

Water Sharing Plan for the Gwydir Unregulated and Alluvial Water Sources Amendment Order 2020

under the

Water Management Act 2000

I, Melinda Pavey, Minister for Water, Property and Housing, in pursuance of section 45 (1) of the *Water Management Act 2000*, make the following Order to amend the *Water Sharing Plan for the Gwydir Unregulated and Alluvial Water Sources 2012*.

Dated 29th June 2020

MELINDA PAVEY, MP
Minister for Water, Property and Housing

Explanatory note

This Order is made under sections 45 (1) of the *Water Management Act 2000*. The object of the Order is to amend the *Water Sharing Plan for the Gwydir Unregulated and Alluvial Water Sources 2012*. The concurrence of the Minister for Energy and Environment was obtained prior to the making of this Order as required under section 45 of the *Water Management Act 2000*.

Water Sharing Plan for the Gwydir Unregulated and Alluvial Water Sources Amendment Order 2020

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1 Name of Order

This Order is the *Water Sharing Plan for the Gwydir Unregulated and Alluvial Water Sources Amendment Order 2020*.

2 Commencement

This Order commences on 1 July 2020.

Schedule 1 Amendment of Water Sharing Plan for the Gwydir Unregulated and Alluvial Water Sources 2012

[1] Part 1 Introduction

Omit the note. Insert instead:

Notes.

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

[2] Clause 1 Name of this Plan

Omit “and Alluvial”. Insert instead “River”.

[3] Clause 3 Commencement of this Plan

Omit the clause. Insert instead:

- (1) This Plan commences on 3 August 2012.

Notes.

- 1 In accordance with section 43 of the Act, this Plan will have effect for 10 years from 1 July 2013.
 - 2 The Minister may extend this Plan for a further period of 10 years after it is due to expire, in accordance with section 43A of the Act.
 - 3 Under the *Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin* and the associated National Partnership Agreement, NSW has agreed to develop water resource plans for Murray-Darling Basin water resources consistent with the requirements of the Basin Plan. This Plan was amended in 2020, partly to meet NSW’s commitments under these arrangements. Certain provisions of this Plan form part of the water resource plan for the Gwydir surface water resource plan area.
 - 4 **Basin Plan** is defined in the Dictionary.
- (2) Despite subclause (1), the following provisions of this Plan commence on 1 December 2020:
 - (a) clause 40,
 - (b) subclause 42 (8),
 - (c) subclause 43 (6A),
 - (d) clause 43A,

- (e) clause 45A.

Notes.

- 1 This means that the rules to protect Active Environmental Water will not commence until 1 December 2020.
- 2 *Active Environmental Water* is defined in the Dictionary.

[4] Clause 4 Application of this Plan

Omit the clause. Insert instead:

- (1) This Plan applies to the following water sources known as the Gwydir Unregulated River Water Sources (hereafter *these water sources*) within the Gwydir Water Management Area:
 - (a) Roumalla Creek Water Source,
 - (b) Rocky River Water Source,
 - (c) Boorolong Creek Water Source,
 - (d) Upper Gwydir River Water Source,
 - (e) Laura Creek Water Source,
 - (f) Bakers Creek Water Source,
 - (g) Georges Creek Water Source,
 - (h) Moredun Creek Water Source,
 - (i) Keera Creek Water Source,
 - (j) Copeton Dam Water Source,
 - (k) Halls Creek Water Source,
 - (l) Mackenzies Flat Water Source,
 - (m) Myall Creek Water Source,
 - (n) Gurley Creek Water Source,
 - (o) Tycannah Creek Water Source,
 - (p) Warialda Creek Water Source,
 - (q) Millie Creek Water Source,
 - (r) Slaughterhouse Creek Water Source,
 - (s) Mosquito Creek Water Source,
 - (t) Moree Water Source,
 - (u) Gil Gil Creek Water Source,
 - (v) Thalaba Creek Water Source,
 - (w) Mehi River Water Source,
 - (x) Gwydir Water Source,
 - (y) Carole Creek Water Source,

Note. This water source applies to the catchment area of Carole Creek. Carole Creek itself is regulated and water sharing rules in this creek are detailed in the *Water Sharing Plan for the Gwydir Regulated River Water Source 2016*.

- (z) Gingham Watercourse Water Source,
- (aa) Barwon Water Source, and
- (ab) Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source.

Note. The Gwydir Water Management Area was constituted by Ministerial order made under section 11 of the *Water Management Act 2000* published in the NSW Government Gazette No 180 on 23 November 2001 at page 9389.

- (2) These water sources are shown on the Plan Map called *Plan Map (WSP019_Version 4), Water Sharing Plan for the Gwydir Unregulated River Water Sources 2012* (hereafter ***the Plan Map***) held by the Department.

Note. The Plan Map is part of this Plan and is available on the NSW legislation website. An overview of the Plan Map is shown in Appendix 1.

- (3) Subject to subclause (5), these water sources consist of all water:
 - (a) occurring naturally on the surface of the ground within the boundaries of these water sources as shown on the Plan Map, and
 - (b) in rivers, lakes and wetlands within the boundaries of these water sources as shown on the Plan Map.
- (4) (Repealed)
- (5) These water sources do not include water:
 - (a) contained in the Gwydir Regulated River Water Source to which the *Water Sharing Plan for the Gwydir Regulated River Water Source 2016* applies, and
 - (b) contained in the Barwon-Darling Unregulated River Water Source to which the *Water Sharing Plan for the Barwon-Darling Unregulated River Water Source 2012* applies, and
 - (c) taken in the course of floodplain harvesting under a floodplain harvesting (regulated river) access licence.

Note. *Floodplain harvesting* is defined in the Dictionary

- (6) This Plan, as amended by the *Water Sharing Plan for the Gwydir Unregulated and Alluvial Water Sources Amendment Order 2020*, replaces the *Water Sharing Plan for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source 2003*.
- (7) This Plan, as amended by the *Water Sharing Plan for the Gwydir Unregulated and Alluvial Water Sources Amendment Order 2020*, does not apply to the Upper Gwydir Alluvial Groundwater Source.

Note. The *Water Sharing Plan for the Gwydir Alluvial Groundwater Sources 2020* applies to the Upper Gwydir Alluvial Groundwater Source.

[5] Clause 5 Management zones

Insert after subclause (1) (c):

- (d) Mehi River Water Source:
 - (i) Mallowa Creek Management Zone, and
 - (ii) Mehi Management Zone.

[6] Clause 6 Extraction management unit for these water sources

[7] Omit the clause. Clause 8 Interpretation

Insert after subclause (4):

- (4A) The Plan Map forms part of this Plan.
- (4B) A number in brackets following the name of a gauge is the gauge number.

[8] Part 2 Vision, objectives, strategies and performance indicators

Omit the Part. Insert instead:

Part 2 Vision, objectives, strategies and performance indicators

Notes.

- 1 This Part is made in accordance with section 35 (1) of the Act.
- 2 This Part describes broad objectives, which are the long term outcomes sought by this Plan and are not directly measured but evaluated by considering the cumulative achievement of the associated targeted objectives. Targeted objectives described in 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.

8A Acknowledgement

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

9 Vision statement

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

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

10 Environmental objectives

- (1) The broad environmental objective of this Plan is to protect, and contribute to the enhancement of, the ecological condition of these water sources and their water-dependent ecosystems over the term of the Plan.

