



New South Wales

Water Sharing Plan for the Gwydir Regulated River Water Source 2020

under the

Water Management Act 2000

I, Melinda Pavey, the Minister for Water, Property and Housing, do, by this Order, in pursuance of section 50 of the *Water Management Act 2000*, make the following Minister's plan, being the *Water Sharing Plan for the Gwydir Regulated River Water Source 2020*.

Dated this day of 2020.

Minister for Water, Property and Housing

Explanatory notes

This Plan replaces the *Water Sharing Plan for the Gwydir Regulated River Water Source 2016*.

This Order is made under section 50 of the *Water Management Act 2000*. The concurrence of the Minister for Energy and Environment was obtained prior to the making of this Plan.

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Water Sharing Plan for the Gwydir Regulated River Water Source 2020

Notes.

- 1 In accordance with section 48 of the *Water Management Act 2000*, the Minister must take all reasonable steps to give effect to the provisions of this Plan when exercising functions under the Act.
- 2 In accordance with section 49 of the *Water Management Act 2000*, public authorities must also have regard to the provisions of this Plan to the extent they apply to the public authority.
- 3 The Minister may amend this Plan at any time under section 45 of the *Water Management Act 2000*, including if satisfied it is in the public interest to do so, or in such circumstances, in relation to such matters and to such extent as Part 12 provides.

Part 1 Introduction

1 Name of Plan

This Plan is the *Water Sharing Plan for the Gwydir Regulated River Water Source 2020 (this Plan)*.

2 Nature and status of Plan

- (1) This Plan is made under section 50 of the *Water Management Act 2000 (the Act)*.
- (2) This Plan is a plan for water sharing and generally deals with the matters set out in sections 20 and 21 of the Act, as well as other sections of the Act.

Note. Where a provision of this Plan is made for the purposes of another section of the Act, the section is referred to in the notes to this Plan.

3 Commencement

This Plan commences on 1 July 2020.

Notes.

- 1 This Plan replaces the *Water Sharing Plan for the Gwydir Regulated River Water Source 2016*.
- 2 In accordance with section 43 of the Act this Plan will have effect for 10 years from 1 July 2020. The Minister may extend this Plan for a further period of 10 years after it is due to expire, in accordance with section 43A of the Act.
- 3 Under the *Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin* and the associated National Partnership Agreement, NSW has agreed to develop water resource plans for Murray-Darling Basin water resources consistent with the requirements of the Basin Plan. This Plan was made in 2020, partly to meet NSW's commitments under these agreements. Certain provisions of this Plan form part of the water resource plan for the Gwydir surface water resource plan area.
- 4 **Basin Plan** is defined in the Dictionary.

4 Application of Plan

- (1) This Plan applies to the Gwydir Regulated River Water Source within the Gwydir Water Management Area (*the water source*).

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

- (2) The water in the water source consists of the water between the banks of all rivers and parts of rivers, from Copeton Dam water storage downstream to the junction of the Gwydir River and the Barwon River, that have been declared by the Minister to be a regulated river.

Note. The *Gwydir Water Management Area Regulated River Order* was made by the Minister and published in the New South Wales Government Gazette No 110 on 1 July 2004 at page 5482, and amended as set out in paragraph 19 of Schedule 12 to the Act. An overview map of the regulated rivers, as amended, is at Appendix 1.

5 Interpretation

- (1) Unless otherwise defined in this Plan, words and expressions that are defined in the Act or in the regulations made under the Act have the same meaning in this Plan.
- (2) Words and expressions that are defined in the Dictionary at the end of this Plan have the meaning set out in that Dictionary.
- (3) Unless otherwise specified, a clause that applies to a category of access licence also applies to any subcategories of that category of access licence.
- (4) The Dictionary and Schedules to this Plan form part of this Plan.
- (5) A number in brackets following the name of a gauge is the gauge number.
- (6) Notes in the text of this Plan do not form part of this Plan.
- (7) Appendices to this Plan do not form part of this Plan.

Part 2 Vision, objectives, strategies and performance indicators

Notes.

- 1 This Part is made in accordance with section 35 (1) of the Act.
- 2 A monitoring, evaluation and reporting (**MER**) plan has been developed for water sources in the Gwydir surface water resource plan area, which includes the water source, and is available on the Department's website. The MER plan describes the following:
 - (a) guidelines and principles for developing broad and targeted objectives, strategies and performance indicators,
 - (b) selection criteria used to identify target ecological populations and identify whether they are managed under this Plan,
 - (c) selection criteria for identifying priority monitoring locations for targeted objectives,
 - (d) selection criteria used to identify external influences that may affect the success of achieving objectives or implementing strategies,
 - (e) selection criteria used to determine how the objectives 'to protect' or 'enhance' will be measured for different target populations and performance indicators,
 - (f) which strategies contribute to the achievement of which objectives.
- 3 This Part describes broad objectives, which are the long term outcomes sought by this Plan and are not directly measured but evaluated by considering the cumulative achievement of the associated targeted objectives. Targeted objectives described in this Part are specific outcomes that can be achieved by the strategies in this Plan and can be directly measured so that success or failure to achieve the objective can be quantified.

6 Acknowledgement

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

7 Vision statement

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

- (a) the health and enhancement of the water source and its water-dependent ecosystems,
- (b) the continuing productive extraction of surface water for economic benefit,
- (c) the spiritual, social, customary and economic benefits of surface water to Aboriginal communities,
- (c) social and cultural benefits to urban and rural communities that depend on surface water.

8 Environmental objectives

- (1) The broad environmental objective of this Plan is to protect, and where possible enhance, the ecological condition of the water source and its water-dependent ecosystems over the term of this Plan.

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

- (2) The targeted environmental objectives of this Plan are as follows:
- (a) to protect, and where possible enhance, the following over the term of this Plan:
- (i) the recorded distribution or extent, and the population structure, of target ecological populations,

Notes.

