



New South Wales
Government

Water Sharing Plan for the Gwydir Unregulated River Water Sources Amendment Order 2022

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, and in such circumstances, in relation to such matters and to such extent as provided for under the *Water Sharing Plan for the Gwydir Unregulated River Water Sources 2012*, make the following Order to amend that Plan.

Dated 28 July 2022

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 Gwydir Unregulated River Sources 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 Gwydir Unregulated Water Sources Amendment Order 2022*.

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 Gwydir Unregulated River
Water Sources 2012**

[1] Clause 10 Environmental objectives

Insert after clause heading and before clause 10(1) -

Note. The environmental water objectives, strategies and provisions in this Plan make a contribution towards achieving the Aboriginal cultural objectives of this Plan.

**[2] 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 July 2022, the share components of floodplain harvesting (unregulated river) access licences authorised to extract water from these water sources total 10,579 unit shares, distributed as follows—

- (a) 3,348 unit shares in the Gingham Watercourse Water Source,
- (b) 493 unit shares in the Mehi River Water Source,
- (c) 907 unit shares in the Slaughterhouse Creek Water Source,
- (d) 5,831 unit shares in the Thalaba Creek Water Source.

[3] Clause 27 Calculation of the long-term average annual extraction limit

Omit “may be” from paragraph 27 (1) (e). Insert instead “have been”.

[4] Clause 28 Calculation of annual extraction

Omit the clause. Insert instead—

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.

[5] Clause 31B Action following non-compliance

Insert “and floodplain harvesting (unregulated river) access licences” after “unregulated river access licences” in subclause 31B (1).

[6] Clause 31B (1A)

Insert after subclause 31B (1)—

- (1A) The reduction under subclause (1) is to be applied equally to unregulated river access licences and floodplain harvesting (unregulated river) access licences.

**[7] Clause 34A Available water determinations for floodplain harvesting
(unregulated river) access licences**

Insert after clause 34—

**34A 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 31B 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 (regulated river) access licences are first issued after 1 July.

[8] Clause 39 Individual access licence account management rules

Insert “, a floodplain harvesting (unregulated river) access licence” after “local water utility access licence” in subclause 39 (3).

[9] Clause 39 (5)

Insert after subclause 39 (4)—

- (5) The maximum water allocations that can be held in a water allocation account for a floodplain harvesting (unregulated river) access licence at any time is 3 ML per unit share.
- (6) Subject to subclause (5), water allocations remaining in a water allocation account for a floodplain harvesting (unregulated river) access licence must be carried over from one water year to the next water year.

[10] Clause 42 Flow classes

Omit the Flow specified in Column 5 of Table B—Flow Classes in relation to the Very Low Flow Class in Column 3 for the Lower Gingham Watercourse Management Zone in Column 2. Insert instead—

Less than 175 ML/day at the Gingham Bridge gauge (418079) at any time, or

Less than a total of 4000 ML/year at the Gingham Bridge gauge within the previous 12 months, or

No visible flow in the Gingham Watercourse at Morialta Road.

Note. Previous 12 months means a rolling period of 12 months before the day that water was taken.

[11] Clause 42, Table B

Omit the flow specified in Column 5 of Table B—Flow Classes in relation to the A Class in Column 3 for the Lower Gingham Watercourse Management Zone in Column 2. Insert instead—

Equal to or more than 175 ML/day at the Gingham Bridge gauge within the previous 12 months, or

Equal to or more than a total of 4000 ML/year at the Gingham Bridge gauge over the previous 12 months, or

A visible flow in the Gingham Watercourse at Morialta Road.

Note. Previous 12 months means a rolling period of 12 months before the day that water was taken.

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

Omit ‘and’ from the end of paragraph 43 (13) (d).

[13] Clause 43 (13) (e)

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

[14] Clause 43 (13) (f)

Insert after paragraph 43 (13) (e)—

- (f) the taking of water under a floodplain harvesting (unregulated river) access licence with a share component that specifies one of these water sources.

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

Insert after subclause 47 (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 the Gwydir Management Zone A or Gwydir Management Zone D, as established in the *Floodplain Management Plan for the Gwydir Valley Floodplain 2016*.

Notes.

- 1 Gwydir Management Zone A includes areas of the floodplain where a significant discharge of floodwater occurs during floods, with relatively high flood flow velocity and depth.
 - 2 Gwydir Management Zone D is a special protection zone for areas of ecological or cultural significance, or both.
 - 3 An overview of Gwydir Management Zone A and Gwydir Management Zone D is shown in Appendix 3A.
- (7) 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 Gwydir Valley Floodplain, as declared under clause 252 of the *Water Management (General) Regulation 2018*.

Note. An overview of Gwydir Valley Floodplain 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 located within Gwydir Management Zone A or Gwydir Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Gwydir Valley Floodplain 2016*).
- (9) 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 Gwydir Management Zone A or Gwydir Management Zone D (as established under clause 5 of the *Floodplain Management Plan for the Gwydir Valley Floodplain 2016*), 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.
- (10) Subclauses (7), (8) and (9) do not apply if all of the following apply:
 - (a) the applicant was determined to be eligible for a replacement floodplain harvesting licence under Division 1 of Part 2A of the *Water Management (General) Regulation 2018*,
 - (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 2022.