Note. The ecological condition of these water sources will be assessed by reference to the condition of high ecological value aquatic ecosystems, target species, communities, populations and key ecosystem functions as defined in the MER plan for these water sources. Water-dependent ecosystems in these water sources include instream, riparian and floodplain ecosystems.

- (2) The targeted environmental objectives of this Plan are to protect, and contribute to the enhancement of, the following over the term of this Plan:

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

Notes.

1 *Target ecological populations* is defined in the Dictionary.

2 Target ecological populations in these water sources may include known or predicted populations of the following:

- (a) native fish including eel-tailed catfish, Murray cod, purple-spotted gudgeon, and olive perchlet,
- (b) native vegetation including carex sedgeland, river redgum woodland and black box-coolibah woodland,
- (c) high diversity hotspots and significant habitat for native fish, frogs, waterbirds, native vegetation and low flow macroinvertebrate communities in water sources that are susceptible to increased frequency and duration of low flows and drying.

3 Ramsar wetlands, and the associated ecological communities such as waterbirds and lignum shrublands, are primarily managed by the NSW Environmental Water Manager according to the rules of the *Water Sharing Plan for the Gwydir Regulated River Water Source 2016*. The targeted objectives and monitoring activities for these assets and communities are provided in the MER Plan for these water sources.

4 Measures of population structure may include the abundance or spatial extent of a species, different age classes or life stages within a species population, or measures that describe the health and condition of species or populations.

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

Notes.

1 Longitudinal connectivity means flows along the length of the river and between hydrologically connected rivers. Lateral connectivity means flows between the river and its anabranches, riparian zones, wetlands and floodplains.

2 Target ecological processes in these water sources include fish movement across significant barriers, as identified by NSW Department of Primary Industries (Fisheries) and described in the MER plan for these water sources.

3 Connectivity may be within or between these water sources or between these water sources and other water sources.

(c) water quality within target ranges for these water sources to support water-dependent ecosystems and ecosystem functions,

Note. Water quality target ranges for these water sources are defined in the Water Quality Management Plan for the Gwydir Water Resource Plan Area SW15 and the NSW State Water Quality Assessment and Monitoring Plan.

(d) the lagoons, waterholes, wetlands and swamps specified in Schedules 4 and 5 to this Plan.

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

(a) establish and maintain compliance with a long-term average annual extraction limit and a long-term average sustainable diversion limit,

Note. Part 6 of this Plan sets out the provisions for maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit.

(b) reserve a portion of flows to partially mitigate alterations to natural flow regimes in these water sources,

Notes.

1 *Flow regimes* is defined in the Dictionary.

2 The provisions in Division 2 of Part 8 of this Plan establish flow classes that manage the take of water from these water sources.

(c) restrict the take of water from in-river and off-river pools when the volume of that water is less than full capacity,

Note. The provisions in clause 43 of this Plan restrict the take of water from in-river and off-river pools when the volume is less than full capacity.

- (d) restrict or prevent water supply work approvals on third order or higher streams, and lagoons, waterholes, wetlands and swamps specified in Schedule 4 or 5,

Notes.

- 1 The provisions in clause 47 prevent the granting of a water supply work approval which may be used to take water from a lagoon, waterhole, wetland or swamp specified in Schedule 4 or 5.
- 2 References in this Plan to a third order or higher stream relate to the stream order defined by the Strahler stream ordering method. The Strahler stream ordering method is as described in Schedule 2 to the *Water Management (General) Regulation 2018*.

- (e) reserve a portion of flows to maintain hydrological connectivity between these water sources and other connected water sources including the Gwydir Regulated River Water Source,

Note. The provisions in clauses 42 and 43 of this Plan ensure that very low flows are protected from extraction.

- (f) restrict the take of water to protect Active Environmental Water.

Note. *Active Environmental Water* is defined in the Dictionary.

- (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 or trends in ecological condition during the term of this Plan, as assessed using one or more of the following:
 - (a) the recorded range, extent or condition of target ecological populations,
 - (b) measurements of fish movements through priority fish passage areas,
 - (c) the recorded values of water quality measurements including salinity, turbidity, total nitrogen, total phosphorous, pH, water temperature and dissolved oxygen,
- (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 Schedule 4 and Schedule 5 of this Plan have accurately identified the presence and location of environmentally significant lagoons, waterholes, wetlands and swamps, including upland wetlands, lagoons and swamps of the New England Tablelands Bioregion, within these water sources,
- (e) the extent to which external influences on these water sources during the term of this Plan have affected progress toward achieving the environmental objectives.

Note. External influences may include climate trends, land use patterns, decisions made by the NSW Environmental Water Manager and other factors.

11 Economic objectives

(1) The broad economic objective of this Plan is to maintain, and where possible improve, access to water to optimise economic benefits for agriculture, surface water-dependent industries and local economies.

(2) The targeted economic objectives of this Plan are as follows:

- (a) to maintain, and where possible improve, water trading opportunities for surface water-dependent businesses,

Note. Trading is a generic term referring to dealings under Division 4 of Part 2 of Chapter 3 of the Act.

- (b) to maintain, and where possible improve, access to water for agriculture, surface water-dependent businesses and landholders,
- (c) to contribute to maintaining water quality within target ranges for agriculture, surface water-dependent businesses and landholders.

(3) The strategies for reaching the targeted economic objectives of this Plan are as follows:

- (a) provide for trade of water allocations and share components subject to environmental constraints.

Note. The provisions in Part 10 of this Plan permit a variety of dealings within environmental constraints, including assignment of rights under access licences and assignment of water allocations between access licences.

- (b) provide a stable and predictable framework for sharing water among water users,

Note. The compliance with extraction and diversion limit provisions in Part 6 of this Plan and the flow class and access provisions in Part 8 of this Plan provide certainty in how water will be shared between different categories of access licences.

- (c) provide flexibility of access to water,

Note. The individual account management provisions in clause 39 of this Plan, including the limit on the volume of water that can be taken in any water year or over three consecutive water years and the amount of water that may be carried over from one water year to the next, provide flexibility that reflects the characteristics of the licence category.

- (d) manage extractions to the long-term extraction limit and the long-term average sustainable diversion limit.

Note. Part 6 of this Plan manages the extraction of water within the long-term average annual extraction limit and the long-term average sustainable diversion limit.

- (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 the following:
 - (i) the annual number or volume of share components of access licences transferred or assigned,
 - (ii) the weighted average unit price of share components of access licences transferred or assigned,

Note. *Weighted average unit price* is defined in the Dictionary.

- (iii) the annual volume of water allocations assigned,
- (iv) the weighted average unit price of water allocations assigned,

- (c) the recorded values of water quality measurements including salinity, sodium adsorption ratio, harmful algal blooms, total nitrogen, total phosphorus, pH and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which the changes in the economic benefits of surface water extraction and use can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the economic objectives,
 - (d) the extent to which external influences on surface water-dependent businesses during the term of this Plan have affected progress toward 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 or changes in industry policy or regulation.

