



New South Wales
Government

Water Sharing Plan for the Barwon-Darling Unregulated River Water Source 2012 Amendment Order 2023

under the

Water Management Act 2000

I, KEVIN ANDERSON MP, Minister for Lands and Water, in pursuance of section 45 (1) of the *Water Management Act 2000*, being satisfied it is in the public interest to do so, make the following Order to amend the *Water Sharing Plan for the Barwon-Darling Unregulated River Water Source 2012*.

Dated 13 February 2023

KEVIN ANDERSON, MP
Minister for Lands and Water

Explanatory note

This Order is made under section 45 (1) of the *Water Management Act 2000*. The object of this Order is to amend the *Water Sharing Plan for the Barwon-Darling Unregulated River Water Source 2012*. The concurrence of the Minister for Environment and Heritage was obtained prior to the making of this Order as required under section 45 of the *Water Management Act 2000*.

1 Name of Order

This Order is the *Water Sharing Plan for the Barwon-Darling Unregulated River Water Source Amendment Order 2023*.

2 Commencement

This Order commences on publication on the NSW legislation website.

Schedule 1 Amendment of Water Sharing Plan for the Barwon-Darling Unregulated River Water Source 2012

[1] Clause 3 Commencement of this Plan

Omit subclause 3 (2).

[2] Clause 4 Application of this Plan

Omit subclause (3) (d) and insert instead:

- (d) taken under a floodplain harvesting (unregulated river) access licence with a share component that specifies the water source.

[3] Clause 4 (3)

Omit Notes and insert instead:

Note— This Plan, as amended by the *Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources Amendment Order 2020*, does not apply to the Upper Darling Alluvial Groundwater Source. The *Water Sharing Plan for the Darling Alluvial Groundwater Sources 2020* applies to that water source.

[4] Clause 20 Native title rights

Omit “NCD2017/00” from clause 20 (a). Insert instead “NCD2017/001”.

[5] Clause 28 Share components of unregulated river (C Class) access licences

Insert after clause 28 a new clause 28A:

28A Share components of floodplain harvesting (unregulated river) access licences

The share components of floodplain harvesting (unregulated river) access licences authorised to take water from the water source total 51,320 unit shares.

[6] Clause 31 Amendment of share components of access licences

Insert, after the clause title, a new subclause (1):

- (1AA) This clause applies to access licences other than floodplain harvesting (unregulated river) access licences.

[7] Clause 32 Exclusions, inclusions and variations in calculations

Omit subclauses (2) – (3) and insert instead:

- (2) Any calculation to which this clause applies:
 - (a) must include allocations assigned from an access licence not in the water source under section 71T or 71V of the Act, and

- (b) must not include allocations assigned to an access licence not in the water source under section 71T or 71V of the Act.
- (3) The calculation of the long-term average annual extraction limit under clause 33 must be adjusted by a volume that appropriately reflects the share components of water access licences in the water source that are subject to a dealing under section 71U of the Act.

[8] Clause 33 Calculation of the long-term average annual extraction limit

Omit “in accordance with this clause” in subclause 33 (1).

[9] Clause 33 (2)

Omit “for the water source”.

[10] Clause 33 (3)

Insert “plan limit” after “records using the”.

[11] Clause 34 Calculation of average annual extraction

Omit clause and insert instead:

34 Calculation of long-term average annual extraction

The Minister, using the current conditions hydrological computer model approved by the Minister, is to calculate the long-term average annual extraction following the end of each water year, calculated over the duration of available climate records and based on the following:

- (a) the water storages and water use development that existed in that water year,
- (b) the basic landholder rights and access licence share components that existed in that water year,
- (c) the rules in this Plan or in the water sharing plan that this replaces, that applied in that water year,
- (d) the level of development for plantation forestry in that water year.

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

Note— It is intended that the Department’s current conditions hydrological computer model will be extended each water year and used to calculate long-term average annual extraction under this clause.

[12] Clause 35 Assessment of compliance with the long-term average annual extraction limit

Insert “the long-term” after “compare” in subclause 35 (1).

[13] Clause 35A Calculation of the long-term average sustainable diversion limit

Omit clause and insert instead:

35A 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 the water source is:
 - (a) the baseline diversion limit for the Barwon-Darling Watercourse SDL resource unit determined under Schedule 3 of the Basin Plan, minus
 - (b) 32,000 ML/year, minus
 - (c) the Barwon-Darling Watercourse SDL resource unit shared reduction amount as determined under section 6.05 of the Basin Plan, plus
 - (d) the SDL adjustment amount as determined under section 6.05A of the Basin Plan.
- (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, Barwon-Darling Watercourse SDL resource unit, SDL resource unit shared reduction amount and SDL adjustment amount*** are defined in the Dictionary.
- 2 The subtraction of 32,000 ML/year and the SDL resource unit shared reduction amount and the SDL adjustment amount are prescribed in Schedule 2 of the Basin Plan.

[14] Clause 35C Assessment of compliance with the long-term average sustainable diversion limit

Omit “after the end of each water year, ” in subclause 35C (1).