- 1 **Target ecological populations** is defined in the Dictionary.
- 2 Target ecological populations in the water source include known or predicted populations of the following:
 - (a) native fish including golden perch, eel-tailed catfish, Murray cod, purple-spotted gudgeon, and olive perchlet,
 - (b) native vegetation including river red gum woodland and black box-coolibah woodland,
 - (c) high diversity hotspots and significant habitat for native fish, frogs, waterbirds and native vegetation.
- 3 Ramsar wetlands and the associated ecological communities such as waterbirds and lignum shrubland are primarily managed by the NSW Environmental Water Manager according to the conditions of this Plan. The targeted objectives, management and monitoring activities for these assets and communities are provided in the MER plan for the water source.
- 4 Measures of population structure may include the abundance or spatial extent of a species, different age classes or life stages within a species population, or measures that describe the health and condition of species or populations.

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

Notes.

- 1 Longitudinal connectivity means flows along the length of the river and between hydrologically connected rivers. Lateral connectivity means flows between the river and its anabranches, riparian zones, wetlands and floodplains.
- 2 Target ecological processes in the water source include the following:
 - (a) carbon and nutrient transport pathways, which are the connected networks of streams, riparian zones, floodplains and wetlands that

- transport dissolved and suspended organic material and nutrients throughout the water source,
- (b) fish movement across significant barriers, as identified by NSW Department of Primary Industries Fisheries and described in the MER plan for the water source.
- 3 Connectivity may be within the water source, between the water source and other water sources.
- (iii) water quality within target ranges for the water source to support water-dependent ecosystems and ecosystem functions,
- Note.** Water quality target ranges for the water source are defined in the Water Quality Management Plan for the Gwydir Water Resource Plan Area and the NSW State Water Quality Assessment and Monitoring Plan.
- (b) to support environmental watering in the water source to contribute to maintaining or enhancing ecological condition in streams, riparian zones, dependent wetlands and floodplains.
- Notes.** Clause 56 outlines the provisions for an environmental water allowance (**EWA**). The NSW Environmental Water Manager makes decisions about EWA water on any advice of an Environmental Water Advisory Group according to the rules in this Plan.
- (3) The strategies for reaching the targeted environmental objectives of this Plan are as follows:
- (a) reserve all water in excess of the long-term average annual extraction limit and long-term average sustainable diversion limit for the environment,
- Note.** Part 4 reserves all water remaining above the long-term average annual extraction limit and long-term average sustainable diversion limit for the environment. This contributes to the protection of target ecological populations.
- (b) reserve a portion of natural flows to partially mitigate alterations to natural flow regimes in the water source,
- Notes.**
- 1 **Flow regimes** and **natural flow** are defined in the Dictionary.
- 2 The provisions in Part 10 partially mitigate the alterations to low flows in the natural flow regimes of the water source by protecting a portion of tributary flows.
- 3 The provisions in Part 8 partially mitigate the alterations to medium and high flows in the natural flow regimes of the water source by protecting 50% of every supplementary water event for the environment.
- (c) reserve a portion of natural flows to maintain longitudinal and lateral connectivity within and between the water sources,
- Note.** The provisions in Part 10 and Part 8 maintain the hydrological connectivity between the water source and connected wetlands by protecting a portion of low, medium and high natural flows.

- (d) reserve a share of water to support environmental watering events in streams, riparian zones, floodplains and wetlands connected to the water source,

Note. The provisions in Part 10 ensure that an EWA is maintained.

- (e) contribute to the management of critical environmental and water quality events in downstream connected water sources.

Notes.

- 1 Downstream connected water sources may include water sources in the *Water Sharing Plan for the Gwydir Unregulated River Water Sources 2012* or the *Water Sharing Plan for the Barwon-Darling Unregulated Water Source 2012*.
- 2 The provisions in Part 8 and flow targets in Schedule 1 regulate the announcement of supplementary water events to provide connectivity between the water source and the Barwon-Darling River.
- 3 The EWA established in Part 10 may also be used to provide connectivity between the water source and downstream connected water sources.

- (4) The performance indicator used to measure the success of the strategies for reaching the broad environmental objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted environmental objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted environmental objectives in subclause (2) are the changes or trends in ecological condition during the term of this Plan, as assessed using one or more of the following:
 - (a) the recorded range, extent or condition of target ecological populations,
 - (b) measurements of carbon and nutrient transport pathways and fish movements through priority fish passage areas,
 - (c) the recorded values of water quality measurements including salinity, turbidity, total nitrogen, total phosphorous, pH, water temperature and dissolved oxygen,
 - (d) the magnitude, frequency, timing and water quality of environmental water events.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
 - (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,

- (b) the extent to which changes in the performance indicators can be attributed to the strategies and provisions in this Plan,
- (c) the extent to which the strategies in subclause (3) support achievement of the environmental objectives,
- (d) the extent to which external influences on the water source during the term of this Plan have affected progress toward achieving the environmental objectives.

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

9 Economic objectives

- (1) The broad economic objective of this Plan is to maintain, and where possible improve, access to water to optimise economic benefits for agriculture, surface water-dependent industries and local economies.
- (2) The targeted economic objectives of this Plan are as follows:
 - (a) to provide water trading opportunities for surface water-dependent businesses,
Note. Trading is a generic term referring to dealings under Division 4 of Part 2 of Chapter 3 of the Act.
 - (b) to maintain, and where possible improve access to water up to the long-term average sustainable diversion limit for agriculture, surface water-dependent businesses and landholders,
 - (c) to contribute to maintaining water quality within target ranges for agriculture, surface water-dependent businesses and landholders.
- (3) The strategies for reaching the targeted economic objectives of this Plan are as follows:
 - (a) provide for trade of water allocations and share components subject to environmental and system constraints,
Note. The provisions in Part 9 permit a variety of dealings within environmental and system constraints, including assignment of rights under access licences and assignment of water allocations between access licences.
 - (b) provide a stable and predictable framework for sharing water among water users,
Note. The available water determination provisions in Part 6 and priority of delivery rules in clause 61 provide certainty in how water is to be shared between different categories of access licences.
 - (c) provide for flexibility of access to water,

Note. The water allocation account management rules in Part 8 provide flexibility that reflects the characteristics of the licence category.