12 Aboriginal cultural objectives

- (1) The broad Aboriginal cultural objective of this Plan is to maintain, and where possible improve, the spiritual, social, customary and economic values and uses of water by Aboriginal people.
- (2) The targeted Aboriginal cultural objectives of this Plan are as follows:
 - (a) to provide access to water in the exercise of native title rights,
 - (b) to provide access to water for Aboriginal cultural use, including fishing,
 - (c) to protect, and where possible improve, identified surface water-dependent culturally significant areas, including important riparian vegetation communities,
 - (d) to contribute to the maintenance of water quality within target ranges to ensure suitability of water for Aboriginal cultural use.
- (3) The strategies for reaching the targeted Aboriginal cultural objectives of this Plan are as follows:
 - (a) manage access to water consistently with the exercise of native title rights,

- (b) provide for water associated with Aboriginal cultural values and uses,

Note. The provisions in Part 7 of this Plan provide opportunities for Aboriginal people to access water by allowing for the granting of an access licence of the subcategory 'Aboriginal cultural'.

- (c) reserve a portion of flows to partially mitigate alterations to natural flow regimes in these water sources,

- (d) restrict the take of water from in-river and off-river pools when the volume of that water is less than full capacity,

Note. The rules in clause 43 of this Plan restrict the take of water from in-river and off-river pools when the volume is less than full capacity, thereby contributing to the protection of native fish populations, swimming and recreational areas and riparian vegetation.

- (e) reserve a portion of flows to maintain longitudinal connectivity within and between these water sources, and other connected water sources.

Note. The provisions in clauses 42 and 43 ensure a portion of natural flows are protected from extraction.

- (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, consistently with any determination of native title or indigenous land use agreement,
- (ii) the extent to which access to water has contributed to achieving Aboriginal cultural outcomes,

- (b) the recorded range or extent of target populations of native fish,

- (c) the recorded range or condition of target populations of riparian vegetation,

- (d) the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.

- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in the 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 provision in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the Aboriginal cultural objectives,
 - (d) the water made available for Aboriginal cultural values and uses during the term of this Plan through available water determinations and the granting of new access licences,
 - (e) the extent to which external influences on surface water-dependent Aboriginal cultural activities during the term of this Plan have affected progress toward achieving the Aboriginal cultural objectives.

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

12A Social and cultural objectives

- (1) The broad social and cultural objective of this Plan is to provide access to surface water to support surface water-dependent social and cultural values.
- (2) The targeted social and cultural objectives of this Plan are to maintain, and where possible improve, the following:
 - (a) access to water for basic landholder rights, town water supply and licensed domestic and stock purposes,
 - (b) access to water for surface water-dependent cultural, heritage and recreational uses, including recreational fishing,
 - (c) water quality within target ranges for basic landholder rights, town water supply, domestic and stock purposes and surface water-dependent cultural, heritage and recreational uses, including recreational fishing.
- (3) The strategies for reaching the targeted social and cultural objectives of this Plan are as follows:
 - (a) provide access to water for basic landholder rights, town water supply and for licensed domestic and stock purposes,

- (b) reserve a portion of flows to partially mitigate alterations to natural flow regimes in these water sources,
 - (c) restrict the take of water from in-river and off-river pools when the volume of that water is less than full capacity,
 - (d) reserve a portion of flows to maintain longitudinal connectivity within and between these water sources, and other connected water sources.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad social and cultural objectives 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 requirements have been met, and
 - (ii) the extent to which major utility access licence and local water utility access licence requirements have been met,
 - (b) the recorded range or extent of target populations of native r fish that are important to recreational fishing,
 - (c) the recorded takes of native fish that are important to recreational fishing within legal age and size classes,
 - (d) the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which the changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,

- (c) the extent to which the strategies in subclause (3) support achievement of the social and cultural objectives,
- (d) the extent to which external influences on surface water-dependent social and cultural activities during the term of this Plan have affected progress toward achieving the social and cultural objectives.

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

[9] Clause 13 Bulk access regime

Omit “Division 1 of” in subclause (2) (a).

[10] Clause 13 (2) (b)

Omit “Division 2 of” in subclause (2) (b).

[11] Clause 13 (2) (d)

Omit “, contained in Division 1 of Part 6 of this Plan,”. Insert instead “and long-term average sustainable diversion limit, contained in Part 6 of this Plan,”.

[12] Clause 14 Climactic variability

Omit the clause. Insert instead:

14 Climatic variability

This Plan recognises the effects of climatic variability on river flow in these water sources by having provisions that:

(a) manage the sharing of water within the limits of water availability on a long-term average annual basis and the priorities according to which water allocations are to be adjusted as a consequence of any reductions in the availability of water due to an increase in average annual extraction against the long-term average annual extraction limit and long-term average sustainable diversion limit, contained in Part 6 of this Plan, and

(b) manage the sharing of water in specified water sources on a daily basis, contained in Division 2 of Part 8 of this Plan.

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.

[13] Part 4 Planned environmental water provisions

Omit the notes following the heading. Insert instead:

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

[14] Clause 16 (a)

Omit the subclause. Insert instead:

(a) by reference to the commitment of the physical presence of water in these water sources,

[15] Clause 17 Establishment and maintenance of planned environmental water

Omit the clause. Insert instead:

17 Establishment and maintenance of planned environmental water

(1) This Plan establishes planned environmental water in these water sources as follows:

(a) the physical presence of water resulting from the access rules specified in clauses 42 and 43 of this Plan,

Note. The rules in clauses 42 and 43 of this Plan set flow rates or flow levels below which the taking of water is not permitted. Some limited exemptions apply.

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

(c) the water remaining after water has been taken under basic landholder rights, access licences and any other rights under the Act in accordance with the rules specified in Parts 6 and 8 of this Plan.

(2) The planned environmental water established under subclause (1) (a) is maintained by the rules specified in Division 2 of Part 8 of this Plan.

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

(4) The planned environmental water established under subclause (1) (c) is maintained by the provisions specified in Parts 6 and 8 of this Plan.

Note. The provisions in Part 6 of this Plan ensure that there will be water remaining in these water sources over the long term by maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit. The provisions in Part 6 of this Plan provide for a reduction in available water determinations when the long-term average annual extraction limit or the long-term average sustainable diversion limit has been assessed to have been exceeded.

[16] Clause 18 Application

Omit “Division 1 of” in subclause (3).

[17] Clause 19 Domestic and stock rights

Omit “5.71”. Insert “5.51” instead.

[18] Clause 19 (bb)

Omit the subclause.

[19] Clause 20 Native title rights

Omit the clause. Insert instead:

20 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) any determination of native title, and
- (b) any indigenous land use agreement.

Notes.

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

[20] Clause 22 Share components of domestic and stock access licences

Omit “545.6”. Insert “470.5” instead.

[21] Clause 22 (bb)

Omit the subclause.

[22] Clause 23 Share components of local water utility access licences

Omit subclause (d).

[23] Clause 25 Share components of aquifer (high security) access licences

Omit the clause.

[24] Part 6 Limits to the availability of water

Omit the Part. Insert instead:

Part 6 Limits to the availability of water

Note. This Part sets out the rules for managing the availability of water for extraction in accordance with the following long-term limits on extraction:

- (a) a long-term average annual extraction limit,
- (b) a long-term average sustainable diversion limit.

Division 1 Calculations under this Part

26 Exclusions, inclusions and variations in calculations

- (1) This clause applies to the calculation of the following:
 - (a) the long-term average annual extraction limit under clause 27,
 - (b) the annual extraction under clause 28,
 - (c) the annual permitted take under clause 31,

(d) the annual actual take under clause 31.