[15] Clause 36 Action following non-compliance

Omit subclauses (2) – (5) and insert instead:

- (2) Subject to subclause (4) and (5), if an assessment under clauses 35 or 35C demonstrates non-compliance with either the long-term average annual extraction limit or the long-term average sustainable diversion limit, the Minister must take one or more of the following actions:
 - (a) reduce the sum of available water determinations that is permitted to be made in accordance with clause 38 for unregulated river (A Class) access licences, unregulated river (B Class) access licences and unregulated river (C Class) access licences,
 - (b) make future available water determinations for floodplain harvesting (unregulated river) access licences under clause 39 of less than 1 ML per unit share.

Note— Action under this clause will have effect from the water year following the assessment, which will be two water years after the non-compliance occurred.

- (3) The Minister may also take one or more of the actions specified in subclause (2) as a result of any action taken under clause 6.12 (5) of the Basin Plan.
- (4) Any action under subclauses (2) and (3) must only be taken to the extent to which, and only for as long as, the Minister considers the following necessary:
 - (a) in the case of non-compliance with the long-term average annual extraction limit— to return long-term average annual extraction in the water source 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.
- (5) The Minister must only take action under subclause (2) (a) if total extractions (excluding extractions under floodplain harvesting (unregulated river) access licences) exceed the component of the long-term average annual extraction limit that in the Minister's opinion is attributable to basic landholder rights and access licences other than floodplain harvesting (unregulated river) access licences.
- (6) The Minister must only take action under subclause (2) (a) to the extent that, in the Minister's opinion, total extractions (excluding extractions by floodplain harvesting (unregulated river) access licences) have exceeded the component of the long-term average annual extraction limit referred to in subclause (5).
- (7) The Minister must only take action under subclause (2) (b):
 - (a) if the total extractions under floodplain harvesting (unregulated river) access licences exceed the component of the long-term average annual extraction limit that, in the Minister's opinion, is attributable to floodplain harvesting (unregulated river) access licences,
 - (b) to the extent that, in the Minister's opinion, total extractions by floodplain harvesting (unregulated river) access licences have exceeded the component of the long-term average annual extraction limit that is referred to in subclause (7) (a).
- (8) Subclauses (2) (b), (5), (6) and (7) only apply if floodplain harvesting (unregulated river) access licences have been issued in the water source.

- (9) Before taking action under this clause, the Minister may consult with water user representatives and the NSW Environmental Water Manager regarding the following:
 - (a) the data used for the calculations under Divisions 2 and 3,
 - (b) the proposed actions under this Division.

[16] Clause 38 General

Omit subclauses (1) – (2) and insert instead:

- (1) Available water determinations for access licences are to be expressed as one of the following:
 - (a) for access licences specifying the share component in ML/year— a percentage of the share component,
 - (b) for access licences specifying the share component as a number of unit shares— ML per unit share.
- (2) The sum of available water determinations made for an access licence (other than an unregulated river (A Class) access licence, unregulated river (B Class) access licence and unregulated river (C Class) access licence) 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.

[17] Clause 39 Available water determinations

Insert after subclause 39 (d):

- (d1) 1 megalitre per unit of share component for floodplain harvesting (unregulated river) access licences,

[18] Part 6, Note at end

Omit Note and insert instead:

Note— Division 1C of this Part provides for available water determinations for unregulated river (A Class) access licences, unregulated river (B Class) access licences, unregulated river (C Class) access licences and floodplain harvesting (unregulated river) access licences to be reduced where the long-term average annual extraction limit or long-term average sustainable diversion limit for the water source has been assessed to have been exceeded.

[19] Part 7 Rules for granting access licences

Insert “and water supply work approvals” after “licences” in Part heading.

[20] Part 7

Omit Notes and insert instead:

Notes—

- 1 This Part is made in accordance with sections 61 and 63 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 granted in the water source will be subject to mandatory conditions required to be imposed by this Plan, the regulations and the Act, and may also be subject to discretionary conditions.

[21] Clause 40 Specific purpose access licences

Omit clause and Note and insert instead:

- (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 access licence of the subcategory “Aboriginal cultural” 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 a supplementary water (Aboriginal environmental) access licence provided the share component of the proposed access licence is less than or equal to 500 ML/year.
- (4) An access licence of the subcategory “Aboriginal cultural” may only be granted for the taking of water by an Aboriginal person or Aboriginal community for any personal, domestic or communal purpose, including drinking, food preparation, washing, manufacturing traditional artefacts, watering domestic gardens, cultural teaching, hunting, fishing, gathering and for recreational, cultural and ceremonial purposes.

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

- (5) A supplementary water (Aboriginal environmental) access licence may only be granted for the taking of water by an Aboriginal person or Aboriginal community for enhancing Aboriginal cultural value of important lagoons and billabongs.
- (6) A supplementary water (Aboriginal environmental) access licence must not be granted if it would cause the sum of the share components of all supplementary water (Aboriginal environmental) access licences in the water source to exceed 2,000 ML/year.

