.
Description of the development to which this Planning Agreement applies – [Section 7.4 (3)(b)]	See the definition of “Development” in Clause 1.1.
The scope, timing and manner of delivery of Development Contributions required by this document – [Section 7.4 (3)(c)]	See clause 5 of this Agreement.
Applicability of Section 7.11 (an amenity or services contribution) and Section 7.12 (a fixed development levy) and 7.1, subdivision 4, of the Act – [Section 7.4 (3)(d)]	See clause 8(a) of this Agreement.
Consideration of benefits under this Planning Agreement if section 7.11 applies – [Section 7.4 (3)(e)]	See clause 8(b) of this Agreement
Mechanism for Dispute resolution – [Section 7.4 (3)(f)]	See clause 9 of this Agreement.
Enforcement of this document – [Section 7.4 (3)(g)]	See clause 10 of this Agreement.
No obligation to grant consent or exercise functions – [Section 7.4 (9) and 7.4(10)]	See clause 13 of this Agreement.

Schedule 2: Explanatory Note

Tritton Resources Pty Ltd

and

Bogan Shire Council

Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the proposed Planning Agreement (**Planning Agreement**) prepared under Subdivision 2 of Division 7.1 of Part 7 of the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**). For the avoidance of doubt, this Explanatory Note does not form part of the Planning Agreement and does not bind any of the Parties.

This explanatory note has been prepared in accordance with section 205 of the *Environmental Planning and Assessment Regulation 2021* (NSW) (**Regulation**) and the Planning Agreements Practice Note and its contents have been agreed by the parties. It will be exhibited with a copy of the Agreement when the Agreement is made available for inspection by the public in accordance with the Act, as specified by section 205 of the Regulation.

Parties to the Planning Agreement

The Parties to the Planning Agreement are Bogan Shire Council (**BSC**) and Tritton Resources Pty Ltd, a subsidiary of Aeris Resources Limited (the **Developer**).

The Developer has made an offer to enter into the Planning Agreement in connection with a State Significant Development (SSD-41579871) for the development of the Constellation Project (**Development**). That offer has been accepted by BSC.

Description of the Subject Land

The subject land to which this planning agreement applies is specified in the Development Consent.

The site of the Development is a greenfield location in a rural setting and is to occur on two freehold properties. These properties are identified as the 'Okeh' property (including Lot 4 of DP751341 and Lot 9 of DP751321) and the 'Windella' property (being Lot 10 of DP 751321). The Project site is sparsely vegetated, with the current land use being sheep grazing and some dryland wheat cropping. The proposed Project surface disturbance area is approximately 170 ha. The Project mine area is within exploration leases (EL) 6126, EL8987 and EL8084 held by Tritton Resources Pty Ltd.

Description of the Proposed Development

The Developer, a subsidiary of Aeris Resources Limited, is a mid-tier base and precious metals producer.

The Developer has been granted development consent for the development of the Constellation Project, a new, small open-cut copper mine which will operate for approximately ten years. An underground mine for the Constellation deposit will also be developed.

The anticipated mine life is approximately 16 years. This includes an estimated one-year construction period, ten years of mining operations and five years of decommissioning and rehabilitation activities.

The ore to be processed over the life of the Project is estimated to be 2.4 Mt from the open cut mine and 3.6 Mt from the underground mine.

The Project will provide continued employment to existing Tritton Copper Operations personnel. It will provide an average of approximately 178 full-time equivalent jobs for employees and contractors during operations. Additionally, approximately 95 full-time equivalent contractors will be required during the 12-month construction phase of the Project.

Capital investment for the Project will be approximately \$120 million over the life of the mine.

Operational traffic movements and deliveries to the Project mine site will be via Okeh Road, with a new section of road proposed to be constructed between the Mitchell Highway and Okeh Road.

Project ore will be transported by road to the Tritton processing plant at the Tritton Copper Mine using existing public road infrastructure and Developer-owned roads.

Haul vehicles will be AB triple road trains with approximately 70-tonne payloads or B double trucks with approximately 50-tonne payloads. Operational traffic movements will be up to 82 truck movements per day. Concentrate from Tritton will be trucked to Hermidale rail siding and loaded onto rail to Newcastle Port.

Water supply for the Project will be sourced from direct rainfall, catchment runoff, groundwater inflows, and transfer via a water pipeline between Murrawombie Copper Mine and the Project site (in the infrastructure corridor). Project water demands will be managed within existing water licences held by the Developer.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement provides that the Developer wishes to make, and BSC wishes to receive, Development Contributions for the provision of public benefits to the residents, ratepayers and communities that live in the district associated with the project. The monetary contribution has been calculated as 1% of the proposed cost of carrying out the Development [based on an Estimated Development Cost (EDC) Report]. The quantum is subject to indexation in accordance with the Planning Agreement (**Contributions**).

Subject to this Agreement, the Developer will make the Development Contributions to BSC as follows:

- i. Total contributions calculated as the final Estimated Development Cost (EDC) multiplied by 1%. The EDC is contained in the Final EDC Report tabled at the time the Final Investment Decision is made by the Developer;
- ii. The Annual Development Contributions shall be calculated as the EDC divided by eleven years (that is, the expected construction and operational life of the Project,
- iii. The provisions in (i) and (ii) above assume that the Project will cease mining operations and ore processing within eleven years of commencement of payment of the Annual Development Contributions. If the Project continues to operate beyond 11 years, then Annual Development Contributions will continue to be paid at an agreed rate consistent with the provisions of Clause 12, until mining operations and ore processing cease, or until a Modified Project is approved and the EDC for that modified project reflects a different quantum as being required for payment. The final year's payment will be on a pro rata basis.
- iv. The Contribution will be indexed by CPI from the date of the Financial Investment Decision; and.
- v. The Council will seek input from the Developer to assist it in its decision making on the allocation of the Development Contributions.

The Development Contributions will be allocated by Council to Public Purpose Projects, including community enhancement projects and Council's designated Work Programs such as the Allied Health, Youth Worker and Bushcare programs.

For clarity, the Development Contributions are not to be used for funding road upgrades or road maintenance works associated with the Development. A separate Road User Agreement will stipulate the funds to be provided by the Developer necessary for both Project-related road upgrades prior to the commencement of the Development and subsequent annual road maintenance.

Assessment of Merits of Planning Agreement

The Public Purpose of the Planning Agreement

In accordance with section 7.4(2) of the Act, the Planning Agreement has the following public purpose:

- The provision of (or recoupment of the cost of providing) public amenities or public services;
- The provision of (or recoupment of the cost of providing) transport or other infrastructure relating to land.
- The funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure;
- The conservation or enhancement of the natural environment.

BSC and the Developer are of the view that the provisions of the Planning Agreement provide a reasonable means of achieving a positive public purpose(s) because it provides for the Developer to make appropriate ongoing payments towards the provision of infrastructure, facilities and services.

The public purposes for which the Contribution may be used for or applied towards, may include, but is not limited to, items included in BSC's capital works program.

The Impact of the Planning Agreement on the Public or any Section of the Public

The Planning Agreement will benefit the public and local communities through the delivery of a public purpose(s) and material public benefit(s).

How the Planning Agreement Promotes the Public Interest

The Planning Agreement promotes the public interest by committing the Developer to make monetary contributions towards a public purpose.

How the Planning Agreement Promotes the Objects of the Act

The Planning Agreement promotes the public interest by promoting the objects of the Act, in particular:

- to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources;
- to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment; and
- to promote the orderly and economic use and development of land.