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

- (2) The calculations by the Minister to which this clause applies must:
- (a) exclude the following:
 - (i) allocations assigned from an access licence in one of these water sources to an access licence in a water source other than these water sources, under section 71T of the Act,
 - (ii) in relation to annual extraction under clause 28 only, water committed as licensed environmental water under section 8F of the Act, and
 - (b) include allocations assigned to an access licence in one of these water sources from an access licence in a water source other than these water sources, under section 71T of the Act, and
 - (c) in relation to the long-term average annual extraction limit only, be varied by any changes to the amount of water committed as licensed environmental water under section 8F of the Act.
- (3) The calculation by the Minister of the long-term average annual extraction limit under clause 27 must be adjusted by a volume that appropriately reflects the following:
- (a) the share components of water access licences in the water source that are subject to a dealing under section 71U of the Act,
 - (b) any changes to the amount of water committed as licensed environmental water under section 8F of the Act.

Division 2 Long-term average annual extraction limit

27 Calculation of the long-term average annual extraction limit

- (1) The long-term average annual extraction limit for these water sources is:
- (a) the annual extraction of water averaged over the period from 1 July 1993 to 30 June 1999 under entitlements issued under Part 2 of the *Water Act 1912* from these water sources, plus
 - (b) the annual water requirements pursuant to basic landholder rights from the following water sources at the commencement of this Plan:
 - (i) Roumalla Creek Water Source,
 - (ii) Rocky River Water Source,

- (iii) Boorolong Creek Water Source,
 - (iv) Upper Gwydir River Water Source,
 - (v) Laura Creek Water Source,
 - (vi) Bakers Creek Water Source,
 - (vii) Georges Creek Water Source,
 - (viii) Moredun Creek Water Source,
 - (ix) Keera Creek Water Source,
 - (x) Copeton Dam Water Source,
 - (xi) Halls Creek Water Source,
 - (xii) Mackenzies Flat Water Source,
 - (xiii) Myall Creek Water Source,
 - (xiv) Gurley Creek Water Source,
 - (xv) Tycannah Creek Water Source,
 - (xvi) Warialda Creek Water Source,
 - (xvii) Millie Creek Water Source,
 - (xviii) Slaughterhouse Creek Water Source,
 - (xix) Mosquito Creek Water Source,
 - (xx) Moree Water Source,
 - (xxi) Gil Gil Creek Water Source,
 - (xxii) Thalaba Creek Water Source,
 - (xxiii) Mehi River Water Source,
 - (xxiv) Gwydir Water Source,
 - (xxv) Carole Creek Water Source,
 - (xxvi) Gingham Watercourse Water Source,
 - (xxvii) Barwon Water Source, plus
- (c) (repealed)
- (d) the annual water requirements pursuant to basic landholder rights from the Rocky Creek Water Source, Cobbadah Water Source, the Upper Horton Water Source and the Lower Horton Water Source at the commencement of

the *Water Sharing Plan for the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source 2003*, plus

- (e) the annual extraction of water averaged over the period from 1 July 1993 to 30 June 1999 by floodplain harvesting activities for which floodplain harvesting (unregulated river) access licences may be issued in these water sources, plus
- (f) the estimated annual take of water from these water sources by plantation forestry that existed on 30 June 2009.

Note. *Plantation forestry* is defined in the Dictionary.

28 Calculation of annual extraction

Following the end of each water year, the Minister is to calculate the total annual extraction from these water sources based on the following:

- (a) the take of water by basic landholder rights and access licences in that water year,
- (b) the estimated take of water by plantation forestry in that water year,
- (c) until such time as it is included under paragraph (a), the estimated take of water in that water year by floodplain harvesting, for which floodplain harvesting (unregulated river) access licences may be issued in these water sources.

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

- (1) Following the calculation under clause 28, the Minister is to compare the average of the total annual extraction for these water sources over the preceding five water years against the long-term average annual extraction limit.
- (2) There is non-compliance with the long-term average annual extraction limit if the average of the total annual extraction over the preceding five water years exceeds the long-term average annual extraction limit by 5% or more.

Division 3 Long-term average sustainable diversion limit

Note. *Gwydir SDL resource unit* is defined in the Dictionary.

30 Calculation of the long-term average sustainable diversion limit

- (1) Subject to any variation in accordance with subclause (2), the long-term average sustainable diversion limit for these water sources is the component of the baseline diversion limit for the Gwydir SDL resource unit as calculated in accordance with Schedule 3 of the Basin Plan, that in the Minister's opinion is attributable to these water sources.

- (2) The long-term average sustainable diversion limit is to be varied as determined under Chapter 7 of the Basin Plan.

Notes.

- 1 *Baseline diversion limit* is defined in the Dictionary.
- 2 The long-term average sustainable diversion limit for the Gwydir surface water SDL resource unit specified in Schedule 2 of the Basin Plan covers extractions from both the Gwydir Regulated River Water Source and the Gwydir Unregulated River Water Sources.

31 Calculation of annual permitted and annual actual take for the water year

- (1) Following the end of each water year, the Minister is to calculate the annual permitted take and annual actual take of water for the previous water year in these water sources in accordance with Division 2 of Part 4 of Chapter 6 of the Basin Plan.

Note. *Basin Plan* is defined in the Dictionary

- (2) For the purposes of the calculation, references to the SDL resource unit in Division 2 of Part 4 of Chapter 6 of the Basin Plan are taken to be references to these water sources.

Notes.

- 1 Under the Basin Plan take of licensed environmental water and under licences held by the Commonwealth Environmental Water Holder are not included in the calculation as it falls outside the definition of take for consumptive use.
- 2 *Consumptive use* and *take* and are defined in section 4 of the Water Act 2007 of the Commonwealth.

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

- (1) Following the calculation under clause 31 after the end of each water year, the Minister is to undertake an assessment of compliance with the long-term average sustainable diversion limit in accordance with the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (2) There is non-compliance with the long-term average sustainable diversion limit in the circumstances set out in Division 2 of Part 4 of Chapter 6 of the Basin Plan.

Division 4 Compliance with extraction and diversion limits

31B Action following non-compliance

- (1) Subject to subclause (2) to (4), if an assessment under clauses 29 or 31A demonstrates non-compliance with either the long-term average annual extraction limit for these water sources or the long-term average sustainable diversion limit, the Minister is to make available water determinations for unregulated river access licences of less than 1 ML per unit share for the water year after the assessment.
- (2) The Minister may take the action specified in subclause (1) if an assessment under clause 31A would have demonstrated non-compliance with the long-term average sustainable diversion limit but for there being a reasonable excuse, as provided for in Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (3) An action taken in accordance with subclause (1) and (2) is to be taken to the extent to which, and only for as long as, the Minister considers the following is necessary:
 - (a) in the case of non-compliance with the long-term average annual extraction limit— to return average annual extraction in these water sources to the long-term average annual extraction limit,
 - (b) in the case of non-compliance with the long-term average sustainable diversion limit— to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan,
 - (c) in the case where non-compliance with the long-term average sustainable diversion limit would have occurred but for there being a reasonable excuse— to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (4) An action taken in accordance with subclause (1) and (2) to meet the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan is to only apply to a water source to the extent to which extractions from the water source:
 - (a) have caused non-compliance with the long-term average sustainable diversion limit, or
 - (b) would have caused non-compliance with the long-term average sustainable diversion limit but for there being a reasonable excuse.

