



New South Wales
Government

Water Sharing Plan for the Namoi and Peel Unregulated Rivers Water Sources Amendment Order 2024

under the

Water Management Act 2000

I, ROSE JACKSON MLC, Minister for Water, in pursuance of section 45(1) of the *Water Management Act 2000*, being satisfied it is in the public interest to do so, and in such circumstances, in relation to such matters and to such extent as provided for under the *Water Sharing Plan for the Namoi and Peel Unregulated Rivers Water Sources 2012*, make the following Order to amend that Plan.

Dated 11 November 2024.

Rose Jackson

ROSE JACKSON, MLC
Minister for 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 Namoi and Peel Unregulated Rivers Sources 2012*. The concurrence of the Minister for the Environment 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 Namoi and Peel Unregulated Rivers Water Sources Amendment Order 2024*.

2 Commencement

This Order commences on the day on which it is published on the NSW legislation website.

**Schedule 1 Amendment of Water Sharing Plan for the Namoi and Peel
Unregulated Rivers Water Sources 2012**

[1] Clause 23A Share components for floodplain harvesting (unregulated river) access licences

Insert after clause 23—

23A Share components of floodplain harvesting (unregulated river) access licences

It is estimated that on 1 October 2024, the share components of floodplain harvesting (unregulated river) access licences authorised to extract water from the Namoi Unregulated Rivers Water Sources total 0 unit shares.

[2] Clause 29 Calculation of the long-term average annual extraction limit

Omit ‘may be’ from clause 29(c). Insert instead ‘have been’.

[3] Clause 30 Calculation of annual extraction

Omit the clause. Insert instead—

30 Calculation of annual extraction

(1) 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.

(2) Calculations made under subclause (1) are to exclude extractions under licences nominating works that extract water from Wallamoore Anabranh and local water utility access licences nominating works that extract water from Dungowan Dam.

[4] Clause 33B Action following non-compliance

Omit ‘(2)’ after ‘subclause’ in clause 33B(1), and insert instead ‘(1A)’.

[5] Clause 33B(1)(b)

Omit ‘.’ after ‘unit share’ in clause 33B(1)(b) and insert ‘,’ instead.

[6] Clause 33B(1)(b)

Insert after clause 33B(1)(b)—

- (c) make available water determinations for floodplain harvesting (unregulated river) access licences of less than 1 ML per unit share.

[7] Clause 33B(1A)

Insert after clause 33B(1)—

(1A) The Minister must only take action under subclause (1)(a) and (1)(b)—

- (a) if total extractions, excluding extractions under floodplain harvesting (unregulated river) access licences, exceed the sum of the amounts under clause 29(a)–(b), (d)–(g), and
- (b) having regard to the extent that total extractions (excluding extractions under floodplain harvesting (unregulated river) access licences) have exceeded the sum of the amounts under clause 29(a)–(b), (d)–(g).

[8] Clause 33B(6)

Insert after clause 33B(5)—

- (6) The Minister must only take action under subclause (1)(c)—
 - (a) if the total take by floodplain harvesting (unregulated river) access licences exceeds the amount under clause 29(c), and
 - (b) having regard to the extent that total extractions under floodplain harvesting (unregulated river) access licences have exceeded the amount under clause 29(c).

[9] Clause 33B(7)

Insert after clause 33B(6)—

- (7) Subclauses (1)(c), (1A), and (6) only apply if floodplain harvesting (unregulated river) access licences have been issued in the Namoi Unregulated Rivers Water Sources.

[10] Clause 36A Available water determinations for floodplain harvesting (unregulated river) access licences

Insert after clause 36—

36A Available water determinations for floodplain harvesting (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 share or such lower amount as determined under clause 33B is to be made for floodplain harvesting (unregulated river) access licences.

Notes.

- 1 Division 4 of this Part provides for the making of available water determinations for floodplain harvesting (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.
- 2 The Minister may also make an available water determination for floodplain harvesting (unregulated river) access licences other than at the commencement of a water year pursuant to section 59 of the Act. For example, if floodplain harvesting (unregulated river) access licences are first issued after 1 July.