The Planning Agreement promotes these objects of the Act by requiring the Developer to make monetary contributions towards public purposes.

Requirements in relation to Construction, Occupation and Subdivision Certificates

Clause 5 of the Planning Agreement sets out the timing for the payment of the Development Contributions.

Given the nature of the Development, the Planning Agreement does not specify any requirements that must be complied with prior to the issue of any Subdivision Certificate, Construction Certificate or Occupation Certificate.

Interpretation of Planning Agreement

This Explanatory Note must not be used to assist in construing the Planning Agreement.

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Signing page

EXECUTED as a Deed.

SIGNED, SEALED AND DELIVERED by
Tritton Resources Pty Ltd ACN 100 095 494
 in accordance with section 127 of the
Corporations Act 2001 (Cth) by:

 Signature of director

 Signature of director/company secretary
 (Please delete as applicable)

 Full name (PRINT)

 Full name (PRINT)

 Date

 Date

SIGNED, SEALED AND DELIVERED
 by the authorised delegate for **Bogan Shire**
Council ABN 68 886 242 083

 Signature of authorised delegate

 Signature of witness

 Full name (PRINT)

 Full name of witness (PRINT)

 Date

 Date

10.3 NYNGAN EMERGENCY BORE

1. Introduction

The purpose of this report is to provide Council with new information concerning the Nyngan Emergency Bore and to seek direction on further action.

2. Background

The report to Council on 27 February 2025 in this regard, a copy of which is provided as Attachment 1, and previous reports refer.

Councillors will recall that, in 2021, Council's application to the Natural Resources Access Regulator for a water supply works approval was declined. The reason given (refer Attachment 2), was that:

“Clause 37 (3) of the Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020 states “A water supply work approval must not be granted or amended if the water supply work is located within – (a) 200 metres 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 consent in writing.”

The neighbouring landowner has not provided consent in writing to the bore. Consequently, the Natural Resources Access Regulator cannot grant the application for the approval.”

At its meeting on 27 February 2025 Council resolved (012/25) to engage with objecting landholders and, in the absence of agreement with them, proceed with Option 3 presented to Council - the installation of a new bore that meets the boundary proximity requirements of the Water Sharing Plan:

Option 3 - Seek tenders for the Nyngan Emergency Bore project as now proposed by NSW Public Works with the following scope of works:

- i. Installation of a new bore, with power supply, in the vicinity of the current bore that meets the boundary proximity requirements of the Water Sharing Plan.*
- ii. Installation of pipeline from the new bore site to Nyngan*
- iii. Project design, project management and other associated costs*

As Councillors will be aware, design work for the pipeline and tender processes are under way.

3. Discussion

Councillors will recall that the 27 February 2025 report to Council referred to the NSW Government's proposed amendments to the Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020.

Council has now been advised that these amendments, dated 3 October 2025, are now in effect (Attachment 3).

The amendments include a modification to Clause 37(4)(d) which now conditionally excludes the requirement for the owner of the landholding adjoining the boundary to provide consent where the water supply work is within 200 metres of the boundary of the landholding. This is subject to the Minister being satisfied that “the location of the water supply work at a lesser distance than that specified in subclauses (1) – (3) would result in no more than a minimal detrimental effect on the ability of a person to take water using an existing approved water supply work and any associated access licences.”

This amendment appears to provide an avenue for Council to make application for water supply work approval on the original emergency bore site.

As stated in the February 2025 Report, this would remove the risk that the same quality and quantity of water may not be present at the new, second site and would save approximately \$450,000 in drilling costs.

Council has the option of:

- (a) Proceeding with the drilling of the second bore in keeping with resolution 012/25. This site will still require regulatory approval, or
- (b) Making application through the required processes for the Minister to exercise their discretion under the modified Clause 37(4)(d) to permit approval of the water supply work on the original bore site for the Nyngan Emergency Bore.

Should Council resolve to pursue option (ii) above it is recommended that application processes and investigations for the second bore site continue as a contingency measure in case approval for the first site is not given so as not to jeopardise the project delivery.

4. Attachments

- 1. Report to Council 27 February 2025
- 2. Natural Resources Access Regulator determination
- 3. Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020 - 3 October 2025

5. Recommendation

- 1. For Council's consideration.

10.2 NYNGAN EMERGENCY BORE AND PIPELINE

Click or tap here to enter text.

1. Introduction

The purpose of this report is for Council to consider three options in relation to the proposed Nyngan Emergency Bore and Pipeline

2. Background

Project Initiation

Towards the end of the last drought Council obtained funding from the NSW Government for the investigation of a groundwater source east of Nyngan. In early 2020 a test bore site on the Old Warren Rd, chosen for its proximity to electrical infrastructure, yielded good results. In 2020/21 the NSW Government provided funding for the commissioning of the bore and a pipeline in to Nyngan.

Following approval of a Water Access Licence in November 2020, Council was advised by the Natural Resource Access Regulator in December 2021 that it had been unsuccessful in obtaining the required approval to convert the test bore into a production bore due to its proximity to an adjacent property boundary. Under the provisions of the Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020, a water supply work approval cannot be granted without the consent of the adjoining landowner if the work is located within 200 metres of the respective property boundary. Council was not able to obtain this consent during the application process.

A report was presented to Council in December 2021 seeking direction on whether or not to progress preliminary work (eg pipeline design).

At this meeting Council resolved (339/2021):

“that Council make no decision at this point pending the outcome of the NRAR determination and any subsequent review processes that might be necessary.”

A second report was presented to Council in February 2022 providing updated information, in particular the refusal of Council's application and the matter of the adjacent boundary and seeking direction from Council.

At this meeting Council resolved (015/2022):

“that Council seek to engage with the relevant landholder via a meeting with the Mayor, Deputy Mayor, General Manager, Director of Engineering Services, to gain the Landholder consent to Councils water Supply works and report back to the next council meeting.”

This engagement was not successful.

Ordinary Council Meeting Agenda

27 February 2025

A third report was presented to Council in May 2022 to provide updated information and to seek direction from Council on a possible approach to the Minister for Water.

At this meeting Council resolved (121/2022) that

“Council proceed with the installation of the emergency bore at the existing site.”, and (122/2022) that

- 1. Council accepts the grant offer for the Nyngan emergency bore and associated infrastructure and proceeds with the installation of the pipeline and whatever other infrastructure can lawfully be constructed.*
- 2. Council notes, that permission from the Minister for Water would be required under Section 39A of the Water Management (General) Regulation 2018 to operate the bore for emergency Bogan Shire town water supply (Nyngan, villages and domestic supply to rural properties), under drought conditions.*
- 3. Council notes that extraction of water is limited to 200ML/year and is to be used for Bogan Shire town water supply only.*
- 4. Council seeks advice from the Minister for Water, as to a mechanism for periodic extraction of water for maintenance purposes, given that it is understood that Council is unable to lawfully extract water from the bore at this stage.*

Direction from NSW Government

Following this resolution, a letter was written to Minister for Lands and Water, Kevin Anderson seeking the advice referred to in part 4 of resolution 122/22 as a precursor to carrying out part 1 of the resolution.

The following timeline details actions by Bogan Shire Council since then to progress this matter:

July 2022

- As there had been no response from Minister for Lands and Water the matter was raised with Scott Barrett, Deputy Government Whip during a visit to Nyngan.

August 2022

- Follow up email sent to Scott Barrett

September 2022

- Follow up email sent to Scott Barrett

October 2022

- No response from Minister for Lands and Water. The matter was raised with Minister for Western NSW, Dugald Saunders during a visit to Nyngan.