Division 5 Available water determinations

32 General

- (1) Available water determinations for access licences with share components that specify any one of these water sources are to be expressed as either:
 - (a) a percentage of the share component for access licences where share components are specified as ML/year, or

- (b) megalitres per unit share for access licences where share components are specified as a number of unit shares.
- (2) The sum of available water determinations made for any access licence with a share component that specifies one of these water sources must not, in any water year, exceed:
 - (a) 100% of the access licence share component for all access licences where share components are specified as ML/year, or
 - (b) 1 megalitre per unit share of the access licence share component for all access licences where share components are specified as a number of unit shares.

33 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.

34 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.

35 Available water determinations for unregulated river access licences

Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 1 ML per unit of share component or such lower amount as determined under clause 31B is to be made for unregulated river access licences.

Note. Division 4 of this Part provides for the making of available water determinations for unregulated river access licences that are less than 1 ML per unit of share component where the long-term average annual extraction limit or the long-term average sustainable diversion limit for these water sources has been assessed to have been exceeded.

36 (Repealed)

[25] Part 7 Rules for granting access licences

Omit the notes. Insert instead:

Notes.

- 1 This Part is made in accordance with sections 20 and 61 of the Act.
- 2 Access licences granted in the water source are subject to mandatory conditions and may be subject to discretionary conditions.

[26] Clause 37 Specific purpose access licences

Insert this note to the clause:

Note. Section 61 of the Act allows for a person to apply for a specific purpose access licence where the regulations or relevant water sharing plan provides that an application can be made.

[27] **Clause 37 (2)**

Omit “2011” in the note. Insert “2018” instead.

[28] **Clause 38 Granting of access licences as a result of controlled allocation**

Omit the clause.

[29] **Part 8 Rules for managing access licences**

Division 1 Water allocation account management rules

Insert “and the regulations” after “the Act” in the note to Division 1.

[30] **Clause 39 Individual access licence account management rules for the Gwydir Unregulated River Water Sources**

Omit “for the Gwydir Unregulated River Water Sources” from the heading to the clause.

[31] **Clause 39 (1)**

Omit “the Gwydir Unregulated River Water Sources”. Insert “these water sources” instead.

[32] **Clause 40 Individual access licence account management rules for the Upper Gwydir Alluvial Groundwater Source**

Omit the clause. Insert instead:

40 Rules for access licences intending to protect water from extraction

(1) A licence holder may notify the Minister of the licence holder’s intent to have water that would otherwise be permitted to be taken under that access licence protected from extraction.

(2) The licence holder must make, and the Minister must assess, a notification under subclause (1) in accordance with the Active Management Procedures Manual.

Note. *Active Management Procedures Manual* is defined in the Dictionary.

(3) The water allocation account of an access licence referred to in subclause (1) is to be debited by an amount determined by the Minister, in accordance with the Active Management Procedures Manual.

Note. This clause 40 commences on 1 December 2020 (clause 3 (2) of this Plan).

[33] **Clause 42 Flow classes**

Omit “the Gwydir Unregulated River Water Sources” in subclause (1). Insert “these water sources” instead.

[34] **Clause 42 (3)**

Insert “,as adjusted under subclause (8)” at the end of the subclause.

[35] Clause 42 (5)

Omit the note following this subclause. Insert instead:

Note. On days that accurate flow data is not available, holders of access licences may contact the Department's office at the address listed in Schedule 6 or check the Department's website to find out what flow class applies on that day.

[36] Clause 42 (7)

Omit the note.

[37] Clause 42

Insert after subclause (7):

(8) The Minister is to determine and announce any adjustments to flows specified in Column 5 of Table B for the Very Low Flow Class and A Class in the Upper Gingham Watercourse Management Zone of the Gingham Watercourse Water Source as necessary to protect Active Environmental Water in accordance with the Active Management Procedures Manual.

Notes.

- 1 Only those water sources for which flow classes have been established at the commencement of this Plan are shown in Table B.
- 2 Subclause 42 (8) commences on 1 December 2020 (clause 3 (2) of this Plan).

[38] Clause 42 Table B – Flow Classes

Omit Table B – Flow Classes. Insert instead:

Table B—Flow Classes

Column 1 Water source	Column 2 Management zone	Column 3 Flow class	Column 4 Commencement	Column 5 Flow	Column 6 Flow reference point	Column 7 Day on which flow class applies
Gingham Watercourse Water Source	Upper Gingham Watercourse Management Zone	Very Low Flow Class	Year 1 of this Plan	Less than or equal to 250 ML/day	Gingham channel at Tillaloo bridge gauge (418076)	Same day
		A Class	Year 1 of this Plan	More than 250 ML/day		Same day
	Lower Gingham Watercourse Management Zone	Very Low Flow Class	Year 1 of this Plan	A flow of less than 175 ML/day at the Gingham Bridge gauge (418079) within the previous 12 months, or less than 4000 ML/year at the Gingham Bridge gauge over	Gingham channel at Gingham Bridge gauge (418079) and Gingham Watercourse	Same day

				the previous 12 months, or no visible flow in the Gingham Watercourse at the Morialta Road	at Morialta Road	
		A Class	Year 1 of this Plan	A flow equal to or more than 175 ML/day at the Gingham Bridge gauge within the previous 12 months, and equal to or more than 4000 ML/year at the Gingham Bridge gauge over the previous 12 months, and a visible flow in the Gingham Watercourse at the Morialta Road		Same day
Gwydir Water Source		Very Low Flow Class	Year 1 of this Plan	Less than or equal to 250 ML/day	Gwydir River at Millewa gauge (418066)	Same day
		A Class	Year 1 of this Plan	More than 250 ML/day		Same day
Halls Creek Water Source	Halls Creek Management Zone	Very Low Flow Class	Year 1 of this Plan	No visible flow	Halls Creek at Bingara gauge (418025) in the South East Corner of TSR 29609, Parish of Bingara	Same day
		A Class	Year 1 of this Plan	Visible flow		Same day
Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source	Lower Horton Management Zone	Very Low Flow Class	Year 1 of this Plan	Less than or equal to 4 ML/day	Horton River at Rider gauge (418015)	Same day
		A Class	Year 1 of this Plan	More than 4 ML/day		Same day

Notes.

- 1 For Gingham Channel at Tillaloo Bridge gauge (418076), 250 ML/day corresponds to the estimated 10th percentile flow.
- 2 For Gingham Channel at Gingham Bridge gauge (418079):
 - 175 ML/day corresponds to the estimated 21st percentile flow, and
 - 4000 ML/year corresponds to the estimated 2nd percentile flow.

- 3 For Halls Creek at Bingara gauge (418025), no visible flow corresponds to a gauge height of 0.1m.
- 4 For Gwydir River at Millewa gauge (418066), 250 ML/day corresponds to the estimated 9th percentile flow.
- 5 For the Horton River at Rider gauge (418015), 4 ML/day corresponds to the estimated 92nd percentile flow.

[39] Clause 43 Access rules for the taking of surface water

Insert after subclause (6):

- (6A) The flows specified in subclause (6) for access licences in the Upper Gingham Watercourse Management Zone of the Gingham Watercourse Water Source are to be adjusted by an amount to be determined and announced by the Minister as necessary to protect Active Environmental Water in accordance with the Active Management Procedures Manual.

[40] Clause 43 (8)

Omit the subclause. Insert instead:

- (8) Water must not be taken under an access licences specified in Column 1 of Schedule 2 in contravention of the access rule specified in Column 2 of Schedule 2 in the water source specified in Column 3 of Schedule 2.