- (d) manage extractions to the long-term average annual extraction limit and the long-term average sustainable diversion limit, while recognising variability in climatic conditions in different years, including during drought,

Note. The application of the long-term average annual extraction limit and the long-term average sustainable diversion limit and the assessment and compliance provisions in Part 6 manage extractions to different climatic conditions in different years.

- (e) provide for supplementary water access, subject to announcements, to a portion of uncontrolled flows,

Notes.

- 1 The provisions in Part 10 describe minimum flows that are protected from supplementary water access.
- 2 The provisions in Part 8 describe the conditions for access during supplementary water events.

- (f) reserve a portion of natural flows to partially mitigate deterioration in water quality due to alterations to natural flow regimes.

- (4) The performance indicator used to measure the success of the strategies for reaching the broad economic objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted economic objectives in subclause (2) have contributed to achieving the broad objective.

- (5) The performance indicators used to measure the success of the strategies for reaching the targeted economic objectives in subclause (2) are the changes or trends in economic benefits during the term of this Plan, as assessed using one or more of the following:

- (a) the economic benefits of water extraction and use, including the movement of water to higher value uses,

- (b) the economic benefits of water trading, as demonstrated by:

- (i) the annual number or volume of share components of access licences transferred or assigned, and

- (ii) the weighted average unit price of share components of access licences transferred or assigned, and

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

- (iii) the annual volume of water allocations assigned, and

- (iv) the weighted average unit price of water allocations assigned,
 - (c) the recorded values of water quality measurements including salinity, sodium adsorption ratio, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with
 - (b) the extent to which the changes in the economic benefits of water extraction and use can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the water made available during the term of this Plan through available water determinations and the granting of new licences,
 - (d) the extent to which external influences on surface water-dependent businesses during the term of this Plan have affected progress towards achieving the economic objectives.

Note. External influences may include trends in urban, agricultural and industrial development, energy costs, commodity prices, interest rates, technology advances and climate and changes in industry policy or regulation.

10 Aboriginal cultural objectives

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

- (3) The strategies for reaching the targeted Aboriginal cultural objectives of this Plan are as follows:
- (a) manage access to water consistently with the exercise of native title rights,
 - (b) provide for water associated with Aboriginal cultural values and uses,
Note. The provisions in Part 7 provide opportunities for Aboriginal people to access water by allowing for the granting of an access licence of the subcategory “Aboriginal cultural”.
 - (c) reserve a portion of natural flows to partially mitigate alterations to natural flow regimes in the water source,
Notes.
 - 1 The provisions in Part 10 partially mitigate the alterations to low and medium flows in the natural flow regime of the water source by ensuring a portion of tributary flows are protected.
 - 2 The provisions in Part 8 partially mitigate the alterations to medium and high flows in the natural flow regime of the water source by requiring 50% of a supplementary water event to be protected for the environment and associated identified cultural assets.
 - (d) reserve a portion of natural flows to maintain longitudinal and lateral connectivity within and between water sources.
- (4) The performance indicators used to measure the success of the strategies for achieving the broad Aboriginal cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted Aboriginal cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure the success of the strategies for reaching the targeted Aboriginal cultural objectives in subclause (2) are the changes or trends in Aboriginal cultural benefits during the term of this Plan as assessed using one or more of the following:
- (a) the use of water by Aboriginal people by measuring factors including:
 - (i) the extent to which native title rights are able to be exercised, consistently with any determination of native title or indigenous land use agreement, and
 - (ii) the extent to which access to water has contributed to achieving Aboriginal cultural outcomes,
 - (b) the recorded range or extent of target populations of native fish,
 - (c) the recorded range or condition of target populations of riparian vegetation,

- (d) the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
 - (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the Aboriginal cultural objectives,
 - (d) the water made available for Aboriginal cultural values and uses during the term of this Plan through available water determinations and the granting of new access licences,
 - (e) the extent to which external influences on surface water-dependent Aboriginal cultural activities during the term of this Plan have affected progress toward achieving the Aboriginal cultural objectives.

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

11 Social and cultural objectives

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

- (3) The strategies for reaching the targeted social and cultural objectives of this Plan are as follows:
- (a) provide water access for basic landholder rights, town water supply, and for licensed domestic and stock purposes,
Note. The provisions for the maintenance of water supply and replenishment flows in Division 3 of Part 10 ensure that water is available for basic landholder rights, town water supply and licensed domestic and stock purposes.
 - (b) reserve a portion of natural flows to partially mitigate alterations to natural flow regimes in the water source,
 - (c) reserve a portion of natural flows to maintain longitudinal and lateral connectivity within and between water sources,
Note. The provisions in Division 1 of Part 10 and Part 8 maintain the hydrological connectivity within the water source and with downstream water sources.
 - (d) minimise adverse impacts of water delivery on community values and uses.
Note. The provisions for water delivery and channel capacity constraints, priority of extractions for access licences and the environmental water account, rates of change to storage releases, supply of orders when remaining allocations are low and dam operation during floods and spills in Part 10 minimise the impact of water delivery on the community.
- (4) The performance indicator used to measure the success of the strategies for reaching the broad social and cultural objective in subclause (1) is an evaluation of the extent to which the combined outcomes of the targeted social and cultural objectives in subclause (2) have contributed to achieving the broad objective.
- (5) The performance indicators used to measure success in reaching the targeted social and cultural objectives in subclause (2) are the changes or trends in social and cultural benefits during the term of this Plan, as assessed using one or more of the following:
- (a) the social and cultural uses of water during the term of this Plan by measuring factors including:
 - (i) the extent to which basic landholder rights and licensed domestic and stock requirements have been met, and
 - (ii) the extent to which major utility access licence and local water utility access licence requirements have been met,
 - (b) the recorded range or extent of target populations of native fish that are important for recreational fishing,

- (c) the recorded takes of native fish that are important for recreational fishing within legal age and size classes,
 - (d) the recorded values of water quality measurements including salinity, harmful algal blooms, total nitrogen, total phosphorus, pH, water temperature and dissolved oxygen.
- (6) In evaluating the effectiveness of the strategies in meeting the objectives in this clause, the following will be relevant:
- (a) the extent to which the strategies in subclause (3) and provisions in this Plan have been implemented and complied with,
 - (b) the extent to which the changes in the performance indicators can be attributed to the strategies in subclause (3) and provisions in this Plan,
 - (c) the extent to which the strategies in subclause (3) support achievement of the social and cultural objectives,
 - (d) the water made available during the term of this Plan through available water determinations and the granting of new licences
 - (e) the extent to which external influences on surface water-dependent social and cultural activities during the term of this Plan have affected progress towards achieving the social and cultural objectives.