Ordinary Council Meeting Agenda

27 February 2025

December 2022

- Email to Minister for Western NSW confirming that there had been no response from Minister for Lands and Water.

February 2023

- Matter raised with Minister Anderson during site visit to off-river storages
- Further letter to Minister Anderson, requesting additional funding based on advice from Public Works.
- Response from Minister Anderson stating that he was awaiting advice from the Department of Planning and Environment on potential amendments to the Water Sharing Plan within its current term.
- Response from Department of Planning and Environment advising that no further funding was available for the Nyngan Pipeline to Town Bore project.
- Council resolved (010/2023)

“that Council vote for a 200ml pipe instead of 375ml pipe, on the basis of water consumption” – a smaller diameter pipe which would be less costly.

June 2023

- Letter to new Minister for Water, Rose Jackson apprising her of the situation and seeking advice on further funding, the Water Sharing Plan amendments and/or an alternative solution.

August 2023

- Response from Minister Jackson advising Council that:
 - i. The Department of Planning and Environment had drafted an amendment to the Water Sharing Plan for public consultation.
 - ii. That no further funding was available.

From the Department’s website at the time, it was understood that the outcome of the public consultation and, potentially, an amended Water Sharing Plan would be announced in August 2024.

October 2024

- Enquiries with the Department on progress with the Water Sharing Plan amendments indicated that an amended / updated Water Sharing Plan was not likely in the near future.

November 2024

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- Letter to Minister Jackson asking for an updated indication of when the Plan amendment might be finalised as well as confirmation of the date by when grant funding has to be spent.
- Response from Minister Jackson stating that:
 - i. A report on public consultation would be publicly released following which the Department would make a recommendation to the Minister on whether to proceed with the amendment or not. This recommendation is expected by April 2025.
 - ii. Funding is available until June 2026.

3. DiscussionProposed Works

Public Works have now verbally advised Council that works should commence as soon as possible to avoid the risk of not completing them by June 2026. This is particularly important should Council decide to establish a second bore in the vicinity of the existing bore given the timeframes of the regulatory processes involved.

A revised grant funding deed has been received from the Department of Climate Change, Energy, the Environment and Water (DCCEEW) with the following project milestones as a condition of funding:

Milestone Name	Finish Date
Options assessment and selection of preferred Scope of Works for Emergency Bore Supply	20/03/2025
Award of first tender	30/09/2025
Preferred Option complete	31/12/2025

Public Works have estimated that the remaining funding could be used as follows:

- Drilling of new bore \$450,000
- Bore testing and obtaining license \$100,000
- Power supply \$100,000
- Pipeline \$3,010,875
- Design and project management \$400,000

Public Works have advised that the bore pumps and commissioning could not be funded and are expected to cost approximately \$800,000 at current rates.

Project Funding

Item 10.2

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DCCEEW has confirmed that they are still prepared to fund works up to the limit of the grant funding, even though this does not deliver a complete bore project as originally envisaged.

Council then has the option of (a) finding the shortfall by way of a loan which would put additional pressure on our Water Service to fund the repayments – with flow on effects for water charges paid by consumers – or (b) to approach the NSW Government at some future time for the funding.

Concerns from local landowners

During the bore approval process, Council received correspondence from some landowners in the vicinity of the test bore raising concerns about the potential impact of the proposed bore on their own bores / water sources.

With respect to the impact Council's bore and extraction for town water supply would have on neighbouring bores, the NSW Government's own Groundwater Assessment Advice Report – contained in the report to Council on 26 May 2022 - (Attachment 1) is relevant. In particular, the statements in the Summary of Reassessment paragraph on page 9 including *"Therefore an extraction of 200ML/y from the Council's bore would not cause any significant impact on the bores in the assessment area."*, and *"The council's bore could be pumped at 8L/s continuously to extract 200ML every year consecutively for seven years without breaching the limits of acceptable impact on the nearby bores."*

Additional concerns were raised concerning the extraction of water for other purposes from this bore which may have an impact on surrounding bores and water sources. In response Council passed the following resolution (122/2022) as Council Policy:

"Extraction of water is limited to 200ML/year and is to be used for Bogan Shire town water supply only."

This is understood to include the township of Nyngan, the villages of Hermidale, Girilambone and Coolabah as well as potable water supply to rural properties for domestic purposes.

Council's Options

Considering the funding deadline and with the knowledge that it seems unlikely that Bogan Shire Council will be able to lawfully extract water from the existing bore for maintenance purposes – at least in the immediate future - (even though authority under Section 39A would permit extraction during drought conditions according to NRAR), Council is now faced with deciding on one of the following:

- Option 1 - Abandon the Nyngan Emergency Bore project and return unused grant funding to the NSW Government.
- Option 2 - Endorse Part 1 of Resolution 122/2022 infrastructure and proceed with the installation of the pipeline between the bore site and Nyngan and whatever other infrastructure can lawfully be constructed. Council notes that it is currently unable to lawfully extract water from the bore for maintenance purposes but is likely to obtain

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Ministerial exemption under clause 39A of the Water Management (General) Regulation 2018 to extract water under drought conditions.

- Option 3 - Seek tenders for the Nyngan Emergency Bore project as now proposed by NSW Public Works with the following scope of works:
 - i. Installation of a new bore, with power supply, in the vicinity of the current bore that meets the boundary proximity requirements of the Water Sharing Plan.
 - ii. Installation of pipeline from the new bore site to Nyngan
 - iii. Project design, project management and other associated costs

Each of the above Options has implications.

- Option 1 - Whilst water security has improved with the construction of the off stream emergency storages, there is no backup supply for Nyngan town and villages should the volume stored be depleted.
- Option 2 - Council would not be able to commission the pipeline (and other lawfully constructed infrastructure) and is reliant on Ministerial exemption, sourcing the pump(s), electrical connection, and funding during a drought.
- Option 3 - Council will need to recommence the application/approval process, and there is a risk that the same quality and quantity of water may not be present at the new site.

This risk is ameliorated somewhat by the following statement in a recent hydrogeologist's report commissioned by Public Works (Attachment X) which states in Section 4 that:

"From a hydrogeological perspective, if a new bore is drilled at least 120m to the west-southwest of the Test Bore GW807481 (as to satisfy Clause 37(3)(a) so that the distance is >200m from a private property boundary ... it is highly likely that relatively similar aquifer conditions would exist to that of the Test Bore GW807481 (i.e. similar Pilliga Sandstone aquifer depth/thickness, similar aquifer transmissivity, similar bore yields and similar water quality)."

This Section also contains comments regarding the implications of drilling a bore further to the west, including impacts on other bores.

Notwithstanding the risk of not finding water of the same quality and quantity, if water is in fact located and approvals granted Council would have an operational system that extends close to Nyngan with a likelihood of further funding to complete the project when circumstances permit.

4. Attachments

1. NSW Government Groundwater Assessment Advice - 2021

5. Recommendation

For Council's consideration



Natural Resources
Access Regulator

8 December 2021

General Manager
Bogan Shire Council
PO Box 221
NYNGAN NSW 2825

Natural Resources Access Regulator
Locked Bag 5123,
Parramatta NSW 2124
T 1800 633 362
www.dpie.nsw.gov.au/nrar

Email: Graeme Bourke – Director Engineering Services
graeme.bourke@bogan.nsw.gov.au

Dear Mr Bourke

Bogan Shire Council's application A023215 for a water supply work approval

This purpose of this letter is to notify Bogan Shire Council that the Natural Resources Access Regulator has determined to refuse to grant an approval to construct a water supply work under section 95 of the *Water Management Act 2000*. Section 95 (3) states that "An approval must not be granted in contravention of the provisions of any relevant management plan."