[41] Clause 43 (13) (c)

Omit the subclause.

[42] Clause 43A

Insert after clause 43:

43A Additional access rules to protect Active Environmental Water

- (1) This clause applies to an unregulated river access licence with an extraction component that specifies any of the following management zones:
 - (a) Upper Gingham Watercourse Management Zone,
 - (b) Lower Gingham Watercourse Management Zone,
 - (c) Mallowa Creek Management Zone.
- (2) The Minister may announce that, for a specified period, water must not be taken under a specified access licence from a management zone listed in subclause (1) if the Minister has determined and announced, in accordance with the Active Management Procedures Manual, that there is only either of the following present in that management zone:
 - (a) planned environmental water resulting from the access rules specified in clauses 42 and 43 of this Plan and Active Environmental Water, or
 - (b) Active Environmental Water.
- (3) If the Minister has not made an announcement under subclause (2) the Minister may, in order to protect Active Environmental Water from extraction and in accordance

with the Active Management Procedures Manual, announce a maximum amount of water permitted to be taken under a specified access licence from a management zone listed in subclause (1) for a specified period.

Note. The taking of water under an access licence to which an announcement under subclause (3) applies will still be subject to the access rules specified in clause 43 relevant to that access licence.

- (4) Water must not be taken under a licence in excess of that announced by the Minister under subclause (3).

Note. This clause 43A commences on 1 December 2020 (clause 3 (2) of this Plan).

[43] Clause 45A

Insert after clause 45:

45A Active Management Procedures Manual

The Minister must prepare and publish on the Department's website an Active Management Procedures Manual that includes but is not limited to the following:

- (a) the means for identifying and determining Active Environmental Water on any given day,
- (b) the requirements for access licence holders intending to protect water from extraction to notify the Minister under clause 40,
- (c) the means for assessing a notification and determining the amounts to be debited from access licence water allocation accounts under clause 40,
- (d) the means for determining and announcing any adjustments to flows under clauses 42 and 43,
- (e) the means for determining and announcing the presence of planned environmental water and Active Environmental Water under clause 43A,
- (f) the means for announcing the water permitted to be taken under an access licence under clause 43A,
- (g) any other matter the Minister considers relevant.

Note: This clause commences on 1 December 2020 (clause 3 (2) of this Plan).

[44] Clause 46 General

Omit the clause and note. Insert instead:

Clause 46 General

The rules in this Part apply to water supply work approvals for water supply works authorised to take water from these water sources.

[45] Clause 47 Granting or amending water supply work approvals

Omit subclause (1).

[46] Clause 47 (2)

Omit the subclause. Insert instead:

- (2) A water supply work approval must not be granted or amended to authorise the construction and/or use of a water supply work, which in the Minister’s opinion, is being used or is proposed to be used to take water from a lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5.

Note. The mandatory conditions provisions of this Plan require water supply works that are abandoned or replaced to be decommissioned (unless otherwise directed by the Minister) and that the Minister is notified within two months of decommissioning. See clause 65 (1) (c) and (d) of this Plan.

[47] Clause 47 (4)

Omit the subclause. Insert instead:

- (4) For the purposes of this Plan, *replacement surface water supply work* means a water supply work that replaces an existing water supply work constructed and used for the purpose of taking water from a lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5 where:

- (a) the existing water supply work is authorised by a water supply work approval under the Act, and
- (b) the replacement surface water supply work is to be constructed to extract water from the same water source and the same location as the existing water supply work.

[48] Division 2 Rules applying to the granting or amending of water supply work approvals for water supply works that take groundwater

Omit the Division.

[49] Division 3 Rules for the use of water supply works used to take groundwater

Omit the Division.

[50] Clause 55 General

Insert “Tributaries” after “River” in subclause (2) (a) (ii).

[51] Clause 55 (3).

Omit “on the maps in Schedule 8 of this Plan”. Insert instead “on the Plan Map”.

[52] Clause 57 Assignment of rights dealings

Omit paragraphs (a) – (c) of subclause (1). Insert instead:

- (a) from an access licence that does not nominate a water supply work being used to take water from a lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5 to an access licence that nominates a water supply work being used to take water from a lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5, or
- (b) from an access licence that nominates a water supply work being used to take water from a lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5 to an access licence that nominates a water supply work being used to take water from another lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5, or
- (c) from an access licence that nominates a water supply work located in the Gwydir River Trading Zone in the Upper Gwydir River Water Source to an access licence that nominates a water supply work in the Upper Gwydir River Tributaries Trading Zone in the Upper Gwydir River Water Source, or

[53] Clause 60 Assignment of water allocations dealings

Omit paragraphs (a) – (c) of subclause (1). Insert instead:

- (a) from an access licence that does not nominate a water supply work being used to take water from a lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5 to an access licence that nominates a water supply work being used to take water from a lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5,
- (b) from an access licence that nominates a water supply work being used to take water from a lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5 to an access licence that nominates a water supply work located on another lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5,
- (c) from an access licence that nominates a water supply work located in the Gwydir River Trading Zone in the Upper Gwydir River Water Source to an access licence that nominates a water supply work located in the Upper Gwydir River Tributaries Trading Zone in the Upper Gwydir River Water Source,

[54] Clause 62 Nomination of water supply works dealings

Omit paragraphs (b) – (d) of subclause (1). Insert instead:

- (b) an access licence that does not nominate a water supply work being used to take water from a lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5 being amended to nominate a water supply work being used to take water from a lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5,
- (c) an access licence that nominates a water supply work being used to take water from a lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5 being amended to

nominate a water supply work being used to take water from another lagoon, waterhole, wetlands or swamp specified in Schedule 4 or 5,

- (d) an access licence that nominates a water supply work located in the Gwydir River Trading Zone in the Upper Gwydir Water Source being amended to nominate a water supply work located in the Upper Gwydir River Tributaries Trading Zone in the Upper Gwydir Water Source,

[55] Clause 62 (3)

Omit the subclause. Insert instead:

- (3) A dealing under section 71W of the Act is prohibited if it involves an access licence being amended to nominate a water supply work located in a different water source to that specified in the share component of the access licence.

[56] Clause 63 General

Omit “Appendix 5 of this Plan or to the email address for the Department’s Advisory Service, Water Regulation,” in subclause (a). Insert “Schedule 6 of this Plan or to the email address for enquiries on the Department’s website,” instead.

[57] Clause 64 General

Omit paragraphs (v) – (viii) from subclause (2) (b). Insert instead:

- (v) for domestic and stock access licences, local water utility access licences and unregulated river access licences with share components that specify one of these water sources, the volume of water taken, assigned under section 71T of the Act or otherwise withdrawn from a water allocation account in any three consecutive water years after the first water year in which this Plan has effect, by comparison to the volume of water permitted to be taken or assigned in those years under clause 39 (3),
- (vi) any other information required to be recorded in the Logbook under the rules of this Plan,

[58] Clause 64 (3) – (4)

Omit the subclauses. Insert instead:

- (3) If required by the Minister, the holder of the access licence that nominates only a metered water supply work with a data logger must keep a Logbook in accordance with any requirements of subclause (2).
- (4) If an access licence with a nominated water supply work is subject to a mandatory condition imposed by Part 10 or Part 11 of the *Water Management (General) Regulation 2018* relating to the recording or reporting of water that is taken by the

work, subclauses (2) and (3) cease to have effect in relation to the work on the day on which the condition applies to the licence.