[11] Clause 41 Specific purpose access licences

Omit subclause (3). Insert instead—

- (7) An access licence of the subcategory “Aboriginal cultural” may only be granted if—
 - (a) the licence is primarily for the taking of water by an Aboriginal person or Aboriginal community for personal, domestic or communal purposes, including the following—
 - (i) drinking and food preparation,
 - (ii) washing,
 - (iii) manufacturing traditional artefacts,
 - (iv) watering domestic gardens,
 - (v) cultural teaching,
 - (vi) hunting, fishing and gathering,
 - (vii) traditional food production,
 - (viii) purposes to achieve environmental outcomes,
 - (ix) recreational, cultural and ceremonial purposes, and
 - (b) any commercial benefit obtained by the taking or use of the water is only ancillary or incidental to the purpose for which the water was taken.

[12] Clause 43 Individual access licence account management rules

Insert ‘or a floodplain harvesting (unregulated river) access licence’ after ‘unregulated river access licence’ in clauses 43(3) and 43(5).

[13] Clause 47 Access rules for the taking of water from the Namoi Unregulated Rivers Water Sources

Omit ‘or’ from the end of clause 47(18)(d).

[14] Clause 47(18)(e)

Omit ‘.’ from the end of the paragraph. Insert instead ‘,or’.

[15] Clause 47(18)(f)

Insert after clause 47(18)(e)—

- (f) the taking of water under a floodplain harvesting (unregulated river) access licence with a share component that specifies one of the Namoi Unregulated Rivers Water Sources.

[16] Clause 52 Granting or amending water supply work approvals

Insert after clause 52(1A)—

- (1B) A water supply work approval must not be granted or amended to authorise a work if all of the following apply—
 - (a) the work is also a flood work,
 - (b) there is no flood work approval in place for the work,
 - (c) the work is on land to which the *Floodplain Management Plan for the Upper Namoi Valley Floodplain 2019* or the *Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020* applies,
 - (d) granting or amendment of an approval for the work would not be permitted under the *Floodplain Management Plan for the Upper Namoi Valley Floodplain 2019* or the *Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020*.

[17] Clause 52(5)

Insert after clause 52(4)—

- (5) A reference in subclauses (6)–(9) 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.
- (6) 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—
 - (i) the Upper Namoi Management Zone AD or the Upper Namoi Management Zone D (as established under clause 6 of the *Floodplain Management Plan for the Upper Namoi Valley Floodplain 2019*), or
 - (ii) the Lower Namoi Management Zone AD or the Lower Namoi Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020*).

Notes.

- 1 Upper Namoi Management Zone AD 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 Upper Namoi Management Zone D and Lower Namoi Management Zone D is a special protection zone for areas of ecological or cultural significance, or both.
 - 3 An overview of Upper Namoi Management Zone AD and Upper Namoi Management Zone D is shown in Appendix 3A.
 - 4 An overview of Lower Namoi Management Zone AD and Lower Namoi Management Zone D is shown in Appendix 3B.
- (7) A water supply work approval must not be granted, or amended to add a work to which the approval relates, if the work is or is to be—
- (a) nominated by a floodplain harvesting (unregulated river) access licence, and
 - (b) a flood work, and
 - (c) not subject to a flood work approval, and
 - (d) located within—
 - (i) the Upper Namoi Management Zone AID (as established under clause 6 of the *Floodplain Management Plan for the Upper Namoi Valley Floodplain 2019*), or
 - (ii) the Lower Namoi Management Zone AID (as established under clause 5 of the *Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020*).

Notes.

- 1 An overview of Upper Namoi Management Zone AID is shown in Appendix 3A.
 - 2 An overview of Lower Namoi Management Zone AID is shown in Appendix 3B.
- (8) 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 not located on the Upper Namoi Valley Floodplain or the Lower Namoi Valley Floodplain (as declared under clause 252 of the *Water Management (General) Regulation 2018*).

Notes.

- 1 An overview of the Upper Namoi Valley Floodplain is shown in Appendix 3A.
 - 2 An overview of the Lower Namoi Valley Floodplain is shown in Appendix 3B.
- (9) 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 located within—
 - (i) the Upper Namoi Management Zone AD or the Upper Namoi Management Zone D (as established under clause 6 of the *Floodplain Management Plan for the Upper Namoi Valley Floodplain 2019*), or
 - (ii) the Lower Namoi Management Zone AD or the Lower Namoi Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020*).