As previously advised, clause 37 (3) of the Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020 states "A water supply work approval must not be granted or amended if the water supply work is located within – (a) 200 metres 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 consent in writing."

The neighbouring landowner has not provided consent in writing to the bore. Consequently, the Natural Resources Access Regulator cannot grant the application for the approval.

Right of Appeal: If Council is dissatisfied with this decision, section 368 (1) of the *Water Management Act 2000* gives Council the right to appeal to the Land and Environment Court within 28 days after the date of determination.

Any questions regarding this correspondence should be directed to Jeanette Nestor on 0408 338 501 or jeanette.nestor@nrar.nsw.gov.au.

Yours sincerely

Estelle Avery

Senior Water Regulation Officer
Licensing & Approvals

Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020



Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020

under the

Water Management Act 2000

Status information

Currency of version

Current version for 3 October 2025.

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Notes.

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

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020 (this Plan)*.

2 Nature and status of Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000 (the Act)*.
- (2) This Plan is a plan for water sharing and generally deals with 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 2020.

Notes.

- 1 This Plan replaces the *Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2008*.
- 2 In accordance with section 43 of the Act, this Plan will have effect for 10 years from 1 July 2020. In accordance with section 43A of the Act, the Minister may extend this Plan for a further period of 10 years after it is due to expire.

4 Application of Plan

- (1) This Plan applies to the following water sources known as the NSW Great Artesian Basin Groundwater Sources within the Border Rivers Water Management Area, Gwydir Water Management Area, Namoi Water Management Area, Central West Water Management Area and Western Water Management Area (*the groundwater sources*):
 - (a) the Central Groundwater Source,

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- (b) the Eastern Recharge Groundwater Source,
- (c) the Southern Recharge Groundwater Source,
- (d) the Surat Groundwater Source,
- (e) the Warrego Groundwater Source.

Note. The Border Rivers Water Management Area, Gwydir Water Management Area, Namoi Water Management Area, Central West Water Management Area and Western Water Management Area were 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 boundaries of the groundwater sources are shown on the *Plan Map (WSP040_Version 2) Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020 (the Plan Map)*, held by the Department.

Notes.

- 1 The Plan Map shows the extent of the groundwater sources. The extent of the groundwater sources below the surface of the ground is described in subclauses (3) – (5).
- 2 The Plan Map is part of this Plan and is available on the Department's website. An overview of the Plan Map is shown in Appendix 1.

- (3) Subject to subclause (5), the waters in the Southern Recharge Groundwater Source and the Eastern Recharge Groundwater Source comprise all water contained within:

- (a) all rocks of Cretaceous, Jurassic and Cenozoic age, and
- (b) all unconsolidated alluvial sediments below the surface of the ground

within the boundaries of the Southern Recharge Groundwater Source and the Eastern Recharge Groundwater Source shown on the Plan Map.

Note. *Unconsolidated alluvial sediments* is defined in the Dictionary.

- (4) Subject to subclause (5), the waters in the Surat Groundwater Source, the Warrego Groundwater Source and the Central Groundwater Source comprise all water contained within all rocks of Cretaceous and Jurassic age at a depth of more than 60 metres below the ground level within boundaries of the Surat Groundwater Source, the Warrego Groundwater Source and the Central Groundwater Source shown on the Plan Map.

- (5) The groundwater sources do not include any water contained in the following:

- (a) the water sources to which the *Water Sharing Plan for the Darling Alluvial Groundwater Sources 2020* applies,

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- (b) the water sources to which the *Water Sharing Plan for the Gwydir Alluvial Groundwater Sources 2020* applies,
 - (c) the water sources to which the *Water Sharing Plan for the Macquarie-Castlereagh Groundwater Sources 2020* applies,
 - (d) the water sources to which the *Water Sharing Plan for the Namoi Alluvial Groundwater Sources 2020* applies,
 - (e) the water sources to which the *Water Sharing Plan for the NSW Border Rivers Alluvial Groundwater Sources 2020* applies,
 - (f) the water sources to which the *Water Sharing Plan for the NSW Great Artesian Basin Shallow Groundwater Sources 2020* applies,
 - (g) the water sources to which the *Water Sharing Plan for the NSW Murray Darling Basin Fractured Rock Groundwater Sources 2020* applies,
 - (h) the water sources to which the *Water Sharing Plan for the NSW Murray Darling Basin Porous Rock Groundwater Sources 2020* applies,
 - (i) the water sources to which the *Water Sharing Plan for the Castlereagh Unregulated River Water Sources 2024* applies.
- (6) The high priority groundwater-dependent ecosystems for the purposes of this Plan are:
- (a) shown on the *High Priority Groundwater-Dependent Ecosystem Map (GDE025_Version 1)*, *Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020* (the ***High Priority Groundwater-Dependent Ecosystem Map***), held by the Department, or
 - (b) identified in Schedule 2.

Notes.

- 1 **Groundwater-dependent ecosystem** is defined in the Dictionary.
- 2 The High Priority Groundwater-Dependent Ecosystem Map is part of this Plan and is available on the Department's website. An overview of the High Priority Groundwater-Dependent Ecosystem Map is shown in Appendix 2.
- 3 A map of the high priority groundwater-dependent ecosystems identified in Schedule 2 is shown in Appendix 3.

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 to this Plan have the meaning set out in the Dictionary.

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- (3) Unless otherwise specified in this Plan, a clause that applies to a category of access licence also applies to any subcategories of that category of access licence.
- (4) The Dictionary and Schedules to this Plan form part of this Plan.
- (5) The Plan Map and the High Priority Groundwater-Dependent Ecosystem Map form part of this Plan.
- (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.

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Part 2 Vision, objectives, strategies and performance indicators

Notes.

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

6 Acknowledgement

Respect is paid to the traditional owners of this country, who are acknowledged as the first natural resource managers within the Border Rivers Water Management Area, Gwydir Water Management Area, Namoi Water Management Area, Central West Water Management Area and Western Water Management Area.

7 Vision statement

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

- (a) the protection of the condition of the groundwater sources and their dependent ecosystems,
- (b) the continuing productive extraction of groundwater for economic benefit,
- (c) the social and cultural benefits to urban and rural communities that result from groundwater extraction,
- (d) the spiritual, social, customary and economic benefits of groundwater to Aboriginal communities.

8 Environmental objectives

- (1) The broad environmental objective of this Plan is to protect the condition of the groundwater sources and their groundwater-dependent ecosystems over the term of this Plan.
- (2) The targeted environmental objectives of this Plan are as follows:
 - (a) to protect the extent and condition of high priority groundwater-dependent ecosystems,
 - (b) to contribute to the maintenance of salinity levels within water quality target ranges that support high priority groundwater-dependent ecosystems,
 - (c) to contribute to the prevention of structural damage to an aquifer of the groundwater sources resulting from groundwater extraction.

Note. *Structural damage to an aquifer* is defined in the Dictionary.