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

- (5) Subclauses (2) - (4) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to these water sources in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

Note. Mandatory metering equipment condition is defined in clause 228 of the *Water Management (General) Regulation 2018*.

[59] Clause 65 General

Insert after subclause (1):

- (1A) If an approval for a water supply work is subject to a mandatory metering equipment condition in relation to the work, subclause (1) (b) ceases to have effect in relation to the work on the day on which the condition applies to the approval.

- (1B) Subclause (1) (b) and (1A) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to these water sources in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

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

[60] Clause 65

Insert after subclause (3):

- (3A) If an approval for a water supply work is subject to a mandatory condition imposed by Part 10 or Part 11 of the *Water Management (General) Regulation 2018* relating to the recording or reporting of water that is taken by the work, subclauses (2) and (3) cease to have effect in relation to the work on the day on which the condition applies to the approval.

- (3B) Subclauses (2) - (3A) are taken to be repealed on the day on which the temporary exemption from the mandatory metering equipment condition ceases to apply to these water sources in accordance with clause 230 (1) of the *Water Management (General) Regulation 2018*.

[61] Clause 65 (5)

Omit the subclause. Insert instead:

- (5) Water supply work approvals for runoff harvesting dams and in-river dams must contain a mandatory condition that requires approval holders to comply with any

direction by the Minister to modify or remove the dam to ensure that the capability of the dam to capture water is reduced to reflect any reduction in share components arising from:

- (a) a dealing under section 71Q or 71W of the Act,
- (b) the surrender under section 77 (4) of the Act of an access licence and then the subsequent cancellation of that access licence under section 77A (6) of the Act,
- (c) the amendment of the share component of an access licence by the Minister under section 68A of the Act, or
- (d) the cancellation of an access licence under section 78 of the Act or via the compulsory acquisition of an access licence under section 79 of the Act.

[62] Clause 66 Water supply works authorised to take water from the Upper Gwydir Alluvial Groundwater Source

Omit the clause.

[63] Clause 69 Part 4

Omit the clause.

[64] Clause 70 Part 6

Omit the clause. Insert Instead:

70 Part 6

- (1) Following the surrender under section 77 of the Act of an access licence and then the cancellation under section 77A (6) of the Act of an access licence in one of these water sources, the Minister may vary the long-term average annual extraction limit that applies to these water sources.
- (2) Division 3 of Part 6 may be amended to combine the long-term average sustainable diversion limit for these water sources with the long-term average sustainable diversion limit for the Gwydir Regulated River Water source.

[65] Clause 71 Part 8

Omit subclause (c).

[66] Clause 72 Part 9

Omit the clause. Insert instead:

72 Part 9

Part 9 may be amended to do any of the following:

- (a) amend clause 47 to specify water sources or management zones where water supply work approvals must not be granted or amended to authorise an in-river dam on a third or higher order stream,
- (b) amend the definition of a replacement surface water supply work in clause 47 (4).

[67] Clause 73 Part 10

Omit the clause. Insert instead:

73 Part 10

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

- (a) to specify different dealing rules, taking into account any review that may be conducted or assessed as adequate by the Department including in relation to:
 - (i) the impact of alternate dealing rules on hydrological stress over a range of flows, in-stream values, stream health and Aboriginal cultural assets,
 - (ii) the identification of water sources where dealing limits for trade are needed,
 - (iii) the identification of water sources which have hydrological connectivity and where dealing limits are not needed, and
 - (iv) the types of trade that may be made available between certain water sources,
- (b) amend the access licence dealing rules to provide for the conversion of regulated river (high security) access licences that specify regulated river water sources connected to, and downstream of, these water sources to access licences with share components that specify these water sources.

[68] Clause 74 Part 11

Omit the clause. Insert instead:

74 Part 11

Part 11 may be amended relation to metering and record keeping including amendments in relation to requirements for Logbooks.

[69] Clause 76 Schedules

Omit subclause (1).

[70] Clause 76 (5)

Omit “pool, wetland, lagoon or lake.”. Insert instead “lagoon, wetlands, waterhole or swamp.”

[71] Clause 76 (6)

Omit “a contamination source”. Insert instead “an office”

[72] Clause 76 (7)

Omit the subclause.

[73] Clause 76 (8)

Omit “Schedule 8”. Insert “The Plan Map” instead.

[74] Clause 77 Other

Omit subclause (1). Insert instead:

- (1) This Plan may be amended to include rules for any of the following:
 - (a) the management of floodplain harvesting within these water sources,
 - (b) the shepherding of water,

Note. *Shepherding* is defined in the Dictionary.

- (c) any new category of access licence established for the purpose of urban stormwater harvesting,
- (d) the interception of water before it reaches a stream or aquifer by plantations or other means.

[75] Clause 77

Insert after subclause (7):

- (8) This Plan may be amended to include or amend access rules for unregulated river access licences so as to protect Active Environmental Water from extraction.

[76] Dictionary

Omit the following definitions:

alluvial sediments, drawdown, fractured rock, grazeable area, groundwater dependent ecosystems, high environmental value areas, Minimum Construction Requirements for Water Bores in Australia, porous rock, recharge

[77] Dictionary

Insert the following in alphabetical order:

Active Environmental Water is the water in these water sources identified or determined by the Minister on any given day as requiring protection from extraction, in accordance with the Active Management Procedures Manual, that arises from the following:

- (a) held environmental water flowing from a water source that is upstream of either the Upper Gingham Watercourse Management Zone, the Lower Gingham Watercourse Management Zone, or the Mallowa Creek Management Zone,
- (b) a notification by a licence holder to the Minister of the licence holder's intention to protect the water from extraction under clause 40 of this Plan.

Active Management Procedures Manual means the manual established by the Minister under clause 45A.

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

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

approved EP&A Act development means:

- (a) a project approved under Part 3A of the *Environmental Planning and Assessment Act 1979* (whether before or after its repeal), or
- (b) State significant development authorised by a development consent under Part 4 of that Act, or
- (c) State significant infrastructure approved under Part 5 of that Act.

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

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

cease to take condition means any term or condition on a water supply work approval, access licence or *Water Act 1912* entitlement that prohibits the taking of water in a particular circumstance.

floodplain harvesting means the collection, extraction or impoundment of water flowing across floodplains, including rainfall runoff and overbank flow, excluding the take of water pursuant to any of the following:

- (a) a water access licence other than a floodplain harvesting access licence,
- (b) a basic landholder right,
- (c) an exemption from the need to hold a licence to take water under the Act.

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

Gwydir SDL resource unit has the same meaning as provided for in section 6.02 of the Basin Plan.

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

replacement surface water supply work has the meaning given to that term in clause 47(4) of this Plan.

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

[78] Schedule 1 Watercourses to which this Plan does not apply.

Omit the Schedule.

[79] Schedule 6 Contamination in these water sources

Omit the Schedule. Insert instead:

Schedule 6 Office

Department of Planning, Industry and Environment - Water

66–68 Frome Street

MOREE NSW 2400

[80] Schedule 7 High priority groundwater dependent ecosystems

Omit the Schedule.

[81] Schedule 8 Trading zones

Omit the Schedule.