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

Part 3 Bulk access regime

12 Bulk access regime

- (1) This Plan establishes a bulk access regime for the extraction of water under access licences, having regard to the following:
 - (a) the planned environmental water established under Part 4,
 - (b) the requirements for water to satisfy basic landholder rights identified under Part 5,
 - (c) the requirements for water for extraction under access licences identified under Part 5,
 - (d) the access licence dealing rules established under Part 9.
- (2) The bulk access regime:
 - (a) establishes rules according to which:
 - (i) access licences are to be granted as provided for in Part 7, and
 - (ii) available water determinations are to be made as provided for in Part 6, and
 - (iii) access licences are to be managed as provided for in Part 8, and
 - (b) establishes rules with respect to the priorities according to which water allocations are to be adjusted as a consequence of any reduction in the availability of water due to an increase in average annual extraction above the the long-term average annual extraction limit and the long-term average sustainable diversion limit in Part 6, and
 - (c) recognises, and is consistent with, the following:
 - (i) the limits to the availability of water as provided for in Part 6,
 - (ii) the water management principles set out in section 5 of the Act,
 - (iii) the effect of climatic variability on the availability of water as described in clause 13, and
 - (d) contains provisions with respect to the mandatory conditions imposed on access licences in Part 11.

13 Climatic variability

This Plan recognises the effects of climatic variability on river flow in the water source through provisions contained in Part 6 that:

- (a) manage the sharing of water within the limits of water availability on a long-term basis, and
- (b) establish priorities according to which water allocations are to be adjusted as a consequence of any reduction in the availability of water due to an increase in extraction against the long-term average annual extraction limit or the long-term average sustainable diversion limit, and
- (c) manage the sharing of water between categories of access licences on an annual basis through available water determinations.

Note. Other statutory tools are available to manage for climatic variability within a water source, for example, temporary water restrictions under section 324 of the Act.

Part 4 Environmental water provisions

Note. This Part is made in accordance with sections 8 and 20 of the Act.

14 General

This Part contains environmental water provisions to commit, identify, establish and maintain planned environmental water.

Note. In accordance with the Act, planned environmental water is water that is committed by management plans for fundamental ecosystem health or other specified environmental purposes, either generally or at specified times or in specified circumstances and that cannot, to the extent committed, be taken or used for any other purpose.

15 Commitment and identification of planned environmental water

Water is committed and identified as planned environmental water by reference to the following:

- (a) the physical presence of water in the water source,
- (b) the long-term average annual commitment of water as planned environmental water.

16 Establishment and maintenance of planned environmental water

(1) Planned environmental water is established in the water source as follows:

- (a) the physical presence of water, resulting from the following:
 - (i) the environmental flow provisions specified in Division 1 of Part 10,
Note. The provisions in Part 10 ensure a portion of tributary flows are protected for the Gwydir wetlands and provide an environmental water allowance, to be used to support environmental assets or environmental functions within and downstream of the water source.
 - (ii) the environmental water allowance provisions specified in Division 2 of Part 10,
 - (iii) the limitations on access to flows for supplementary water access licences specified in Part 8,
- (b) the long-term average annual commitment of water as planned environmental water, resulting from compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit in Part 6.

(2) The planned environmental water established under subclause (1) (a) is maintained by:

- (a) the environmental flow provisions specified in Division 1 of Part 10,

- (b) the environmental water allowance provisions specified in Division 2 of Part 10, and
 - (c) the limitations on access to flows for supplementary water access licences specified in Part 8.
- (3) The planned environmental water established under subclause (1) (b) is maintained by the provisions specified in Part 6.

Note. The provisions in Part 6 ensure that there will be water remaining in the water source over the long term by maintaining compliance with the long-term average annual extraction limit and the long-term average sustainable diversion limit. The provisions in Part 6 also provide for reduced available water determinations when either of those limits has been assessed to have been exceeded.

Part 5 Requirements for water

Division 1 General

17 Application

- (1) This Part identifies the requirements for water for basic landholder rights and for extraction under access licences in the water source.
- (2) The volumes of water specified in this Part represent the estimated requirements for water to satisfy basic landholder rights and the total volumes or unit shares specified in the share components of all access licences on commencement of this Plan.
- (3) This Plan recognises that requirements for water for basic landholder rights and the total share components of all access licences may change during the term of this Plan.

Notes.

- 1 The total share components of access licences in the water source may change during the term of this Plan as a result of:
 - (a) the grant, surrender or cancellation of access licences in the water source, or
 - (b) the variation of local water utility access licences under section 66 of the Act.
- 2 Basic landholder rights requirements may increase as provided for under the Act. This Plan manages changes in basic landholder rights and total share components of all access licences through provisions in Part 6 that manage the sharing of water within the limits of water availability.
- 3 Inherent water quality and land use activities may make the water in some areas unsuitable for human consumption. Water should not be consumed or otherwise used, without first being tested and, if necessary, appropriately treated to ensure it is fit for purpose. Testing and treatment is the responsibility of the water user.

Division 2 Requirements for water for basic landholder rights

Note. Under the Act, basic landholder rights are defined as domestic and stock rights, native title rights and harvestable rights. There are no harvestable rights in the water source.

18 Domestic and stock rights

On the commencement of this Plan, the water requirements of persons entitled to domestic and stock rights are estimated to total 6,000 megalitres per year (*ML/year*).

Notes.