- (10) 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,
 - (b) amending the water supply work approval would increase the capability of water supply works subject to the approval to take water within—
 - (i) the Upper Namoi Management Zone AD or the Upper Namoi Management Zone D (as established under clause 6 of the *Floodplain Management Plan for the Upper Namoi Valley Floodplain 2019*), or
 - (ii) the Lower Namoi Management Zone AD or the 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 capability is not a result of adding a water supply work that is or was previously nominated by that floodplain harvesting (unregulated river) access licence.
- (11) Subclause (6) does not apply if all of the following apply—
- (a) the applicant was determined to be eligible for a replacement floodplain harvesting access,
 - (b) the work is the subject of an application made prior to 31 December 2023 to grant a water supply work approval.
- (12) Subclauses (7), (8), (9) and (10) do not apply 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 30 June 2024.

Note. *Replacement floodplain harvesting access licences* is defined in section 57A of the Act.

[18] Clause 62 Assignment of rights dealings

Omit ‘or’ from the end of clause 62(1)(x).

[19] Clause 62(1)(y)

Omit ‘.’ from the end of the paragraph. Insert instead ‘, or’.

[20] Clause 62(1)(z)

Insert after clause 62(1)(y)—

- (z) an access licence to a floodplain harvesting (unregulated river) access licence that nominates a water supply work located—
 - (i) outside the Upper Namoi Valley Floodplain or the Lower Namoi 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,

- (ii) within the Upper Namoi Management Zone AD or the Upper Namoi Management Zone D (as established under clause 6 of the *Floodplain Management Plan for the Upper Namoi Valley Floodplain 2019*), unless the work was nominated by the licence when the licence was first issued in the water source, or
- (iii) within the Lower Namoi Management Zone AD or the 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.

[21] Clause 65 Assignment of water allocations dealings

Omit ‘or’ from the end of clause 65(1)(y).

[22] Clause 65(1)(z)

Omit ‘.’ from the end of the paragraph. Insert instead ‘, or’.

[23] Clause 65(1)(za)

Insert after clause 65(1)(z)—

- (za) a floodplain harvesting (unregulated river) access licence or to a floodplain harvesting (unregulated river) access licence.

[24] Clause 67 Nomination of water supply works dealings

Insert after clause 67(3)—

- (4) A dealing under section 71W of the Act is prohibited if it involves a floodplain harvesting (unregulated river) access licence being amended to nominate a water supply work located—
 - (a) outside the Upper Namoi Valley Floodplain or the Lower Namoi Valley Floodplain (as declared under clause 252 of the *Water Management (General) Regulation 2018*),
 - (b) within the Upper Namoi Management Zone AD or the Upper Namoi Management Zone D (as established under clause 6 of the *Floodplain Management Plan for the Upper Namoi Valley Floodplain 2019*), or
 - (c) within the Lower Namoi Management Zone AD or the Lower Namoi Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Lower Namoi Valley Floodplain 2020*).
- (5) Subclause (4) does not apply to a dealing that involves the amendment of a floodplain harvesting (unregulated river) access licence to nominate a work authorised by a water supply work approval (the ***new approval***) if—
 - (a) the new approval was created as a result of the amendment of a water supply work approval (the ***original approval***) that was nominated by the access licence to be amended, and
 - (b) the new approval does not authorise any works in addition to those that were authorised by the original approval.
- (6) Subclause (4) does not apply to a dealing that involves the amendment of a floodplain harvesting (unregulated river) access licence if the Minister has made the following determinations—

- (a) the applicant for the dealing was eligible for a replacement floodplain harvesting access licence, under the *Water Management (General) Regulation 2018*, clause 23B,
- (b) the final share component for that licence was zero, under the Regulation, Part 2A, Division 2.

[25] Clause 69 Namoi Unregulated Rivers Water Sources

Omit clauses 69(2)–(5).

[26] Clause 69(6)

Insert after clause 69(5)—

- (6) Each floodplain harvesting (unregulated river) access licence must have a mandatory condition requiring that the licence holder only take water from overland flow within the Upper Namoi Valley Floodplain or the Lower Namoi Valley Floodplain (as declared under clause 252 of the *Water Management (General) Regulation 2018*).

Note. *Overland flow* is defined under section 4A of the Act.

[27] Clause 70 Namoi Unregulated Rivers Water Sources

Omit clauses 70(1)(a), (1A) and (1B), including the Note.

[28] Clause 70(2)

Omit clauses 70(2)–(3B).

[29] Clause 71 Peel Unregulated River Water Sources

Omit clauses 71(1)(a), (2) and (3), including the Note.