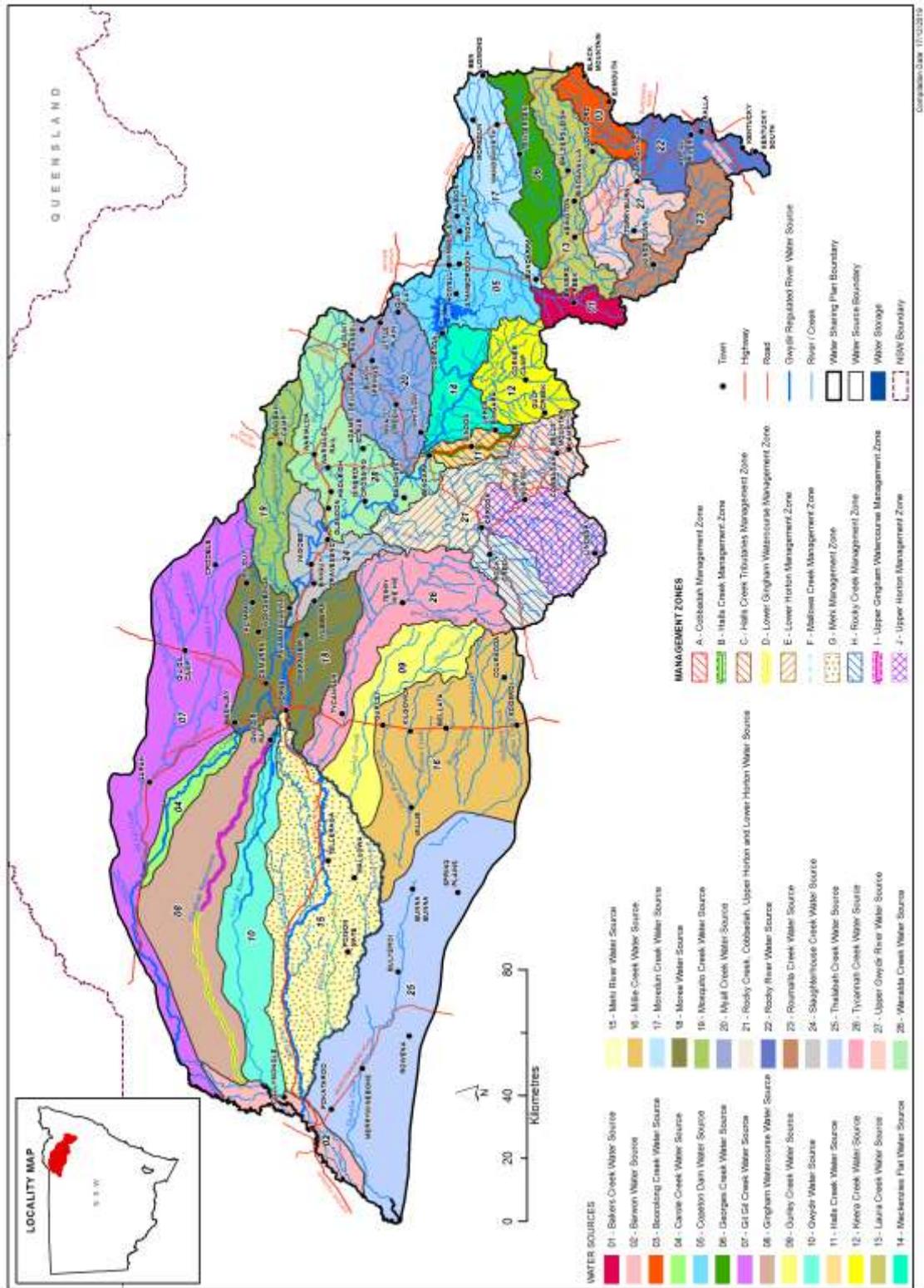
[82] Appendix 1 Overview of the Plan Map

Omit the Appendix. Insert instead:

Appendix 1 Overview of the Plan Map

Overview of the Plan Map (WSP019_Version 4), Water Sharing Plan for the Gwydir

Unregulated River Water Sources 2012



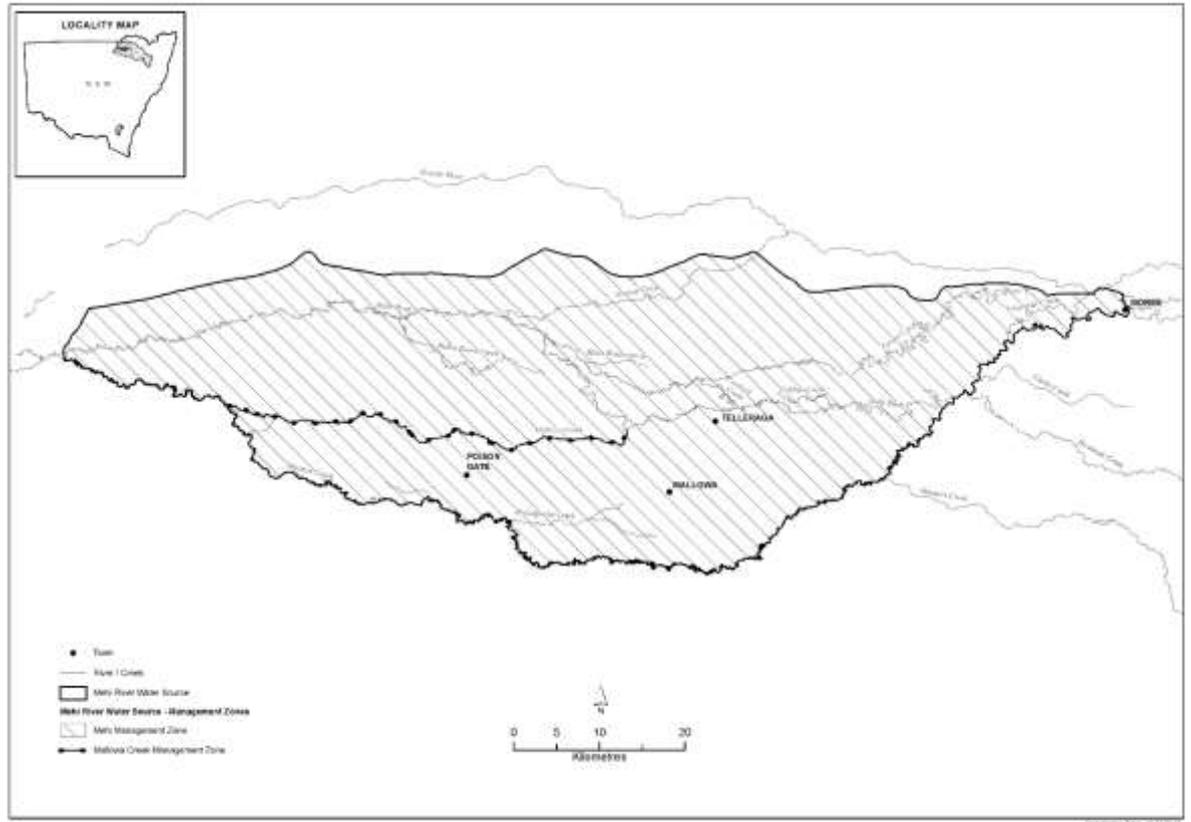
[83] **Appendix 2 Inspection of Plan Map**

Omit the Appendix.

[84] **Appendix 3 Overview of the management zones covered by this Plan**

Insert at the end of the Appendix:

Overview of the Mehi River Water Source management zones



[85] Appendix 5 Office

Omit the Appendix.