



New South Wales
Government

Water Sharing Plan for the Hunter Unregulated and Alluvial 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 Hunter Unregulated and Alluvial Water Sources 2022*, make the following Order to amend that Plan.

Dated 22 May 2024.

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 Hunter Unregulated and Alluvial Water Sources 2022*. 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 Hunter Unregulated and Alluvial 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 Hunter Unregulated and Alluvial Water Sources 2022

[1] Section 3 Water sources to which Plan applies

Omit “unconsolidated” wherever it appears in the section and insert instead “Cenozoic”.

[2] Section 3(5)(b)

Omit “alluvial”.

[3] Section 3(6)(a)

Omit “alluvial”.

[4] Section 10(1)(j)

After “native title rights”, insert “and domestic and stock rights”.

[5] Section 16 Available water determinations

In subsection (2)(f)(ii), omit “otherwise” and insert instead “for any other water source”.

[6] Section 26 Compliance with annual higher flow extraction limits

Omit subsection (2). Insert instead—

- (2) On 1 July in the water year occurring immediately after a noncompliance is assessed (the *next water year*), reduced available water determinations, which are likely to result in the extractions from the extraction management unit complying with the annual higher flow extraction limit, must be made for one or more categories of higher flow extraction licences.

[7] Section 28 Specific purpose access licences

Omit subsection (4)(a) and insert instead—

- (a) to take water if flows are in the B Class or C Class, and

[8] Section 33 Flow classes for specified water sources and management zones—the Act, s 21(a)

In subsection (2), insert “or management zone” after “water source” wherever it appears.

[9] Section 35 General

Omit the section. Insert instead—

35 General

- (1) Surface water must not be taken if there is no visible flow at the location from which the water is taken, except from the following locations—
- (a) an in-river pool, or
- (b) an off-river pool, or
- (c) an in-river dam pool.
- (2) Surface water must not be taken—
- (a) from an in-river pool that is below full capacity, or
- (b) from an off-river pool that is below full capacity, or
- (c) from an in-river dam pool unless the take is not inconsistent with a water supply work approval authorising the use of a water supply work for the purpose of taking water from the in-river dam.

[10] Section 36 Specific purpose access rules

In subsection (2), omit “A Class Flow Class” and insert instead “A Class”.

[11] Section 36(3)

Omit “A2 Class Flow Class” and insert instead “A2 Class”.

[12] Section 36(4)(a)

Omit “Very Low Class Flow Class or A1 Class Flow Class” and insert instead “Very Low Flow Class or A1 Class”.

[13] Section 36(5)

Omit the subsection. Insert instead as subsection (5)—

Surface water must not be taken under a higher flow extraction licence (other than an unregulated river (Aboriginal community development) access licence) when flows are in the Very Low Flow Class, Low Flow Class, A Class or B Class.

[14] Section 36(9)

Omit “A Class Flow Class” and insert instead “A Class”.

[15] Section 36(11)

Insert after subsection (11)—

- (12) Surface water must not be taken under an access licence or works approval arising from a former entitlement subject to a cease-to-take condition specified in Schedule 3 when flows are at or less than the flows specified in a cease-to-take condition.

[16] Section 37 Exceptions

Omit the section and insert instead—

37 Exceptions

- (1) Section 35(2)(b) does not apply to the take of surface water from an off-river pool subject to a cease-to-take condition that permits the taking of water when the off-river pool is below full capacity.
- (2) Sections 35 and 36 do not apply to the take of surface water in the following circumstances—
- (a) for the following purposes under an access licence specified in Schedule 2, Table A if no more than 20kl/day or a lower amount specified by the Minister is taken—
 - (i) fruit and vegetable washing,
 - (ii) cleaning of dairy plant and equipment for hygiene purposes,
 - (iii) poultry watering and misting,
 - (iv) cleaning of enclosures used for intensive animal production for hygiene purposes,
 - (b) for domestic consumption authorised under a domestic and stock access licence if no more than 1kl/day for each household supplied by the access licence is taken,
 - (c) from a runoff harvesting dam,
 - (d) under an access licence specified in Schedule 2, Table B until, in the Minister’s opinion, major augmentation of the access licence holder’s water supply system occurs,
 - (e) under a major utility access licence that takes from the Seaham Weir Management Zone in the Williams River Water Source when—
 - (i) flows in the Williams River at the Glen Martin (Mill Dam Falls) gauge