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- (3) The strategies for reaching the targeted environmental objectives of this Plan are as follows:
- (a) reserve all water for the environment in excess of the limits to the availability of water,
Note. Part 4 reserves all water remaining above the long-term average annual extraction limits for the environment.
 - (b) manage extractions under access licences and basic landholder rights within the limits to the availability of water,
Note. Part 6 manages extraction of groundwater within the long-term average annual extraction limits.
 - (c) manage the construction and use of water supply works to minimise impacts on high priority groundwater-dependent ecosystems and groundwater quality,
Note. Part 9 sets provisions that manage the location, construction and use of water supply works to prevent impacts on high priority groundwater-dependent ecosystems and from sources of contaminated water.
 - (d) reduce the volume of water lost through inefficient infrastructure by phasing out the use of bore drains in the exercise of basic landholder rights.
Note. This Plan includes provisions for the management of domestic and stock (conveyance) access licences which, when granted, are intended to be used in the management of inefficient water distribution systems.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad environmental objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted environmental objectives in subclause (2) are the changes in trends in ecological condition during the term of this Plan as assessed using one or more of the following:
- (a) the extent and recorded condition of high priority groundwater-dependent ecosystems,
 - (b) the recorded condition of target populations of high priority groundwater-dependent native vegetation,
 - (c) the recorded values of total dissolved solids,
- Notes.**
- 1 Total dissolved solids will be used as a measure of salinity levels.
 - 2 **Total dissolved solids** is defined in the Dictionary.

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- (d) the recorded values of groundwater levels and pressures,
 - (e) the extent of bore drains in use.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the environmental objectives,
 - (d) the extent to which external influences on the groundwater sources and their dependent ecosystems 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 provide access to groundwater to optimise economic benefits for groundwater-dependent businesses and local economies.
- (2) The targeted economic objectives of this Plan are as follows:
- (a) to provide groundwater trading opportunities for groundwater-dependent businesses,
Note. Trading is a generic term referring to dealings under Division 4 of Part 2 of Chapter 3 of the Act.
 - (b) to provide access to groundwater in the long term for groundwater-dependent businesses,
 - (c) to contribute to the maintenance of groundwater salinity levels within ranges that maintain a beneficial use category that supports groundwater-dependent businesses.
Note. Beneficial use category is defined in the Dictionary.
- (3) The strategies for reaching the targeted economic objectives of this Plan are as follows:

Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020

- (a) provide a clear framework for sharing water among water users,
Note. Part 6 provides certainty in how available water is determined and shared between individual access licence holders and different categories of access licences.
- (b) where possible and subject to assessment of local impacts, provide for flexibility of access to water and trade of water allocations and entitlements within the groundwater sources,
Notes.
 - 1 The account management provisions in Part 8, including those relating to the amount of water that may be carried over from one water year to the next, and the volume of water that can be taken in any water year, provide flexibility for water users.
 - 2 The provisions in Part 10 permit a variety of dealings within environmental and resource constraints, including assignment of rights under access licences and assignment of water allocations between access licences.
- (c) manage extractions to specified limits over the long term,
Note. Managing extractions to limits over the long term ensures the groundwater will be available for future beneficial economic uses.
- (d) manage the construction and use of water supply works to minimise impacts on groundwater pressures and groundwater quality.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad economic objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted economic objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted economic objectives in subclause (2) are the changes or trends in economic benefits during the term of this Plan as assessed using one or more of the following:
 - (a) the economic benefits of water extraction and use,
 - (b) the economic benefits of water trading as demonstrated by:
 - (i) the annual number or volume of share components of access licences transferred or assigned, and
 - (ii) the weighted average unit price of share components of access licences transferred or assigned, and
Note. *Weighted average unit price* is defined in the Dictionary.
 - (iii) the annual volume of water allocations assigned, and

Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020

- (iv) the weighted average unit price of water allocations assigned,
 - (c) the recorded values of total dissolved solids,
 - (d) the recorded values of groundwater levels and pressures.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
 - (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which the changes in the economic benefits of water extraction and use can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the economic objectives,
 - (d) the extent to which external influences on groundwater-dependent businesses have affected progress towards achieving the economic objectives.

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

10 Aboriginal cultural objectives

- (1) The broad Aboriginal cultural objective of this Plan is to maintain the spiritual, social, customary and economic values and uses of groundwater by Aboriginal people.
- (2) The targeted Aboriginal cultural objectives of this Plan are as follows:
 - (a) to provide access to groundwater in the exercise of native title rights,
 - (b) to provide access to groundwater for Aboriginal cultural use,
 - (c) to protect groundwater-dependent culturally significant areas,

Note. *Groundwater-dependent culturally significant area* is defined in the Dictionary.

 - (d) to contribute to the maintenance of groundwater salinity levels within existing ranges that support groundwater-dependent Aboriginal cultural values and uses.
- (3) The strategies for reaching the targeted Aboriginal cultural objectives of this Plan are as follows:
 - (a) manage access to groundwater consistently with the exercise of native title rights,

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- (b) provide for groundwater associated with Aboriginal cultural values and purposes,
Note. The provisions in Part 7 provide opportunities for Aboriginal people to access water by allowing for the granting of an aquifer access licence of the subcategory "Aboriginal cultural".
 - (c) manage extractions under access licences and basic landholder rights within the extraction limits,
Note. The provisions in Part 6 manage extraction of groundwater within the extraction limits for the groundwater sources. This helps to protect any culturally significant areas from damage associated with long-term declines in water levels.
 - (d) manage the construction and use of water supply works to minimise impacts on groundwater-dependent culturally significant areas and groundwater quality.
Note. The provisions in Part 9 manage the location, construction and use of water supply works to prevent impacts on culturally significant areas and from sources of contaminated water.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad Aboriginal cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted Aboriginal cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted Aboriginal cultural objectives in subclause (2) are the changes or trends in Aboriginal cultural benefits during the term of this Plan as assessed using one or more of the following:
- (a) the use of water by Aboriginal people, by measuring factors including:
 - (i) the extent to which native title rights are capable of being exercised, consistent with any determination of native title,
 - (ii) the extent to which access to water has contributed to the achievement of Aboriginal cultural outcomes,
 - (b) the extent to which Aboriginal people have considered the operation of this Plan to be beneficial to meeting their needs for groundwater-dependent Aboriginal cultural uses and values,
 - (c) the extent to which changes in the use of water by Aboriginal people can be attributed to the strategies in subclause (3) and the provisions in this Plan,
 - (d) the recorded values of total dissolved solids,
 - (e) the recorded values of groundwater levels and pressures.

Water Sharing Plan for the NSW Great Artesian Basin Groundwater Sources 2020

- (6) In evaluating the effectiveness of the strategies in meeting the Aboriginal cultural objectives in this clause, the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the Aboriginal cultural objectives,
 - (d) the extent to which external influences on the groundwater-dependent Aboriginal cultural activities have affected progress toward achieving the Aboriginal cultural objectives.

11 Social and cultural objectives

- (1) The broad social and cultural objective of this Plan is to provide access to groundwater to support groundwater-dependent social and cultural values.
- (2) The targeted social and cultural objectives of this Plan are as follows:
- (a) to provide for access to water for basic landholder rights, town water supply and licensed domestic and stock purposes,
 - (b) to provide for access to water for groundwater-dependent cultural and community purposes,
 - (c) to contribute to the maintenance of groundwater salinity levels within ranges that maintain a beneficial use category that supports groundwater-dependent community uses.
- (3) The strategies for reaching the targeted social and cultural objectives of this Plan are as follows:
- (a) provide groundwater for basic landholder rights, town water supply, and for licensed domestic and stock purposes,
Note. The provisions in Part 6 ensure that water is available for basic landholder rights, town water supply and licensed domestic and stock purposes.
 - (b) manage the construction and use of water supply works to minimise impacts on basic landholder rights and town water supply,
Note. Part 9 includes provisions that manage the location, construction and use of water supply works to minimise the impacts of extraction on groundwater supplies for basic landholder rights and towns.