[22] Clause 40

Insert new clause 40A after clause 40:

40A Rules for water supply works located near flood-dependent areas

- (1) A reference in this clause to a water supply work being located within a specified area includes a reference to a water supply work that is proposed to be located within a specified area.

- (2) A water supply work approval must not be granted if the water supply work is to be:
- (a) nominated by a floodplain harvesting (unregulated river) access licence, and
 - (b) located within the Barwon-Darling Management Zone A or Barwon-Darling Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017*) or the Lower Namoi Management Zone AD or Lower Namoi Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020*).

Notes—

- 1 Barwon-Darling Management Zone A and Lower Namoi Management Zone AD includes areas of the Floodplain where a significant discharge of floodwater occurs during floods, with relatively high flood flow velocity and depth.
- 2 Barwon-Darling Management Zone D and Lower Namoi Management Zone D are special protection zones for areas of ecological or cultural significance, or both.
- 3 An overview of Barwon-Darling Management Zone A and Barwon-Darling Management Zone D are shown in Appendix 2.
- 4 An overview of Lower Namoi Management Zone AD and Lower Namoi Management Zone D are shown in Appendix 4.

- (3) A water supply work approval must not be amended to add a work to which the approval relates if:
- (a) the water supply works currently subject to the approval are nominated by a floodplain harvesting (unregulated river) access licence, and
 - (b) the water supply work proposed to be added is either:
 - (i) not located on a property that is fully or partially located on the Barwon-Darling Valley Floodplain (as declared under clause 252 of the *Water Management (General) Regulation 2018*) or
 - (ii) located within the Barwon-Darling Management Zone A or Barwon-Darling Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017*) or the Lower Namoi Management Zone AD or Lower Namoi Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020*).

Note— An overview of Barwon-Darling Valley Floodplain is shown in Appendix 3.

- (4) A water supply work approval must not be amended if all of the following apply:
 - (a) the water supply works currently subject to the approval are nominated by a floodplain harvesting (unregulated river) access licence, and
 - (b) amending the water supply work approval would increase the capability of water supply works subject to the approval to take water within the Barwon-Darling Management Zone A or Barwon-Darling Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017*) or the Lower Namoi Management Zone AD or Lower Namoi Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020*), and
 - (c) the increase in capacity is not a result of adding a water supply work that is or was previously nominated by that floodplain harvesting (unregulated river) access licence.
- (5) Subclause (2) does not apply if all of the following apply:
 - (a) the applicant was determined to be eligible for a replacement floodplain harvesting access licence,
 - (b) the work is the subject of an application made prior to 30 June 2023 to grant a water supply work approval.
- (6) Subclauses (3) and (4) do not apply to a water management work if all of the following apply:
 - (a) the applicant was determined to be eligible for a replacement floodplain harvesting licence,
 - (b) the work was constructed on or before 12 February 2021, but was not the subject of a water supply work approval prior to that date,
 - (c) if the work is also a flood work, the work is subject to a flood work approval, and
 - (d) the work is the subject of an application for the grant or amendment of a water supply work approval which was made prior to 31 December 2023.

[23] Part 8 Rules for managing access licences

Insert after Part heading:

Notes—

- 1 Section 85 of the Act and the regulations provide for the keeping of water allocation accounts for access licences. The provisions in this Part restrict the water that may be taken under, or assigned from, an access licence over a specified period of time, and

the unused water allocations in water allocation accounts that may be carried over from one water year to the next. These restrictions are in addition to any other limits on access licences for the taking or assignment of water. It is an offence under section 60C of the Act to take water under an access licence for which there is no or insufficient water allocation.

2 The provisions in this Part apply to the following:

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

[24] Part 8 Division 1 Water allocation account management rules

Omit Note.

[25] Clause 42 Individual access licence account management rules

Omit “or” after “unregulated river (B class) access licence” and insert instead “, “ in subclause 42 (2).

[26] Clause 42 (2)

Insert “or floodplain harvesting (unregulated river) access licence” after “(C Class) access licence”.

[27] Clause 42 (3)

Insert the following after subclause 42 (3):

(3A) Subclause (3) does not apply to an access licence listed in Columns 1 and 2 of Table 1 in Schedule 1A until the earlier of the following occurs:

- (a) the amount of water in the water allocation account for the access licence is equal to or less than 10 times the share component of the access licence as at the commencement of this subclause,
- (b) five years from the commencement of this subclause.

Note— It is intended that this subclause will continue in effect, up to a period of five years from the date it commenced.

[28] Clause 42 (9)

Insert the following after subclause 42 (9):

(10) For a floodplain harvesting (unregulated river) access licence:

- (a) the volume of water extracted during a nominated floodplain harvesting measurement period by the water supply works nominated by the access licence must be debited from the water allocation account for that access licence,

- (b) water allocations in the water allocation account must be carried over from one water year to the next,
- (c) allocations in a water allocation account must not exceed 5 ML per unit share.

[29] Clause 42A (2)

Insert after clause (2):

- (2A) For the purpose of subclause (2), relevant access licence holders include the holder of an access licence to which an IDEC has been assigned under section 71QA of the Act from an access licence in another management zone.

[30] Clause 42A (4)

Omit Note 5.