- (210010) are greater than 600ML/day, and
- (ii) the water level in the Seaham Weir Pool in the Williams River Water Source, as measured at the visual gauge board, is greater than 0.32m pool height.
- (3) An access rule specified in section 35 or 36 does not apply to the take of surface water under an access licence in relation to an aquifer interference activity for which a planning approval is in force if—
- (a) the licence holder complies with a water management plan, if any, required under the planning approval in relation to the aquifer interference activity, and
 - (b) in the Minister’s opinion, the licence holder is not reasonably capable of complying with the access rule concerned.
- (4) Section 36 does not apply to the take of surface water from an off-river pool in a water source or management zone to which that section applies.
- (5) Section 36(1) and (6) do not apply to the take of surface water from an in-river dam pool formed by an in-river dam that is referred to in a water supply work approval.
- (6) Section 35(1) does not apply to the following—
- (a) the Baerami Creek Water Source,
 - (b) the Bylong River Water Source,
 - (c) the Glennies Water Source,
 - (d) the Halls Creek Water Source,
 - (e) the Lower Goulburn River Water Source,
 - (f) the Lower Dart Brook Management Zone, the Lower Middle Brook and Kingdon Ponds Management Zone and the Upper Middle Brook Management Zone of the Dart Brook Water Source,
 - (g) the Lower Wollombi Brook Water Source,
 - (h) the Martindale Creek Water Source,
 - (i) the Segenhoe Management Zone of the Pages River Water Source,
 - (j) the Widden Brook Water Source,
 - (k) the Wybong Creek Water Source.
- (7) Section 35 (2)(a) does not apply to an in-river pool in the following water sources and management zones—
- (a) the Baerami Creek Water Source,
 - (b) the Bylong River Water Source,
 - (c) the Halls Creek Water Source,
 - (d) the Lower Dart Brook Management Zone of the Dart Brook Water Source,
 - (e) the Lower Goulburn River Water Source,
 - (f) the Lower Middle Brook and Kingdon Ponds Management Zone,
 - (g) the Lower Wollombi Brook Water Source,
 - (h) the Martindale Creek Water Source,;
 - (i) the Segenhoe Management Zone of the Pages River Water Source,
 - (j) the Upper Middle Brook Management Zone of the Dart Brook Water Source,
 - (k) the Widden Brook Water Source,
 - (l) the Wybong Creek Water Source.

[17] Section 38 General

Omit subsection (1). Insert instead—

- (1) Groundwater must not be taken in the following circumstances—
- (a) if there is no visible flow in the river at the location closest to the water supply work being used to take groundwater,

- (b) if the location closest to the water supply work is an in-river pool that is below full capacity,
- (c) if flows in the water source are in the Very Low Flow Class.

[18] Section 40 Exceptions

Omit subsection (1)(b). Insert instead—

- (b) for domestic consumption authorised under a domestic and stock access licence if no more than 1kl/day for each household supplied by the access licence is taken,

[19] Part 7 Construction and use of water supply works—the Act, s 21(b)

In the Note which appears under the heading to the Part, after “section 107(5).”, insert—

This does not affect works that can be constructed under a basic landholder right.

[20] Section 44 Replacement groundwater work

In subsection (1)(b)(i), insert “or management zone” after “water source”.

[21] Section 47 High priority groundwater-dependent ecosystems

Omit the heading to the section. Insert instead “Groundwater-dependent ecosystems”.