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- (c) manage the construction and use of water supply works to minimise impacts on groundwater quality.
Note. Part 9 includes provisions that manage the location, construction and use of water supply works to prevent contamination impacts on groundwater quality.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad social and cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted social and cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted social and cultural objectives in subclause (2) are the changes or trends in social and cultural benefits during the term of this Plan as assessed using one or more of the following:
 - (a) the social and cultural uses of water during the term of this Plan, by measuring factors including:
 - (i) the extent to which basic landholder rights and licensed domestic and stock purposes have been met, and
 - (ii) the extent to which local water utility access licence requirements have been met,
 - (b) the recorded values of total dissolved solids,
 - (c) the recorded values of groundwater levels and pressures.
- (6) In evaluating the effectiveness of the strategies in meeting the social and cultural objectives in this clause, the following will be relevant:
 - (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which the changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the social and cultural objectives,
 - (d) the extent to which external influences on social and cultural activities dependent on the groundwater sources during the term of this Plan have affected progress toward achieving the social and cultural objectives.

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

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Part 3 Bulk access regime

12 Bulk access regime

- (1) This Plan establishes a bulk access regime for the extraction of water under access licences, having regard to the following:
 - (a) the planned environmental water established under Part 4,
 - (b) the requirements for water to satisfy basic landholder rights identified under Part 5,
 - (c) the requirements for water for extraction under access licences identified under Part 5,
 - (d) the access licence dealing rules established under Part 10.
- (2) The bulk access regime:
 - (a) establishes rules, according to which:
 - (i) access licences are to be 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 to be 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 limits to the availability of water 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 to be imposed on access licences in Part 11.

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13 Climatic variability

This Plan recognises the effects of climatic variability on groundwater levels through provisions contained in Part 6 that manage the sharing of water within the limits of water availability on a long-term basis.

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

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Part 4 Environmental water provisions

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

14 General

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

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

15 Commitment and identification of planned environmental water

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

- (a) the long-term average annual commitment of water as planned environmental water,
- (b) 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 each of the groundwater sources as follows:

- (a) the long-term average annual commitment of water as planned environmental water, resulting from compliance with the limits to the availability of water in accordance with the provisions specified in Part 6,

Note. Groundwater sources generally store large volumes of water that may have accumulated over thousands of years. This stored water is also replenished from time to time by rainfall, river and flood flows, and through flow from other groundwater sources. The provisions in Part 6 ensure that there will be water remaining in the groundwater sources over the long term by maintaining compliance with the long-term extraction limits. The long-term extraction limits specified in Part 6 represent a small fraction of the water in the groundwater sources. The remaining water is planned environmental water.

- (b) the water remaining after water has been taken under basic landholder rights, access licences and any other rights under the Act, and the water that cannot be carried over from one water year to the next, in accordance with the provisions specified in Part 6 and Part 8.

Note. The provisions in Part 8 limit the amount of water allocation in a water allocation account for an access licence that can be taken from the groundwater sources in any one water year and, if permitted by Part 8, that can be carried over from one water year to the next water year. In addition to the water referred to in subclause (1) (a), subclause (1) (b) commits any unused water allocations that cannot be carried over for use in subsequent water years as planned environmental water.

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

Note. The rules in Part 9 also provide mechanisms to ensure that no more than minimal harm will be done to high priority groundwater-dependent ecosystems, groundwater-dependent culturally significant areas, groundwater quality and groundwater levels and pressures at a local scale as a result of the granting or amending of a water supply work approval.

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Part 5 Requirements for water

Division 1 General

17 Application

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

Notes.

- 1 The total share components of access licences in the groundwater sources may change during the term of this Plan as a result of:
 - (a) the grant, surrender or cancellation of access licences in the groundwater sources, or
 - (b) the variation of local water utility licences under section 66 of the Act.
- 2 Basic landholder rights requirements 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 groundwater in some areas unsuitable for some purposes or uses. Groundwater should not be consumed, or otherwise used, without first being tested and, if necessary, appropriately treated to ensure it is fit for purpose. Testing and treatment are 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 groundwater sources. Under the Act, basic landholder rights authorise the take of groundwater without the need for an access licence or water use approval, although a water supply work approval is still required to construct a water bore.

18 Domestic and stock rights

On the commencement of this Plan, the water requirements of persons entitled to domestic and stock rights are estimated to total 44,500 megalitres per year (*ML/year*) and are distributed as follows:

- (a) 3,800 ML/year in the Central Groundwater Source,
- (b) 3,200 ML/year in the Eastern Recharge Groundwater Source,

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- (c) 13,500 ML/year in the Southern Recharge Groundwater Source,
- (d) 20,400 ML/year in the Surat Groundwater Source,
- (e) 3,600 ML/year in the Warrego Groundwater Source.

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.
- 4 These water requirements represent potential demand for domestic and stock purposes, which have been estimated based on stocking rates, human population and the number of properties in the groundwater sources.

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:

- (a) the native title determination for the Barkandji Traditional Owners #8 (Part A, National Native Title Tribunal references NCD2015/001), and
- (b) any other determination of native title, and
- (c) any indigenous land use agreement.

Notes.

- 1 A map of the native title determination area can be viewed by searching the National Native Title Tribunal website at www.nntt.gov.au.
- 2 This Plan may be amended if there is an additional or change to a native title determination in accordance with the *Native Title Act 1993* of the Commonwealth by which water is required.
- 3 This Plan may be amended if consultation with native title holders identifies more specific requirements for water to satisfy native title rights.
- 4 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 groundwater sources at the commencement of this Plan. The actual volume of water available from year to year will depend on climate, access licence priority and the provisions in this Plan.

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20 Share components of domestic and stock access licences

On the commencement of this Plan, it is estimated that the share components of domestic and stock access licences total 32 ML/year, distributed as follows:

- (a) 32 ML/year in the Eastern Recharge Groundwater Source,
- (b) 0 ML/year in all other groundwater sources.

21 Share components of domestic and stock (conveyance) access licences

On the commencement of this Plan, it is estimated that the share components of domestic and stock (conveyance) access licences total 0 ML/year.

22 Share components of local water utility access licences

On the commencement of this Plan, it is estimated that the share components of local water utility access licences total 6,736 ML/year, distributed as follows:

- (a) 25 ML/year in the Central Groundwater Source,
- (b) 0 ML/year in the Eastern Recharge Groundwater Source,
- (c) 3,066 ML/year in the Southern Recharge Groundwater Source,
- (d) 3,393 ML/year in the Surat Groundwater Source,
- (e) 252 ML/year in the Warrego Groundwater Source.

23 Share components of aquifer access licences

On the commencement of this Plan, it is estimated that the share components of aquifer access licences total 65,412 unit shares, distributed as follows:

- (a) 43 unit shares in the Central Groundwater Source,
- (b) 34,974 unit shares in the Eastern Recharge Groundwater Source,
- (c) 24,462 unit shares in the Southern Recharge Groundwater Source,
- (d) 5,527 unit shares in the Surat Groundwater Source,
- (e) 406 unit shares in the Warrego Groundwater Source.