[31] Clause 43 Rules for access licences intending to protect water from extraction

Omit Note to subclause 43 (3).

[32] Division 2 Daily access rules and flow classes

Insert after Note:

43A General

This Division 2 does not apply to floodplain harvesting (unregulated river) access licences.

[33] Clause 46 Access rules for unregulated river (A class), B class) and C class) access licences

Omit Note to subclause 46 (1).

[34] Clause 46 (4)

Insert after subclause 46 (4):

- (5) Water must not be taken under any IDEC assigned under section 71QA of the Act between access licences in different management zones unless access to flows under both access licences is permitted under subclauses (1) – (4).

[35] Clause 47 Access rules for specified access licences

Omit Note to subclause 47 (4).

[36] Clause 47 (5)

Omit Note.

[37] Clause 49A Announcement of flow classes

Omit clause and insert instead:

49A Announcement of flow classes

- (1) For the purposes of clauses 45 and 46, the flow class that applies at any time in a management zone is as announced by the Minister, except where subclause (6) applies.
- (2) Subject to subclauses (4) and (5) and clause 50, for each management zone in Column 1 of Table B, the Minister is to announce the flow class specified in Column 2 of Table B corresponding to the flow class threshold in Column 3 of Table B as determined at the flow reference point in Column 4 of Table B.
- (3) The announcement made under subclause (2) is to apply for a 24 hour or longer period from the time specified in the announcement, as determined by the Minister.
- (3A) The Minister may amend an announcement as made under subclause (2) if satisfied that it is necessary to do so due to inaccuracies between the forecast flows the announcement was based on and the actual flows that occur at the relevant flow reference point.
- (4) The Minister may adjust the flow class threshold referred to in Column 3 of Table B by an amount determined by the Minister as necessary to protect Active Environmental Water in accordance with the Active Management Procedures Manual.
- (5) If, in the Minister's opinion, on any day accurate flow data is not available from a gauge used to determine a flow class, the Minister is to determine and announce the flow class that is to apply based on forecast flow data for the relevant gauge(s).
- (6) If the Minister has not announced a specific flow class for a specific period of time under subclauses (2) and (3), then the flow class that was previously announced is to continue to apply to each subsequent 24 hour period until a new flow class is announced.

[38] Clause 49A, Table B Flow class thresholds

For the Collarenebri to Upstream Walgett Weir Pool Management Zone in Column 1, omit the following text specified in Column 3 in relation to the A Class in Column 2:

1. More than 317 ML/day at Collarenebri gauge and more than 100 ML/day at Tara gauge

Insert instead—

1. More than 317 ML/day at Collarenebri gauge and more than 275 ML/day at Tara gauge

[39] Clause 50 Resumption of flows

Insert “cumulative” after “total” in subclauses 50 (2) (b), (4) (b), (6) (b) and (8) (b).

[40] Clause 50 (2) (b), (4) (b), (6) (b) and (8) (b)

Insert “most recent” after “commencement of the” in subclauses 50 (2) (b), (4) (b), (6) (b) and (8) (b).

[41] Clause 52A

Omit Note.

[42] Clause 52A

Insert after clause 52A:

Division 3 Access rules for floodplain harvesting (unregulated river) access licences

52B Taking of water under floodplain harvesting (unregulated river) access licences

- (1) For the purposes of this clause **Menindee Lakes Storage** has the same meaning as it does under the Murray-Darling Basin Agreement and **Murray-Darling Basin Authority (MDBA)** means the Murray-Darling Basin Authority established by the *Water Act 2007* (Cth).
- (2) The taking of water under a floodplain harvesting (unregulated river) access licence may only occur if the Minister has announced that the taking of overland flow water is permitted.
- (3) The Minister must not announce that the taking of water from overland flow water is permitted if either:
 - (a) the volume of water stored in the Menindee Lakes Storage is less than 195 gigalitres, or
 - (b) both of the following apply:
 - (i) the volume of water in the Menindee Lakes Storage that can be delivered to the Lower-Darling Regulated River Water Source from the Menindee Main Weir is less than 195 gigalitres, and
 - (ii) the MDBA has published operating procedures that allow the MDBA to deliver state entitlements to water under the Murray Darling Basin Agreement via the Great Darling Anabranch:
 - A. when water remaining in Lake Cawndilla can no longer be delivered from the Menindee Outlet Regulator, and
 - B. to maximise the volume of water that can be delivered to meet the critical human needs of the Menindee Lakes and Lower-Darling

Regulated River Water Source when the total volume of water in the Menindee Lakes Storage declines below 480 gegalitres.