[22] Section 47(4)

Omit the subsection. Insert instead—

- (4) Subsection (1)(a), (c), (d), (e) and (g) do not apply if, in the Minister’s opinion, the location of the water supply work is likely to cause no more than minimal harm to the wetland, karst or area concerned.

[23] Section 47(5)(a)

Omit “unconsolidated” and insert instead “Cenozoic”.

[24] Section 52 Assignment of rights dealings

In the table in subsection (2), in the column headed “Water source or management zone to which rights are assigned”, omit “Upstream of the Glennies Creek Management Zone” and insert instead “Upstream Glennies Creek Management Zone”.

[25] Section 52(3)

In the table in the subsection, in the column headed “Proposed work location”, omit “Upstream of Glennies Creek Management Zone” and insert instead “Upstream Glennies Creek Management Zone”.

[26] Section 54 Amendment of extraction component dealings

Omit “[Not applicable]”. Insert instead—

- (1) The following dealings under the Act, section 71S(1)(b) are prohibited—
 - (a) varying an access licence with an extraction component that does not specify the Upstream Glennies Creek Management Zone to specify the Upstream Glennies Creek Management Zone, unless the share component sum is not exceeded,
 - (b) varying an access licence with a share component that specifies the Upper Wollombi Brook Water Sources, unless the dealing is—

- (i) varying an access licence with an extraction component that specifies the Upper Congewai Creek Management Zone to specify the Mid Congewai Creek Management Zone,
 - (ii) varying an access licence with an extraction component that specifies the Upper Congewai Creek Management Zone to specify the South Arm Management Zone, but only if any works nominated by the licence are located downstream of the confluence of Congewai Creek and Wollombi Brook, or
 - (iii) varying an access licence with an extraction component that specifies the Mid Congewai Creek Management Zone to specify the South Arm Management Zone, but only if any works nominated by the licence are located downstream of the confluence of Congewai Creek and Wollombi Brook.
- (2) Despite subsection (1), a dealing under the Act, section 71S(1)(b) is permitted if the dealing is varying an access licence with an extraction component that specifies a management zone (the *original management zone*) to specify a different management zone (the *varied management zone*), where parts of both the original management zone and the varied management zone are on the same landholding.

Note— The *Access Licence Dealing Principles Order 2004*, clause 16 regulates dealings under the Act, section 71S(1)(a).

[27] Section 55 Assignment of water allocations dealings

In subsection (2), omit the text which appears above the table. Insert instead—

An assignment of water allocations under the Act, section 71T from an access licence with a share component or extraction component that specifies a water source or management zone specified in the table to this subsection to an access licence with a share component or extraction component in a water source or management zone specified opposite is permitted only if the current water allocation sum does not, as a result of the assignment, exceed the water allocation sum limit.

[28] Section 55(2)

In the table in the subsection, in the column headed “Water source or management zone to which rights are assigned”, omit “Upstream of Glennies Creek Management Zone” and insert instead “Upstream Glennies Creek Management Zone”.

[29] Section 55(3)

In the table in the subsection—

- (a) in the column headed “Proposed work location”, omit “Upstream of Glennies Creek Management Zone” and insert instead “Upstream Glennies Creek Management Zone”,
- (b) in the column headed “Exceptions”, omit “The trade does not exceed the share component sum” and insert instead “The assignment does not cause the current water allocation sum to exceed the water allocation sum limit”,
- (c) in the column headed “Exceptions”, in the text which appears opposite “Upper Wollombi Brook Water Source”, omit “right” wherever it appears and insert instead “allocation”.

[30] Section 55

Insert as subsection (5)—

In this section—

current water allocation sum means the sum of the water allocations credited to the water allocation accounts in the destination water source from available water determinations and dealings under the Act, section 71T, in the water year in which the assignment is to take place.

destination water source means the water source or management zone to which allocations are to be assigned.

unit share sum means the total number of unit shares of all access licences with an extraction component that nominated the destination water source as at the date this Plan commenced.

water allocation sum limit means the unit share sum multiplied by the available water determination made for the destination water source that applies at the time at which the assignment is to take place.