[30] Clause 82 Other

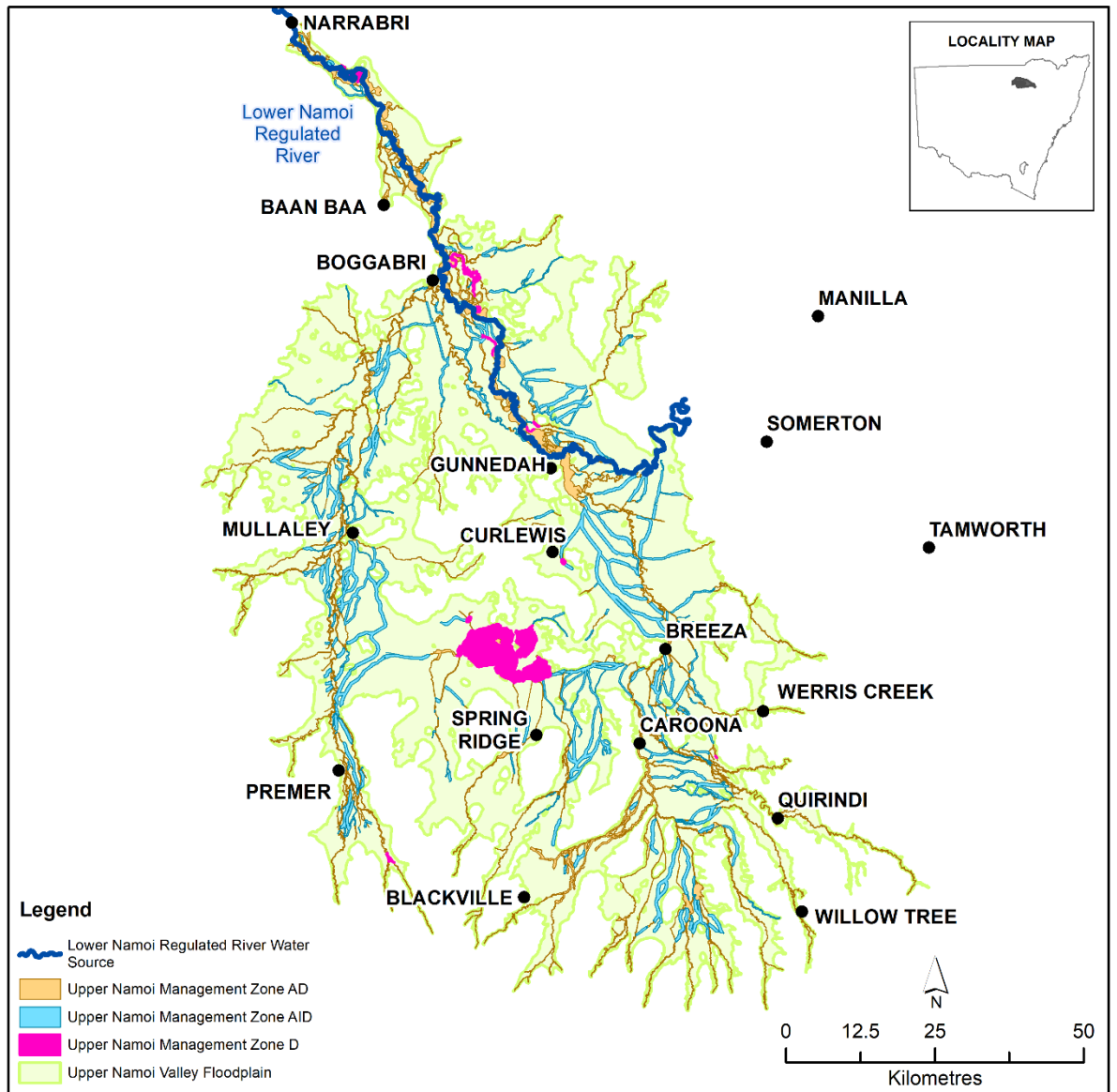
Omit clause 82(1)(b). Insert instead—

- (b) 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,
 - (v) a review of the access licence dealing rules in Part 10 of this Plan,
 - (vi) other circumstances as determined by the Minister,

[31] Appendix 3A

Insert after Appendix 3—

Appendix 3A Overview of Upper Namoi Valley Floodplain, Upper Namoi Management Zone AD, Upper Namoi Management Zone AID and Upper Namoi Management Zone D



[32] **Appendix 3B**

Insert after Appendix 3A—

Appendix 3B Overview of Lower Namoi Valley Floodplain, Lower Namoi Management Zone AD, Lower Namoi Management Zone AID and Lower Namoi Management Zone D