- (4) Subclause (3) does not apply during periods for which, in the Minister's opinion, a flow in the Darling River at Wilcannia gauge (425 008) will remain at or above 7,900 ML/day.
- (5) The Minister must not announce that the taking of overland flow water is permitted for a management zone in River Section 1 if any of the following occurs:
 - (a) the flow in the Barwon River at Dangar Bridge (Walgett) (422 001) has been less than 326 ML/day for more than 150 consecutive days,
 - (b) the flow in the Barwon River at Brewarrina (422 002) has been less than 468 ML/day for more than 150 consecutive days,
 - (c) the flow in the Darling River at Bourke Town (425 003) has been less than 450 ML/day for 120 days consecutive days,
 - (d) the flow in the Darling River at Wilcannia (425 008) has been less than 200 ML/day for 90 consecutive days.
- (6) Subclause (5) does not apply if, in the Minister's opinion, an announcement permitting the taking of overland flow water will not prevent one of the following from occurring:
 - (a) a flow greater than 706 ML/day for 10 consecutive days in the Barwon River at Dangar Bridge (Walgett) (422 001),
 - (b) a flow greater than 1008 ML/day for more than 10 consecutive days in the Barwon River at Brewarrina (422 002),
 - (c) a flow greater than 972 ML/day for more than 10 consecutive days in the Darling River at Bourke Town (425 003), and
 - (d) a flow greater than 400 ML/day for more than 10 consecutive days in the Darling River at Wilcannia (425 008),
 - (e) a total cumulative flow of 30,000 ML in the Darling River at Bourke Town (425 003) since the commencement of the most recent period when the flow in the Darling River at Wilcannia (425 008) has been less than 200 ML/day for more than 90 consecutive days.

- (7) The Minister must not announce that the taking of overland flow water is permitted for a management zone in River Section 2 if any of the following occurs:
- (a) the flow in the Barwon River at Brewarrina (422 002) has been less than 468 ML/day for more than 150 consecutive days,
 - (b) the flow in the Darling River at Bourke Town (425 003) has been less than 450 ML/day for 120 days consecutive days,
 - (c) the flow in the Darling River at Wilcannia (425 008) has been less than 200 ML/day for 90 consecutive days.
- (8) Subclause (7) does not apply if, in the Minister's opinion, an announcement permitting the taking of overland flow water will not prevent one of the following from occurring:
- (a) a flow greater than 1008 ML/day for more than 10 consecutive days in the Barwon River at Brewarrina (422 002),
 - (b) a flow greater than 972 ML/day for more than 10 consecutive days in the Darling River at Bourke Town (425 003),
 - (c) a flow greater than 400 ML/day for more than 10 consecutive days in the Darling River at Wilcannia (425 008),
 - (d) a total cumulative flow of 30,000 ML in the Darling River at Bourke Town (425 003) since the commencement of the most recent period where the flow in the Darling River at Wilcannia (425 008) has been less than 200 ML/day for more than 90 consecutive days.
- (9) The Minister must not announce that the taking of overland flow water is permitted for a management zone in River Section 3 if any of the following occurs:
- (a) the flow in the Darling River at Bourke Town (425 003) has been less than 450 ML/day for 120 consecutive days,
 - (b) the flow in the Darling River at Wilcannia (425 008) has been less than 200 ML/day for 90 consecutive days.
- (10) Subclause (9) does not apply if, in the Minister's opinion, an announcement permitting the taking of overland flow water will not prevent one of the following from occurring:
- (a) a flow greater than 972 ML/day for more than 10 consecutive days in the Darling River at Bourke Town (425 003),

- (b) a flow greater than 400 ML/day for more than 10 consecutive days in the Darling River at Wilcannia (425 008),
 - (c) a total cumulative flow of 30,000 ML in the Darling River at Bourke Town (425 003) since the commencement of the most recent period when the flow in the Darling River at Wilcannia (425 008) has been less than 200 ML/day for more than 90 consecutive days.
- (11) The Minister must not announce that the taking of overland flow water is permitted for a management zone in River Section 4 if the flow in the Darling River at Wilcannia (425 008) has been less than 200 ML/day for 90 consecutive days.
- (12) Subclause (11) does not apply if, in the Minister's opinion, an announcement permitting the taking of overland flow water will not prevent one of the following from occurring:
 - (a) a flow greater than 400 ML/day for more than 10 consecutive days in the Darling River at Wilcannia (425 008),
 - (b) a total cumulative flow of 30,000 ML in the Darling River at Bourke Town (425 003) since the commencement of the most recent period when the flow in the Darling River at Wilcannia (425 008) has been less than 200 ML/day for more than 90 consecutive days.

[43] Clause 64 Assignment of rights dealings

Insert after subclause 64 (3):

- (3A) Dealings under section 71Q of the Act are prohibited if the dealing involves an assignment of rights to a floodplain harvesting (unregulated river) access licence:
 - (a) that nominates a water supply work not located on a property that is wholly or partially located within the Barwon-Darling Valley Floodplain (as declared under clause 252 of the *Water Management (General) Regulation 2018*) unless the work was nominated by the licence when the licence was first issued in the water source, or
 - (b) that nominates a water supply work located within Barwon-Darling Management Zone A or Barwon-Darling Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017*) or the Lower Namoi Management Zone AD or Lower Namoi Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020*) unless the work was nominated by the licence when the licence was first issued in the water source, or

- (c) from a floodplain harvesting (unregulated river) access licence that nominates a water supply work located in a different river section.