[31] Section 57 Prohibited nomination of water supply works dealings

In subsection (1)(b), omit “,” and insert “.”.

Omit subsection (1)(c), (d) and (e).

[32] Section 57(2)

Omit the subsection and renumber the remaining subsections accordingly.

[33] Section 57(2) (former section 57(3))

In the table in the subsection, in Column 3 (Proposed work location), omit “Upstream of Glennies Creek Management Zone” and insert instead “Upstream Glennies Creek Management Zone”.

[34] Section 57(2) (former section 57(3))

In the table in the subsection, below the row in which “Hunter Regulated River Alluvial Water Source” appears in Column 1, insert—

- (a) “Lower Goulburn River Water Source” in Column 1,
- (b) “Downstream of the Goulburn River National Park” in Column 2, and
- (c) “Upstream of the Goulburn River National Park” in Column 3.

[35] Section 57(3) (former section 57(4))

Omit “subsections (1)-(3)” and insert instead “subsection (2)”.

[36] Section 58 Definitions

Omit—

Logbook, in relation to an access licence or a water supply work approval, means a record kept in the form approved by the Minister notified on the Department’s website.

Insert instead—

Logbook, in relation to an access licence or a water supply work approval, means a written record kept in hard copy or electronic form.

[37] Section 59 General conditions

In subsection (1), omit paragraphs (c), (d) and (e). Insert instead—

- (c) unless otherwise specified, any written notice required to be given to the Minister must be sent to the email address for enquiries specified on the Department’s website,
- (d) other conditions required to implement the provisions of this Plan.

[38] Section 59(2) General conditions

In the table in the subsection, in the column headed “Restricted location”, omit “Upstream of Glennies Creek Management Zone” and insert instead “Upstream Glennies Creek Management Zone”.

[39] Section 60 Record-keeping conditions

In subsection (1)(b), omit “whenever the water supply work does not have an operational meter or an operational data logger”.

[40] Section 60 (3)

Omit the subsection. Insert instead—

- (3) Subsections (1)(b) and (2)(a) are repealed on the day specified in the *Water Management (General) Regulation 2018*, clause 230(1) as the day on which the relevant mandatory metering equipment condition applies.

[41] Section 60—Note

Omit the Note which appears under subsection (3). Insert instead—

Note—See the *Water Management (General) Regulation 2018*, clause 230(1).

[42] Section 61 General conditions

Omit subsection (1). Insert instead—

- (1) Each water supply work approval must be subject to the following mandatory conditions—
 - (a) unless otherwise specified, any written notice required to be given to the Minister must be sent to the email address for enquiries specified on the Department’s website,
 - (b) other conditions required to implement the provisions of this Plan.

[43] Section 62 Record keeping conditions

In subsection (2)(b), omit “whenever the water supply work does not have an operational meter or an operational data logger”.

[44] Section 62(5)

Omit subsection (5). Insert instead—

- (5) Subsections (2), (3)(a) and (4) are repealed on the day specified in the *Water Management (General) Regulation 2018*, clause 230(1) as the day on which the relevant mandatory metering equipment condition applies.

[45] Section 62(5)

Omit the Note which appears under subsection (5). Insert instead—

Note—See the *Water Management (General) Regulation 2018*, clause 230(1).

[46] Section 63 Metering conditions

Omit subsection (4). Insert instead—

- (4) This section is repealed on the day specified in the *Water Management (General) Regulation 2018*, clause 230(1) as the day on which the relevant mandatory metering equipment condition applies.

[47] Section 63—Note

Omit the Note which appears under subsection (5). Insert instead—

Note—See the *Water Management (General) Regulation 2018*, clause 230(1).

[48] Section 65 Water supply work construction conditions

In subsection (1)(d), omit “the water supply work” and insert instead “a water bore”.