- 1 Domestic and stock rights are set out in section 52 of the Act and must be exercised in accordance with any mandatory guidelines established under the Act for the taking and use of water for domestic consumption or stock watering.
 - 2 Under section 331 of the Act, the Minister may direct the holder of a domestic and stock right to take specified measures to protect the environment, to preserve basic landholder rights or to overcome a threat to public health.
-

- 3 The volumes set out in this clause are separate from any volumes of water that may be taken under an access licence for domestic and stock purposes.

19 Native title rights

The requirement for water to satisfy native title rights is the water that may be taken in the exercise of native title rights in accordance with the *Native Title Act 1993* of the Commonwealth, including:

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

Notes.

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

Division 3 Requirements for water under access licences

Notes.

- 1 The share components in this Division include licensed environmental water as defined in section 8 of the Act. The Environmental Water Register maintained by the Department provides a record of licensed environmental water, as well as other water intended to be used for environmental purposes.
- 2 As at 1 July 2020, the licensed environmental water referred to in Note 1 comprises 4 access licences with adaptive environmental water conditions totalling 3,949 unit shares.
- 3 As at 1 July 2020, there are 12 other access licences with share components totalling 132,016 unit shares that are not identified as licensed environmental water but are intended to be used for environmental purposes. Some of these are held by the Commonwealth Government and others by the NSW Government.
- 4 This Division sets out the total volumes or unit shares in the share components of access licences in the water source as at 1 July 2020. The actual volume of water available from year to year will depend on climate, access licence priority and the provisions in this Plan.

20 Share components of domestic and stock access licences

On the commencement of this Plan, it is estimated that the share components of domestic and stock access licences total 2,824 ML/year.

21 Share components of local water utility access licences

On the commencement of this Plan, it is estimated that the share components of local water utility access licences total 3,836 ML/year.

22 Share components of regulated river (high security) access licences

On the commencement of this Plan, it is estimated that the share components of regulated river (high security) access licences total 20,260 unit shares.

23 Share components of regulated river (general security) access licences

On the commencement of this Plan, it is estimated that the share components of regulated river (general security) access licences total 509,665 unit shares.

24 Share components of supplementary water access licences

On the commencement of this Plan, it is estimated that the share components of supplementary water access licences total 181,398 unit shares.

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Part 6 Limits to the availability of water

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

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

Division 1 Calculations under this Part

25 Exclusions, inclusions and variations in calculations

- (1) This clause applies to the calculation of the following:
 - (a) the long-term average annual extraction limit under clause 26,
 - (b) the average annual extraction under clause 27,
 - (c) the annual permitted take under clause 30,
 - (d) the annual actual take under clause 30.

Note. *Annual permitted take* and *annual actual take* are defined in the Dictionary.
- (2) The calculation by the Minister to which this clause applies must:
 - (a) exclude the following:
 - (i) allocations assigned from an access licence in the water source to an access licence in another water source under section 71T of the Act,
 - (ii) environmental water flow rules and water allowance rules provided for in Division 1 and Division 2 of Part 10,
 - (iii) replenishment flows made in accordance with clauses 58 and 59,
 - (iv) in relation to average annual extraction under clause 27 only, water committed as licensed environmental water under section 8F of the Act, and
 - (b) include allocations assigned to an access licence in the water source from an access licence in another water source under section 71T of the Act.
- (3) The calculation by the Minister of the long-term average annual extraction limit under clause 26 must be adjusted by a volume that appropriately reflects the following:
 - (a) the share components of water access licences in the water source that are subject to a dealing under section 71U of the Act,

- (b) any change to the amount of water committed as licensed environmental water under section 8F of the Act.

Division 2 Long-term average annual extraction limit

26 Calculation of the long-term average annual extraction limit

- (1) Following the end of each water year, the Minister must calculate the long-term average annual extraction limit for the water source in accordance with this clause and clause 25.
- (2) The long-term average annual extraction limit is the lesser of the following:
 - (a) average annual extraction calculated based on the following:
 - (i) the water storages and water use development that existed in the 1999/2000 water year,
 - (ii) the basic landholder rights and access licence share components that existed on 1 July 2004,
 - (iii) the rules set out in the *Water Sharing Plan for the Gwydir Regulated River Water Source 2002* as at 1 July 2004, excluding the rules in clause 39 of that Plan,
 - (iv) a limit on supplementary water access licence available water determinations of 1 megalitre (*ML*) per unit share,
 - (v) the level of development for plantation forestry that existed on 30 June 2009,
Note. *Plantation forestry* is defined in the Dictionary.
 - (vi) the level of development for floodplain harvesting that existed in the 1999/2000 water year in connection with extractions from a regulated river in the water source, as assessed by the Minister,
 - (b) average annual extraction calculated under Cap baseline conditions as agreed under the Murray-Darling Basin Agreement that was in place at the commencement of the *Water Sharing Plan for the Gwydir Regulated River Water Source 2002*.
Note. *Murray-Darling Basin Agreement* is defined in the Dictionary.

- (3) For the purposes of subclause (2) average annual extraction is to be calculated over the duration of available climate records using the hydrological computer model approved by the Minister.

Notes.

- 1 Under section 8F of the Act the long-term average annual extraction limit is to be varied by any change to licensed environmental water, excluding water committed under section 8C of the Act.
- 2 The long-term average annual extraction limit recognises the effect of climatic variability on the availability of water, in accordance with section 20 (2) (c) of the Act as historic climate and river flow information is used in its determination.
- 3 Plantation forestry, water storage and water use development are defined in the Dictionary.

27 Calculation of average annual extraction

The Minister, using the hydrological computer model approved by the Minister, is to calculate the 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 current rules in this Plan,
- (d) the level of development for plantation forestry in that water year,
- (e) the level of development for floodplain harvesting that existed in that water year in conjunction with extractions under an access licence in the water source.