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Part 6 Limits to the availability of water

Division 1 Limits

24 Long-term average annual extraction limits

- (1) The long-term average annual extraction limit for the Central Groundwater Source is the sum of the following:
- (a) 5,193 ML/year, plus
 - (b) the volume of water lost through the use of inefficient water distribution systems in the exercise of domestic and stock rights, as determined by the Minister, plus
 - (c) 30% of the water savings made under cap and pipe projects undertaken after the commencement of this Plan, as determined by the Minister.

Notes.

- 1 **Cap and pipe project** is defined in the Dictionary.
 - 2 The volume in subclause (a) represents the basic landholder right requirements in the groundwater source specified in Division 2 of Part 5, plus the licensed entitlements that existed in 2008, plus 30% of the water savings made under cap and pipe projects from 1999 to the commencement of this Plan.
 - 3 The water accounted for under subclause (b) is the uncontrolled flow from a bore that is in excess of the water used for domestic consumption and stock watering. Once the bore is capped and piped, this water will cease to be accounted for under subclause (b) and the long-term average annual extraction limit will reduce. However, the level of reduction will be equivalent to 70% of this saved water, with the remaining 30% accounted for under subclause (c).
- (2) The long-term average annual extraction limit for the Eastern Recharge Groundwater Source is 16,200 ML/year.
- (3) The long-term average annual extraction limit for the Southern Recharge Groundwater Source is 38,700 ML/year.
- (4) The long-term average annual extraction limit for the Surat Groundwater Source is the sum of the following:
- (a) 43,446 ML/year, plus
 - (b) the volume of water lost through the use of inefficient water distribution systems in the exercise of domestic and stock rights, as determined by the Minister, plus

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- (c) 30% of the water savings made under cap and pipe projects undertaken after the commencement of this Plan, as determined by the Minister.
- (5) The long-term average annual extraction limit for the Warrego Groundwater Source is the sum of the following:
 - (a) 8,816 ML/year, plus
 - (b) the volume of water lost through the use of inefficient water distribution systems in the exercise of domestic and stock rights, as determined by the Minister, plus
 - (c) 30% of the water savings made under cap and pipe projects undertaken after the commencement of this Plan, as determined by the Minister.

25 Calculation of annual extraction

The Minister is to determine the volume of water taken during a water year for each of the groundwater sources under the following entitlements (the *annual extraction*):

- (a) all categories of access licences,
- (b) basic landholder rights.

26 Assessment of compliance with long-term average annual extraction limits

- (1) The Minister is to undertake an assessment under this clause comparing the long-term average annual extraction limit for each of the groundwater sources against the average of annual extraction for the preceding five water years for the respective groundwater source.
- (2) There is non-compliance with a long-term average annual extraction limit if the average of annual extraction for a groundwater source in the preceding five water years exceeds the long-term average annual extraction limit for that groundwater source by 10% or more.

27 Compliance with limits

- (1) If an assessment for a groundwater source under clause 26 demonstrates non-compliance with the long-term average annual extraction limit, the Minister is to take any one or more of the following actions in the respective groundwater source:
 - (a) reduce the volume under clause 34(3)(a) relating to the maximum water account debit for aquifer access licences,

Note. *Water account debit* has the meaning set out in clause 34.

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- (b) make an available water determination for aquifer access licences in accordance with clause 32 of less than 1 megalitre (**ML**) per unit share of access licence share component.
- (2) Any action under subclause (1) is to be taken to the extent the Minister considers is necessary to return average annual extractions in the relevant groundwater source to the long-term average annual extraction limit.
- (3) If the Minister reduces a maximum water account debit under subclause (1) (a), the Minister may increase the maximum water account debit for aquifer access licences later in the water year, up to the limit specified in clause 34 (3).
- (4) If the Minister makes a reduced available water determination pursuant to subclause (1) (b), the Minister may make further available water determinations in the water year up to the limit specified in clause 28 (2).

Division 2 Available water determinations

Note. When making an available water determination at the commencement of a water year, the Minister may also make known the maximum water account debit for aquifer access licences under clause 34 for that water year, which can be reduced under Division 1 of this Part.

28 General

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

Note. If the Minister makes an available water determination of less than 1 ML per unit share of the access licence share component, the Minister may make further available water determinations during a water year, subject to subclause (2).

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29 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.

30 Available water determinations for domestic and stock (conveyance) 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 (conveyance) licences.

31 Available water determinations for local water utility access licences

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

32 Available water determinations for aquifer access licences

Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 1 ML per unit share is to be made for aquifer access licences.

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Part 7 Rules for granting access licences

Notes.

- 1 This Part is made in accordance with sections 61 of the Act. Section 61 of the Act provides for applications for specific purpose access licences in accordance with the regulations and the relevant water sharing plan.
- 2 Access licences in the groundwater sources 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.

33 Specific purpose access licences

- (1) The Minister must not grant a specific purpose access licence unless satisfied that the share and extraction components of the access licence are the minimum required for the proposed use.
- (2) A person may make an application for an aquifer (Aboriginal cultural) access licence only if the share component of the proposed access licence is no greater than 10 ML/year.
- (3) A person may make an application for an aquifer (Aboriginal community development) access licence only if the share component of the proposed access licence is no greater than 50 ML/year.
- (4) A person may make an application for a domestic and stock (conveyance) access licence for delivering water to be used for domestic consumption and stock watering only if, in the Minister's opinion, the water taken under the access licence is being conveyed through an inefficient water distribution system.
- (5) The Minister may only grant an aquifer (Aboriginal cultural) access licence if—
 - (a) 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

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- (b) any commercial benefit obtained by the taking or use of the water is only ancillary or incidental to the purpose for which the water was taken.

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

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Part 8 Operation of water allocation accounts

Notes.

- 1 Section 85 of the Act provides 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 persons:
 - (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.

34 Water allocation account debiting

- (1) For the purposes of this Plan, a **water account debit** means any water allocation that is taken, assigned under section 71T of the Act, or otherwise debited or withdrawn from a water allocation account.
- (2) For domestic and stock access licences, domestic and stock (conveyance) access licences and local water utility access licences, the maximum water account debit in a water year must not exceed the following:
 - (a) the sum of water allocations credited to the water allocation account for the access licence from available water determinations in that water year,
 - (b) plus any water allocations assigned to the water allocation account for the access licence under section 71T of the Act in that water year,
 - (c) plus any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act in that water year.
- (3) For aquifer access licences, the maximum water account debit in a water year must not exceed the following:
 - (a) 1.3 ML per unit share of the access licence share component or, if applicable, the lower volume made in accordance with clause 27,
 - (b) plus any water allocations assigned to the water allocation account for the access licence under section 71T of the Act in that water year,
 - (c) plus any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act in that water year.

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35 Limits on carryover

- (1) For a domestic and stock access licence, a domestic and stock (conveyance) access licence or a local water utility access licence, water allocations remaining in the water allocation account cannot be carried over from one water year to the next water year.
- (2) For an aquifer access licence, water allocations remaining in the water allocation account are to be carried over from one water year to the next water year, up to a maximum of 0.6 ML per unit share of the access licence share component.

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Part 9 Rules for water supply work approvals

Note. This Part is made in accordance with section 95 (3) of the Act.