[44] Clause 64A Assignment of individual daily extraction component

Omit clause and insert instead:

64A Assignment of individual daily extraction component

Dealings under section 71QA of the Act are prohibited if the dealing involves the assignment of the rights to an individual daily extraction component to either of the following:

- (a) an access licence with a share component that specifies a different river section,
- (b) an access licence that is subject to less restrictive conditions regulating the take of water.

[45] Clause 67 Assignment of water allocation dealings

Omit “more restrictive” from subclause 67 (1). Insert instead “less restrictive”.

[46] Clause 67 (2)

Insert after subclause 67 (2):

- (3) A dealing under section 71T of the Act is prohibited if the dealing involves an assignment of water allocation to or from a floodplain harvesting (unregulated river) access licence.

[47] Clause 69 Nomination of water supply works dealings

Insert after subclause 69 (1) (o):

- (2) Dealings under section 71W of the Act are prohibited if the dealing involves a floodplain harvesting (unregulated river) access licence being amended to nominate a water supply work located:
 - (a) outside a property that is not wholly or partially located within the Barwon-Darling Valley Floodplain (as declared under clause 252 of the *Water Management (General) Regulation 2018*) unless the work was nominated by the licence when the licence was first issued in the water source, or
 - (b) within Barwon-Darling Management Zone A or Barwon-Darling Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017*) or the Lower Namoi Management Zone AD or Lower Namoi Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020*) unless the work was nominated by the licence when the licence was first issued in the water source, or

- (c) in a different river section.

[48] Clause 70 General

Omit “water.enquiries@dpi.nsw.gov.au” from Note to subclause 70 (a) and insert instead “water.enquiries@dpie.nsw.gov.au”.

[49] Clause 71 General

Omit subclauses 71 (2) – (5) and insert instead:

- (2) Each floodplain harvesting (unregulated river) access licence must have a mandatory condition:
 - (a) requiring that the licence holder only take water from:
 - i. overland flow within the Barwon-Darling Valley Floodplain (as declared under clause 252 of the *Water Management (General) Regulation 2018*),
 - ii. overland flow within the Lower Namoi Valley Floodplain (as declared under clause 252 of the *Water Management (General) Regulation 2018*) but only if taken from a property that is partially located within both the Barwon-Darling Valley Floodplain and the Lower Namoi Valley Floodplain,
 - iii. an off-river pool in the water source specified on the water supply work approval nominated in the licence,
 - (b) that gives effect to Division 3 of Part 8.

[50] Clause 72 General

Omit subclause 72 (1) and insert instead:

- (1) Water supply work approvals for water supply works in the water source must have mandatory conditions to give effect to the following:
 - (a) the water supply work must not be used to take water under an access licence unless in compliance with the relevant access rules for the taking of water as specified in Divisions 2 and 3 of Part 8, Schedule 2 and Schedule 2A of this Plan,
 - (b) the approval holder must ensure that, if the water supply work is abandoned or replaced, it is decommissioned in accordance with any direction from the Minister. The Minister may direct that any such water supply work need not be decommissioned,
 - (c) the holder of the water supply work approval upon becoming aware of a breach of any condition of the approval must:
 - (i) notify the Minister as soon as practicable, and
 - (ii) if the notification under subparagraph (i) was not in writing, confirm this notification in writing within 7 days of becoming aware of the breach, and

- (d) any other conditions required to implement the provisions of this Plan.

Note— The *Water Management (General) Regulation 2018* provides that measurement devices must be installed by the date specified in the regulation for all water supply works used for extraction of water under a floodplain harvesting (unregulated river) access licence.

[51] Clause 72 (1A) – (1B)

Omit subclauses 72 (1A) – (1B).

[52] Clause 72 (2)

Omit “source, excluding any water supply work that is a metered water supply work with a data logger or is used for the purpose of taking water under basic landholder rights only, must” from subclause 72 (2) and insert instead “source (excluding any water supply work that is a metered water supply work with a data logger, used for the purpose of taking water under basic landholder rights only or nominated by a floodplain harvesting (unregulated river) access licence) must”.

[53] Clause 84 Other

Omit subclause 84 (1) (a) and insert instead:

- (a) to add, modify or remove provisions relating to floodplain harvesting (unregulated river) access licences in response to any of the following—
 - (i) the need to protect overbank flow for environmental purposes,
 - (ii) monitoring, evaluation and reporting outcomes,
 - (iii) an improved understanding of the influence of floodplain harvesting on downstream flows,
 - (iv) a review that assesses the potential benefits and impacts of new access provisions for floodplain harvesting (unregulated river) access licences, to improve water access for critical environmental and human needs in the water source,
 - (v) a review of the access licence dealing rules in Part 10 of this Plan,
 - (vi) other circumstances as determined by the Minister,
- (a1) to provide available water determinations for floodplain harvesting (unregulated river) access licences that are:
 - (i) less than 1 ML per unit share, if the Minister is satisfied they are appropriate because the determination of the amount under clause 33 is less than the determination of the amount under clause 33 when floodplain harvesting (unregulated river) access licences were first issued in the water source, and the Minister is of the opinion that the difference is attributable to floodplain harvesting,