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

- (1) Following the calculations under clauses 26 and 27, the Minister is to compare average annual extraction against the long-term average annual extraction limit.
- (2) There is non-compliance with the long-term average annual extraction limit if average annual extraction exceeds any of the following:
 - (a) the long-term average annual extraction limit by the following:
 - (i) 3% or more,
 - (ii) more than half the difference between the average annual extraction calculated under clause 26 (2) (a) and (b),
 - (b) the annual extraction calculated under clause 26 (2) (b)

Division 3 Long-term average sustainable diversion limit

29 Calculation of the long-term average sustainable diversion limit

- (1) Subject to any variation under clause 25, the long-term average sustainable diversion limit for the water source is:
 - (a) the component of the baseline diversion limit for the Gwydir surface water SDL resource unit determined under Schedule 3 of the Basin Plan, that in the Minister's opinion is attributable to the water source, minus
 - (b) 42,000 ML/year, minus
 - (c) the Gwydir surface water SDL resource unit share reduction amount as determined under section 6.05 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** and **SDL resource unit shared reduction amount** are defined in the Dictionary.
- 2 The long-term average sustainable diversion limit for the Gwydir surface water SDL Resource Unit as specified in Schedule 2 of the Basin Plan covers extraction from both the Gwydir Regulated River Water Source and the Gwydir Unregulated River Water Sources.
- 3 The subtraction of 42,000 ML/year and the SDL resource unit share reduction amount is prescribed in Schedule 2 of the Basin Plan.

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

- (1) Following the end of each water year, the Minister is to calculate the annual permitted take and annual actual take of water for the previous water year in accordance with Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (2) For the purposes of the calculation, references to the SDL resource unit in Division 2 of Part 4 of Chapter 6 of the Basin Plan are taken to be references to the water source.

Notes.

- 1 **Annual permitted take** and **annual actual take** are defined in the Dictionary. Take of licensed environmental water and under licences held by the Commonwealth Environmental Water Holder are not included in the calculation as they fall outside the definition of take for consumptive use.
- 2 **Take** and **consumptive use** are defined in section 4 of the *Water Act 2007* of the Commonwealth.

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

limit

- (1) Following the calculations under clauses 29 and 30 after the end of each water year, the Minister is to undertake an assessment of compliance with the long-term average sustainable diversion limit, in accordance with the requirements of Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (2) There is non-compliance with the long-term average sustainable diversion limit in the circumstances set out in Division 2 of Part 4 of Chapter 6 of the Basin Plan.

Division 4 Compliance with extraction and diversion limits

32 Action following non-compliance

- (1) Subject to subclauses (2) to (4), if an assessment under clauses 28 or 31 demonstrates non-compliance with either the long-term average annual extraction limit or the long-term average sustainable diversion limit, the Minister is to take any one or both of the following actions:
 - (a) make future available water determinations for supplementary water access licences of less than 1 ML per unit share,
 - (b) reduce the limit on the amount of water allocation that may be taken or assigned from regulated river (general security) access licences.

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.

- (2) The Minister may take one or both of the actions specified in subclause (1) (a) and (1) (b) if an assessment under clause 31 would have demonstrated non-compliance with the long-term average sustainable diversion limit but for there being a reasonable excuse, as provided for in Division 2 of Part 4 of Chapter 6 of the Basin Plan.
- (3) An action taken in accordance with subclause (1) is to be taken to the extent to which, and only for as long as, the Minister considers the following is necessary:
 - (a) in the case of non-compliance with the long-term average annual extraction limit— to return average annual extraction in 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.
- (4) The Minister must not take action under subclause (1) or (2) to reduce the limit on the amount of water allocation that may be taken or assigned from regulated river (general security) access licences unless the Minister has made an available water determination for supplementary water access licences of zero.
- (5) In taking any action under subclause (1) (b) or (3) (b), the Minister must make the same reduction to the water allocations that may be taken or assigned under both subclauses 40 (3) (a) and 40 (4) (a).
- (5) Before taking action under subclause (1) or (2), the Minister may consult with water user representatives on the following:
 - (a) the data used for the calculations under Divisions 2 and 3,
 - (b) the proposed actions under this Division.

Division 5 Available water determinations

33 General

- (1) Available water determinations for access licences are to be expressed as one of the following:
 - (a) for an access licence specifying the share component in ML/year—a percentage of the share component,
 - (b) for an access licence specifying the share component as a number of unit shares—ML per unit share.
- (2) The sum of available water determinations made for any access licence, other than for regulated river (general security) access licences, must not exceed the following in any water year:
 - (a) for an access licence specifying the share component in ML/year— 100% of the access licence share component,
 - (b) for an access licence specifying the share component as a number of unit shares— 1 ML per unit share of the share component.

34 Available water determinations for domestic and stock access licences

Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 100% of the access licence share component is to be made for domestic and stock access licences.

35 Available water determinations for local water utility access licences

Unless the Minister otherwise determines, at the commencement of each water year an available water determination of 100% of the access licence share component is to be made for local water utility access licences.

36 Available water determinations for regulated river (high security) access licences

- (1) Unless the Minister otherwise determines and subject to subclause (2), at the commencement of each water year an available water determination is to be made for regulated river (high security) access licences of 1 ML per unit share.
- (2) The Minister must not make an available water determination in accordance with subclause (1) unless sufficient water is available for all of the following:
 - (a) to meet the provisions in Divisions 1 and 2 of Part 10,
 - (b) to meet the requirements for basic landholder rights,
 - (c) to make available water determinations totalling 100% of access licence share components for both domestic and stock access licences and local water utility access licences,
 - (d) to provide for existing water allocations in regulated river (general security) access licence water allocation accounts,
 - (e) to account for water losses associated with holding and delivering the water:
 - (i) to be made available as a result of the available water determination under subclause (1), and
 - (ii) referred to in subclauses (a) - (d) above.

Note. If the available water determination is less than 1 ML per unit share, the Minister may conduct further assessments of available water resources and may make further available water determinations subject to clause 33 (2).