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

[16] Clause 57 Assignment of rights dealings

Omit ‘.’ from the end of paragraph 57 (1) (h). Insert instead ‘, or’.

[17] Clause 57 (1) (i)

Insert after paragraph 57 (1) (h)—

- (i) to a floodplain harvesting (unregulated river) access licence that nominates a water supply work located:
- (i) outside the Gwydir 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
 - (ii) within the Gwydir Management Zone A or Gwydir Management Zone D, as established under clause 5 of the *Floodplain Management Plan for the Gwydir Valley Floodplain 2016*, unless the work was nominated by the licence when the licence was first issued in the water source.

[18] Clause 60 Assignment of water allocations dealings

Omit ‘.’ from the end of paragraph 60 (1) (h). Insert instead ‘, or’.

[19] Clause 60 (1) (i)

Insert after paragraph 60 (1) (h)—

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

[20] Clause 62 Nomination of water supply works dealings

Insert after subclause 62 (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 Gwydir Valley Floodplain, as declared under clause 252 of the *Water Management (General) Regulation 2018*, or
 - (b) within the Gwydir Management Zone A or Gwydir Management Zone D, as established under clause 5 of the *Floodplain Management Plan for the Gwydir 2016*.

[21] Clause 64 General

Insert “floodplain harvesting (unregulated river) access licences and” after “excluding” in subclause 64 (2).

[22] Clause 64 (6)

Insert after subclause 64 (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 Gwydir 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.

[23] Clause 65 General

Insert after subclause 65 (1B)—

- (1C) Subclause (1) (b) and (1A) do not apply to water supply work approvals only nominated by a floodplain harvesting (unregulated river) access licence.

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.

[24] Clause 65 (2)

Insert ‘or nominated by a floodplain harvesting (unregulated river) access licence’ after ‘basic landholder rights only’ in subclause 65 (2).

[25] Clause 77 Other

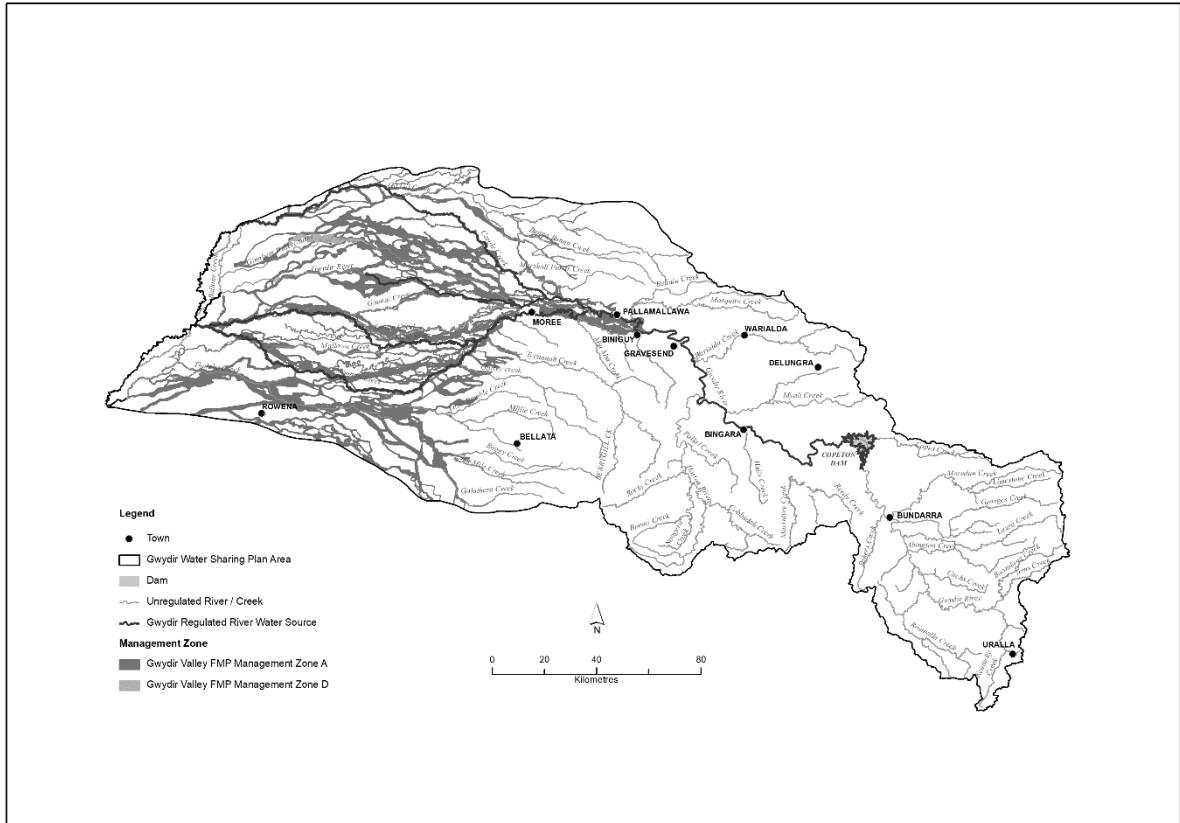
Omit paragraph 77 (1) (a). Insert instead—

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

[26] Appendix 3A

Insert after Appendix 3—

Appendix 3A Overview of Gwydir Management Zone A and Gwydir Management Zone D



Appendix 3B Overview of Gwydir Valley Floodplain