- (ii) greater than 1 ML per unit share, if the Minister is satisfied they may be made without total extractions exceeding the long-term average annual extraction limit, because the determination of the amount under clause 33 is greater than the determination of the amount under clause 33 when floodplain harvesting (unregulated river) access licences were first issued in the water source, and the Minister is of the opinion that the difference is attributable to floodplain harvesting,

[54] Clause 84 (1B)

Insert after subclause 84 (1B):

- (1C) Action under subclause (1) (a) or subclause (1E) must not substantially alter the long-term average annual total amount of water able to be extracted under floodplain harvesting (unregulated river) access licences in the water source.
- (1D) Before making an amendment in accordance with subclause (1) (a1) the Minister may consult with water user representatives, the NSW Environmental Water Manager and the operator regarding the following:
 - (a) the data used for the calculations under clause 33,
 - (b) the proposed amendment under subclause (1) (a1).
- (1E) This Plan may be amended to add, remove or modify rules in clause 52B.
- (1F) Before making any amendment under subclause (1E) and before 1 July 2025, the Minister will:
 - (a) seek, consider and publish independent expert advice on the adequacy of the rules in clause 52B including:
 - (i) the needs of the environment, basic landholder rights, domestic and stock access licence holders and local water utility access licence holders,
 - (ii) the adequacy of the existing flow targets and volumes to meet those needs,
 - (iii) any changes to the flow targets and volumes that would be required to meet those needs, and
 - (iv) the impact of those changes to flow targets and volumes on the long-term average annual total amount of water able to be extracted under floodplain harvesting (unregulated river) access licences in the water source,
 - (b) consider the views of stakeholders and other community members on the independent expert advice.

- (1G) This Plan may be amended to add, remove or modify rules in clauses 42A and 52A to protect Active Environmental Water from floodplain harvesting.

[55] Dictionary, *plantation forestry*

Insert the following definition after the definition of *plantation forestry*:

property means, for the purposes of clauses 40A, 64, 69 and 71:

- (a) a single parcel of land, or
- (b) two or more adjoining parcels of land owned or worked together by a landholder.

[56] Dictionary, *runoff harvesting dam*

Insert the following definitions after the definition of *runoff harvesting dam*:

SDL adjustment amount has the same meaning as it has in section 1.07 of the Basin Plan.

SDL resource unit shared reduction amount has the same meaning as it has in section 1.07 of the Basin Plan.

[57] Schedule 1A Access licences exempt from clause 42(3)

At the end of Schedule 1, insert a new Schedule 1A as follows –

Schedule 1A Access licences exempt from clause 42(3)

(clause 42(3A))

Table 1

Column 1	Column 2	Column 3	Column 4
WAL Number	Licence	Water Management Zone	Licence Category
33608	85AL753002	TILPA TO WILCANNIA MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33620	85AL753334	COLLARENEBRI TO UPSTREAM WALGETT WEIR POOL MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
33624	85AL752942	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33625	85AL752956	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)

33633	85AL753057	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33647	85AL752980	DOWNSTREAM MOGIL MOGIL TO COLLARENEBRI MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33666	85AL753370	DOWNSTREAM MOGIL MOGIL TO COLLARENEBRI MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
33667	85AL753372	BOURKE TO LOUTH MANAGEMENT ZONE	UNREGULATED RIVER (C CLASS)
33669	85AL753320	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
33670	85AL753323	BOURKE TO LOUTH MANAGEMENT ZONE	UNREGULATED RIVER (C CLASS)
33672	85AL752974	BOOROOMA TO BREWARRINA MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33673	85AL753342	DOWNSTREAM MOGIL MOGIL TO COLLARENEBRI MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
33675	85AL753006	DOWNSTREAM WALGETT TO BOOROOMA MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
33676	85AL753053	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33677	85AL753059	BOURKE TO LOUTH MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33689	85AL753188	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33702	85AL752964	DOWNSTREAM MOGIL MOGIL TO COLLARENEBRI MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33705	85AL752976	TILPA TO WILCANNIA MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
33713	85AL753200	BOOROOMA TO BREWARRINA MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33723	85AL752928	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)

33724	85AL752938	BOOROOMA TO BREWARRINA MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33732	85AL753098	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33740	85AL753184	WALGETT WEIR POOL MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
33748	85AL753390	DOWNSTREAM MOGIL MOGIL TO COLLARENEBRI MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
33753	85AL752984	DOWNSTREAM MOGIL MOGIL TO COLLARENEBRI MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33759	85AL753052	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33767	85AL753178	LOUTH TO TILPA MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
33770	85AL753216	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
33773	85AL753321	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (C CLASS)
33779	85AL752996	WALGETT WEIR POOL MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
33781	85AL753020	BOOROOMA TO BREWARRINA MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
33799	85AL752930	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
35386	85AL753462	DOWNSTREAM MOGIL MOGIL TO COLLARENEBRI MANAGEMENT ZONE	UNREGULATED RIVER (C CLASS)
35393	85AL753408	BREWARRINA TO CULGOA RIVER JUNCTION MANAGEMENT ZONE	UNREGULATED RIVER (C CLASS)
35402	85AL753405	MUNGINDI TO BOOMI RIVER CONFLUENCE MANAGEMENT ZONE	UNREGULATED RIVER (C CLASS)
35411	85AL753406	BREWARRINA TO CULGOA RIVER JUNCTION MANAGEMENT ZONE	UNREGULATED RIVER (C CLASS)