37 Available water determinations for regulated river (general security) access

licences

- (1) The Minister is to assess, at least monthly, if water is available for the making of an available water determination for regulated river (general security) access licences.
- (2) For the purposes of the assessment, water is not available unless sufficient water is available for all of the following:
 - (a) to meet the provisions in Divisions 1 and 2 of Part 10, including water already credited to the environmental water allowance,
 - (b) to meet the requirements for basic landholder rights,
 - (c) to make available water determinations totalling 100% of access licence share components for both domestic and stock access licences and local water utility access licences,
 - (d) to make available water determinations totalling 1 ML per unit share for regulated river (high security) access licences,
 - (e) to provide for existing water allocations in regulated river (general security) access licence water allocation accounts,
 - (f) to account for water losses associated with holding and delivering the water:
 - (i) to be made available as a result of the available water determination made under subclause (1), and
 - (ii) referred to in subclauses (a) to (e) above.
- (3) If the Minister assesses under subclause (1) and (2) that water is available, the Minister is to consider making an available water determination for regulated river (general security) access licences that also takes into consideration the crediting rules for the environmental water allowance specified in Division 2 of Part 10.
- (4) The amount of water available for allocation to regulated river (general security) access licences under subclause (3) is equal to the following:
$$(\textit{sum GS entitlements} / (\textit{sum GS entitlements} + 45,000)) \times \textit{total available water}$$
where:

sum GS entitlements is the sum of all regulated river (general security) access licence share components, and

total available water is the water determined by the Minister to be available under subclause (1) and (2).

Note. This clause ensures that a portion of the available water is shared with the environmental water allowance, in accordance with clause 56.

38 Available water determinations for supplementary water access licences

At the commencement of each water year, the Minister is to make an available water determination for supplementary water access licences of 1 ML per unit share, unless a lower amount is determined under clause 32.

Note. Taking of water under a supplementary water access licence is subject to the rules in Part 8.

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Part 7 Rules for granting access licences

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.

39 Specific purpose access licences

- (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 a regulated river (high security) (Aboriginal cultural) access licence only if the share component of the proposed access licence is no greater than 10 ML/year.
- (3) The Minister may only grant a regulated river (high security) (Aboriginal cultural) access licence 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.

Part 8 Operation of water allocation accounts and managing access licences

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 persons:
 - (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.

Division 1 Accounting for water allocation accounts

40 Credits to and debits from an individual water allocation account

- (1) For any access licence other than a supplementary water access licence, the Minister must debit the greater of the following from the water allocation account for that access licence:
 - (a) the volume of water extracted by water supply works nominated by the access licence,
 - (b) the water ordered for extraction under the access licence.
 - (2) For any supplementary water access licence, the Minister must, in accordance with any applicable supplementary water announcement, debit the volume of water extracted by the water supply works nominated by the access licence from the water allocation account for that access licence.
 - (3) For a regulated river (general security) access licence, the total water allocation that is taken, or assigned under section 71T of the Act, or otherwise debited or withdrawn, from a water allocation account in a water year must not exceed the following:
 - (a) 3 ML per unit share or the lower amount determined under clause 32, plus
 - (b) any water allocations assigned to the water allocation account for the access licence under section 71T of the Act in that water year, plus
 - (c) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act in that water year.
-

- (4) For a regulated river (general security) access licence, the total water allocation that is taken, or assigned under section 71T of the Act, or otherwise debited or withdrawn, from a water allocation account in any three consecutive water years must not exceed the following:
- (a) 3 ML per unit share or the lower amount determined under clause 32, plus
 - (b) any water allocations assigned to the water allocation account for the access licence under section 71T of the Act in those three water years, plus
 - (c) any water allocations re-credited to the water allocation account for the access licence in accordance with section 76 of the Act in that water year.

41 Limits on water allocation accounts and carryover

- (1) The Minister must not allow allocations in a water allocation account to exceed the following at any time:
- (a) for a domestic and stock access licence or local water utility access licence— 100% of the share component,
 - (b) for a regulated river (high security) access licence— 1 ML per unit share,
 - (c) for a regulated river (general security) access licence— 1.5 ML per unit share.
- (2) The Minister must not carry over water allocations remaining in a water allocation account from one water year to the next water year for the following categories of licence:
- (a) domestic and stock access licence,
 - (b) local water utility access licence,
 - (c) regulated river (high security) access licence,
 - (d) supplementary water access licence.
- (3) Subject to subclause (1), the Minister must carry over water allocations remaining in the water allocation account from one water year to the next water year for regulated river (general security) access licences.

Division 2 Supplementary water events

Notes.

- 1 This Division is made under section 70 of the Act.
 - 2 **Supplementary water event** is defined in the Dictionary.
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42 Definitions

In this Division, *supplementary water event volume* means the uncontrolled flows downstream of Copeton Dam.

Note. Uncontrolled flows exclude water required to meet replenishment flows to Mongyer Lagoon under clause 59.

43 Taking of water under supplementary water access licences

The holder of a supplementary water access licence may only take water in accordance with supplementary water event announcements made by the Minister that are relevant to that licence.

44 Announcement of supplementary water event

- (1) The Minister may announce a supplementary water event:
 - (a) if, in the Minister's opinion, there will be uncontrolled flows in the segment of the water source to which the announcement applies, and
 - (b) in accordance with the rules specified in this clause.
- (2) A supplementary water event is not to be announced, or is to be restricted, when in the Minister's opinion this is required to ensure outflows from the water source contribute to meeting the requirements of the Barwon-Darling Flow Targets specified in Schedule 1.
- (3) In making an announcement, the Minister must:
 - (a) consider whether and how access opportunities can be evenly shared between all holders of supplementary water access licences, and
Note. As at 1 July 2020, Water NSW, under delegation from the Minister, operates a 3 year rostering arrangement to evenly share access opportunity between all supplementary water access licences.
 - (b) ensure that the amount specified in subclause (4) (c) does not allow the extraction of over 50% of the supplementary water event volume.
- (4) An announcement must include the following:
 - (a) the segments of the water source and the licences to which the announcement applies,
 - (b) the start or end date, or both, of the supplementary water event,

- (c) the amount of water that may be taken by each holder of a supplementary water access licence to which the announcement applies (for example, in ML per unit share).

45 Management of residual water

- (1) The operator is to direct the supplementary water event volume that the Minister has not permitted to be taken under an announcement made under clause 44, to environmental assets within the water source or the Gwydir Unregulated River Water Sources as defined in the *Water Sharing Plan for the Gwydir Unregulated River Water Sources 2012* or any relevant replacement plan, in accordance with the directions of the NSW Environmental Water Manager, to the extent possible.