[49] Section 67 Water supply work decommissioning condition

Omit the section. Insert instead—

67 Water bore decommissioning condition

- (1) An approval holder must, at least 60 days before decommissioning a water bore, give written notice to the Minister of the intention to decommission the water bore.
- (2) The written notice must include a work plan for the decommission.
- (3) The work plan must be prepared in accordance with the *Minimum Construction Requirements for Water Bores in Australia*.
- (4) The Minister may, within 60 days of receiving notice under this section, give a direction that the water bore—
 - (a) must not be decommissioned, or
 - (b) must be decommissioned in accordance with the requirements specified in the direction.
- (5) The approval holder must not decommission the water bore if the Minister has given a direction that the water bore must not be decommissioned.
- (6) In decommissioning the water supply work, the approval holder must comply with—
 - (a) the work plan, and
 - (b) if the Minister has given a direction—the requirements specified in the direction.
- (7) The approval holder must, no later than 60 days after decommissioning the water bore, give the Minister written notice of—
 - (a) the decommissioning of the water bore, and
 - (b) the name of the driller who decommissioned the water bore.

[50] Section 68 Amendments

Insert after subsection (1)(b)—

- (b1) to add, remove or modify the access rules that apply to the take of water from in-river pools, off-river pools and in-river dam pools,

[51] Schedule 1 Flow classes

In the row in which “Paterson/Allyn Rivers” appears in the column titled “Water Source” and “A Class” appears in the column titled “Flow class”, in the column titled “Flow class threshold”, omit “3ML/day” and insert “1ML/day”.

[52] Schedule 1

In the row in which “Paterson/Allyn Rivers” appears in the column titled “Water Source” and “A2 Class” appears in the column titled “Flow class”, in the column titled “Flow class threshold”, omit “3ML/day” and insert “1ML/day”.

[53] Schedule 1

In the row in which “Rouchel Brook” appears in the column titled “Water Source” and “B Class” appears in the column titled “Flow class”, in the column titled “Flow class threshold”, omit “on a rising river” and insert instead “and less than or equal to 83ML/day”.

[54] Schedule 1

Insert “River” after “Upper Hunter” where it appears in the column titled “Water Source”.

[55] Schedule 1

In the row in which “Stewarts Brook” appears in the column headed “Management Zone” and “B Class” appears in the column headed “Flow class”, in the column headed “Flow class threshold”, omit “Less than or equal to 126 ML/day” and insert instead “More than 126 ML/day and less than or equal to 280 ML/day”.

[56] Schedule 1

In the heading “Flow classes—Williams Management Zone in the Williams River Water Source”, insert “River” after “Williams” and before “Management Zone”.

[57] Schedule 2 Access licences permitted to take from very low flows

Omit the heading to the Schedule. Insert instead “Access licences used to take surface water that are exempt from specified access rules”.

[58] Schedule 3 Access licences subject to a cease-to-take condition

Omit the heading to the Schedule. Insert instead “Access licences and approvals subject to a cease-to-take condition of a former entitlement”.

[59] Schedule 3

In the row in which “20AL208844” appears in the column headed “Access licence numbers”, omit “adjacent to Lot 101, DP 809436”.

[60] Schedule 3

In the row in which “20AL209676” appears in the column headed “Access licence numbers”, insert “at DP 666039” after “in Chads Creek”.

[61] Schedule 3

In the row in which “20AL211503” appears in the column headed “Access licence numbers”, omit “Racecourse Land” and insert instead “Racecourse Lane”.

[62] Dictionary

In the definition of “High Priority Groundwater-Dependent Ecosystems Map”, omit “(GDE012 Version 2)” and insert instead “(GDE012 Version 3)”.

[63] Dictionary

Insert the following definitions, in alphabetical order—

in-river dam means a dam located in a river.

in-river dam pool means the water impounded by an in-river dam, but does not include water in an in-river pool.

the water sources—see section 3.

[64] Dictionary

In the definition of “Plan Map”, omit “(WSP003 Version 4)” and insert instead “(WSP003 Version 5)”.