35417	85AL753409	BREWARRINA TO CULGOA RIVER JUNCTION MANAGEMENT ZONE	UNREGULATED RIVER (C CLASS)
36559	85AL753544	DOWNSTREAM WALGETT TO BOOROOMA MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
37047	85AL753615	CULGOA RIVER JUNCTION TO BOURKE MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
37353	85AL753652	BOOMI RIVER CONFLUENCE TO UPSTREAM OF MOGIL MOGIL WEIR POOL MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)
37432	85AL753658	LOUTH TO TILPA MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
37517	85AL753679	DOWNSTREAM MOGIL MOGIL TO COLLARENEBRI MANAGEMENT ZONE	UNREGULATED RIVER (A CLASS)
41463	85AL753769	MUNGINDI TO BOOMI RIVER CONFLUENCE MANAGEMENT ZONE	UNREGULATED RIVER (B CLASS)

[58] Schedule 2 Access licences with cease to pump rules that are in addition to the flow class announcement rules

In Column 1, omit “33667” where it appears adjacent to the text “Water must not be taken by the water supply work located on the Darling River unless the water supply work on Ross Billabong is operating and the storage in Ross Billabong is not increasing.” in Column 2.

Insert instead “33784”.

[59] Schedule 4 Office

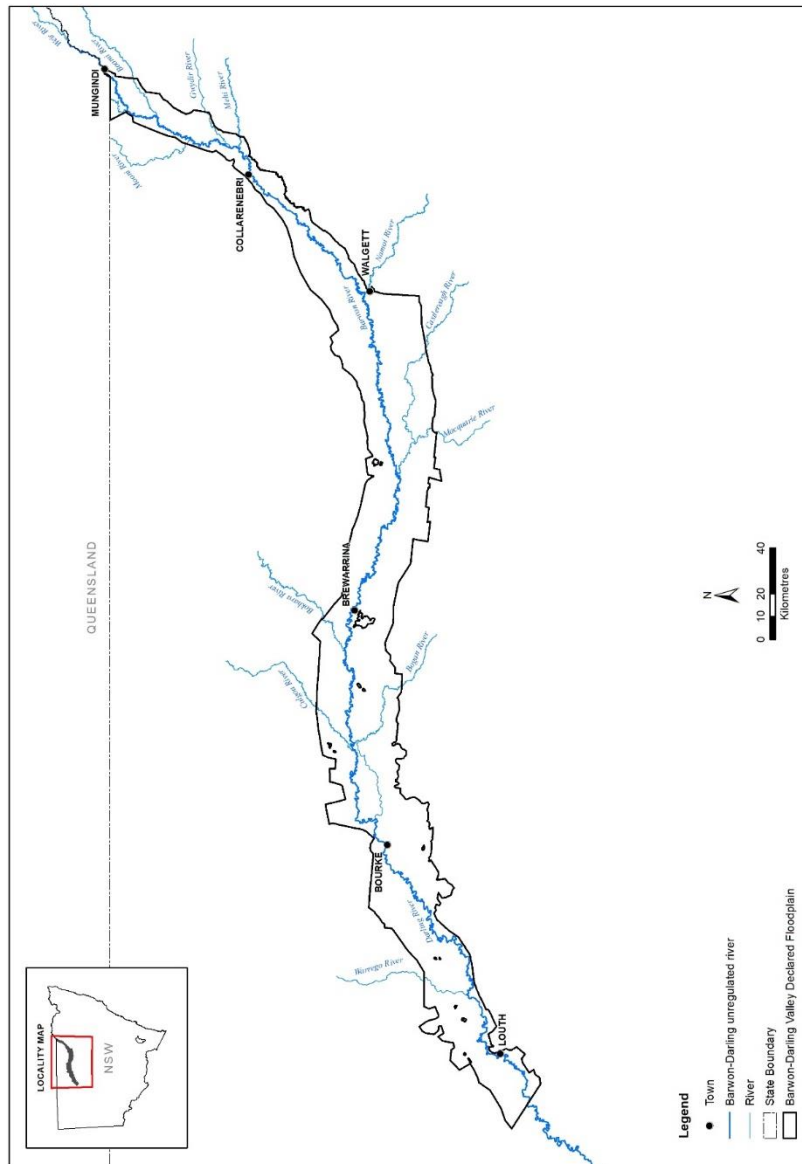
Omit “, Industry”.

[60] Appendix 1 Overview of the Plan Map

Insert after Appendix 1:

Appendix 2 Overview of Barwon-Darling Management Zone A and Barwon-Darling Management Zone D

Appendix 3 Overview of the Barwon-Darling Valley Floodplain



Appendix 4 Overview of the Lower Namoi Management Zone AD and Lower Namoi Management Zone D