36 General

- (1) A reference in this Part to a water supply work being located within a specified distance includes a reference to a water supply work that is proposed to be located within a specified distance.
- (2) In addition to the matters listed in section 97 (2) of the Act, the Minister must not grant a water supply work approval unless satisfied that adequate arrangements are in place to ensure that there will be:
 - (a) no more than a minimal detrimental effect on the ability of a person to take water using an existing approved water supply work and any associated access licences, and
 - (b) no more than minimal harm to public health and safety or to a groundwater-dependent culturally significant area, and
 - (c) no more than a minimal detrimental effect on groundwater levels and pressure at the border of New South Wales and Queensland or South Australia.
- (3) Subclause (2) (c) does not apply if the Minister has consulted with and considered views of the respective state government Minister.
- (4) The Minister must not amend a water supply work approval unless satisfied of the matters listed in subclause (2) and section 97 (2) of the Act.

Notes.

New approvals

- 1 Division 2 of Part 3 of Chapter 3 of the Act sets out the process for applications for, and granting of, approvals.
- 2 Section 97 (2) of the Act provides that the Minister may only grant a water supply work approval if satisfied that adequate arrangements are in place to ensure that no more than minimal harm will be done to any water source, or its dependent ecosystems, as a consequence of the construction or use of the proposed water supply work.
- 3 Section 96 (b) of the Act specifies that the Minister must take into account any matters the Minister considers relevant in determining an application for a water supply work approval. Under section 92 (5), the Minister may require an applicant to provide any additional information the Minister considers relevant to determining the application. This may include, for example, hydrogeological studies, hydrogeochemical studies or ecological studies.

Amendment of approvals

- 4 Section 107 of the Act provides for the amendment of approvals.

Conditions of approvals

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- 5 The Minister may grant a water supply work approval subject to conditions, as provided in sections 95 and 100 of the Act. The Minister may also, under section 102 of the Act, impose or vary conditions on a water supply work approval at any time as the Minister thinks fit. These conditions may limit the volume or rate of extraction from a water supply work.

Other limits on volumes or rates of extraction

- 6 The Minister may also limit the volume or rate of extraction from existing water supply works in the following ways:
- (a) for all water supply works within a specified area, by an order made under section 324 of the Act,
 - (b) for existing water supply works used solely for domestic and stock rights and harvestable rights, by an order made under section 331 of the Act.

Provisions in this Part

- 7 This Part specifies provisions in addition to those in the Act about when, and how, the Minister may grant or amend a water supply work approval.

37 Rules to minimise interference between water supply works

- (1) A water supply work approval must not be granted or amended in the Eastern Recharge Groundwater Source or the Southern Recharge Groundwater Source if the water supply work is located within 200 metres of a water supply work that is:
 - (a) located on another landholding and authorised to take water solely for basic landholder rights from the same groundwater source, or
 - (b) located on another landholding and nominated by another access licence, other than a local water utility access licence.
- (2) A water supply work approval must not be granted or amended in the Central Groundwater Source, the Surat Groundwater Source or the Warrego Groundwater Source if the water supply work is located within 500 metres of a water supply work that is:
 - (a) located on another landholding and authorised to take water solely for basic landholder rights from the same groundwater source, or
 - (b) located on another landholding and nominated by another access licence, other than a local water utility access licence.
- (3) A water supply work approval must not be granted or amended if the water supply work is located within:
 - (a) 200 metres 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 consent in writing,

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- (b) 1,000 metres of a water supply work that is nominated by a local water utility access licence or a major utility access licence authorised to take water from the same groundwater source, unless the holder of the local water utility access licence or major utility access licence has provided consent in writing,
- (c) 400 metres of a Government monitoring or observation bore.
Note. *Government monitoring or observation bore* is defined in the Dictionary.
- (4) The location restrictions specified in subclauses (1) – (3) do not apply to the granting or amending of a water supply work approval if the Minister is satisfied of any of the following:
 - (a) the water supply work is used solely for basic landholder rights,
Note. Rules for water supply work approvals used solely for basic landholder rights are specified in clause 41.
 - (b) the water supply work is a replacement groundwater work,
Note. *Replacement groundwater work* is defined in the Dictionary.
 - (c) the water supply work is used solely for the purpose of monitoring environmental remediation activities or emergency services,
 - (d) the location of the water supply work at a lesser distance than that specified in subclauses (1) – (3) would result in no more than a minimal detrimental effect on the ability of a person to take water using an existing approved water supply work and any associated access licences.

38 Rules for water supply works located near contamination sources

- (1) A water supply work approval must not be granted or amended if, in the Minister's opinion, the water supply work is located:
 - (a) within 500 metres of a contamination source listed in Schedule 1, or
 - (b) within 250 metres of the edge of a plume associated with a contamination source listed in Schedule 1, or
 - (c) between 250 metres and 500 metres from the edge of a plume associated with a contamination source listed in Schedule 1, unless the Minister is satisfied that no change in groundwater level will occur within 250 metres of that plume as a result of the location of that water supply work.

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- (2) The location restrictions specified in subclause (1) do not apply to the granting or amending of a water supply work approval if the Minister is satisfied of any of the following:
 - (a) the location of the water supply work is adequate to protect the groundwater source, the environment and public health and safety,
 - (b) the water supply work is for the purpose of monitoring, environmental remediation activities or emergency services.
- (3) A water supply work approval for a water supply work located within 250 metres of an on-site sewage disposal system may only be granted or amended in the Eastern Recharge Groundwater Source and Southern Recharge Groundwater Source if the water supply work is:
 - (a) constructed with cement grout in the borehole annulus to a minimum depth of 20 metres from the ground surface, and
Note. Borehole annulus is defined in the Dictionary.
 - (b) in the Minister's opinion, 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 modify the depth requirement in subclause (3)(a) if satisfied of any of the following:
 - (a) adequate arrangements are in place to protect the groundwater source, the environment and public health and safety,
 - (b) the water supply work is for the purpose of monitoring or environmental remediation activities.

39 Rules for water supply works located near high priority groundwater-dependent ecosystems

- (1) A water supply work approval must not be granted or amended in the Eastern Recharge Groundwater Source and Southern Recharge Groundwater Source if, in the Minister's opinion, the water supply work is located within any of the following:
 - (a) 40 metres of the top of the high bank of a river,

Note. Top of the high bank of a river is defined in the Dictionary.

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- (b) 1,000 metres of any of the high priority groundwater-dependent ecosystems identified in Schedule 2 if the water supply work is:
 - (i) nominated by an access licence, other than a local water utility access licence, and
 - (ii) authorised to take up to and including 20 ML/year,
 - (c) 5,000 metres of any of the high priority groundwater-dependent ecosystems identified in Schedule 2 if the water supply work is:
 - (i) nominated by an access licence, other than a local water utility access licence, and
 - (ii) authorised to take over 20 ML/year,
 - (d) 5,000 metres of any of the high priority groundwater-dependent ecosystems identified in Schedule 2 if the water supply work is nominated by a local water utility access licence,
 - (e) 200 metres of any other high priority groundwater-dependent ecosystem shown on the High Priority Groundwater-Dependent Ecosystem Map.
- (2) A water supply work approval must not be granted or amended in the Central Groundwater Source, Surat Groundwater Source and Warrego Groundwater Source if, in the Minister's opinion, the water supply work is located within any of the following:
 - (a) 40 metres of the top of the high bank of a river,
 - (b) 50,000 metres of any of the high priority groundwater-dependent ecosystems identified in Schedule 2.
- (3) The location restrictions specified in subclauses (1) and (2) do not apply to the granting or amending of a water supply work approval if the Minister is satisfied of any of the following:
 - (a) the water supply work is used solely for basic landholder rights,
 - (b) the water supply work is a replacement groundwater work,
 - (c) the water supply work is used solely for the purpose of monitoring, environmental remediation activities or emergency services,