Note. *NSW Environmental Water Manager* is defined in the Dictionary.

- (2) The NSW Environmental Water Manager directions made under subclause (1) must:
 - (a) be in accordance with a report prepared by the NSW Environmental Water Manager before the start of the water year, which sets out:
 - (i) how the water is to be directed, and
 - (ii) the environmental assets proposed to be managed during any supplementary water event in that water year, and
 - (b) avoid third party impacts where possible.
- (3) Despite subclause (1), the operator may to the extent possible, direct the supplementary water event volume that the Minister has not permitted to be taken under an announcement made under clause 44 and any supplementary water event volume that is not required for extraction by supplementary water access licences, away from the Gwydir wetlands to elsewhere in the water source or to the Gwydir Unregulated River Water Sources as defined in the *Water Sharing Plan for the Gwydir Unregulated River Water Sources 2012* or any relevant replacement plan, in accordance with subclause (4).
- (4) Action under subclause (3) may only occur:
 - (a) in the period that is the lesser of 6 months after a very wet period or until 31 August, and

- (b) if the NSW Environmental Water Manager has, in consultation with the Environmental Water Advisory Group (*EWAG*) determined that the action would not be detrimental to the environmental health of the Gwydir wetlands.
- (5) In this clause *a very wet period* means a 6 month period in which more than 300,000 ML of total flow, excluding water provided for extraction under access licences, is recorded at Yarraman Bridge gauge (418004).

Note. The management of residual water does not impact on the operation and delivery of 'minimum flows' to the Gwydir wetlands as set out in clause 53. The 'minimum flows' can only be directed away from the Gwydir wetlands in accordance with the extreme wet period provisions set out in clause 54.

Part 9 Access licence dealing rules

Notes.

- 1 Access licence dealings in the water source are subject to the provisions of the Act, the regulations, any access licence dealing principles established by order made under section 71Z of the Act and the access licence dealing rules established under this Part.
- 2 At the commencement of this Plan the *Access Licence Dealing Principles Order 2004* applies. The access licence dealing principles prevail over the access licence dealing rules in this Plan to the extent of any inconsistency, as provided under section 71Z (3) of the Act.
- 3 An application for a dealing may be refused, or conditions imposed on an access licence or water supply work approval at the time of a dealing, to give effect to the provisions of this Plan.
- 4 This Part may be amended if individual daily extraction components are imposed on access licences in the water source.

46 Conversion of access licence to new category

Dealings under section 71O of the Act are prohibited.

47 Assignment of rights dealings (within the water source or within a water management area)

Note. In some segments of the water source, the ability to deliver water is limited by supply constraints. In these segments, this clause prohibits dealings that would increase the total share components of access licences in those segments above 2004 amounts, until individual daily extraction components are imposed on each licence in that segment, under the Act.

- (1) A dealing under section 71Q of the Act is prohibited if all of the following apply:
 - (a) the dealing would increase the share component of an access licence which nominates a water supply work located in a segment of the water source specified in Column 1 of Table A below,
 - (b) the dealing would increase the total share components of all access licences, other than supplementary water access licences, that nominate a water supply work in that segment to an amount that would exceed that specified in Column 2 of Table A for that segment.

Table A

Column 1	Column 2
Gwydir River downstream of the Tyreel Regulator	63,412
Mehi River downstream of the Moomin Creek Junction	113, 248
Moomin Creek	169,974

Carole Creek	96,502
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- (2) A dealing under section 71Q of the Act that is from or to an access licence in another water source is prohibited.

48 Amendment of share component dealings (change of water source)

Dealings under section 71R of the Act are prohibited.

Note. The degree of hydrologic connection between the Gwydir and other Murray-Darling river systems is insufficient to permit dealings between the Gwydir and these systems to occur.

49 Assignment of water allocations dealings

- (1) A dealing under section 71T of the Act is prohibited if all of the following apply:
- (a) the dealing is between access licences within the water source,
 - (b) the dealing would increase the water allocation for an access licence which nominates a water supply work,
 - (c) that water supply work is located in a segment specified in Column 1 of Table A in clause 47,
 - (d) the dealing would increase the total water allocations of all access licences, other than supplementary water access licences, that nominate a water supply work in that segment to an amount that would exceed that specified in Column 2 of Table A for that segment.
- (2) A dealing under section 71T of the Act between access licences within the water source is prohibited if the dealing involves an assignment of water allocation to a supplementary water access licence from an access licence of any other category.
- Note.** At the commencement of this Plan, dealings under section 71T of the Act involving the assignment of water allocations from a supplementary water access licence to an access licence of any other category are prohibited under clause 17 of the *Access Licence Dealing Principles Order 2004*.
- (3) A dealing under section 71T of the Act that is from or to an access licence in another water source is prohibited.

50 Interstate access licence transfer and assignment of water allocations

Dealings under sections 71U or 71V of the Act are prohibited.

51 Nomination of water supply works dealings

- (1) A dealing under section 71W of the Act is prohibited if all of the following apply:
-

- (a) the dealing nominates a water supply work located in a segment of the water source specified in Column 1 of Table A in clause 47,
 - (b) following the dealing, the total share components of all access licences, other than supplementary water access licences, that nominate a water supply work in the segment of the water source will exceed the amount specified in Column 2 of Table A for that segment.
- (2) A dealing under section 71W of the Act is prohibited if it involves any of the following:
- (a) an access licence being amended to nominate a water supply work located in a different water source within NSW to that specified in the share component of the access licence,
 - (b) an access licence in the water source nominating a water supply work outside of NSW.

Part 10 System operation rules

Note. *Operator* and *NSW Environmental Water Manager* are defined in the Dictionary.

Division 1 Environmental flow rules for the water source

52 Definitions

In this Division:

extreme wet period means a 6 month period in which more than 500,000 ML of total flow is recorded at Yarraman Bridge gauge (418004).

minimum flow has the meaning set out in clause 53.

53 Minimum flow

The operator is required to ensure that the lesser of the following amounts is protected for delivery to the Gwydir wetlands (the *minimum flow*), subject to the remainder of this Division:

- (a) the sum of flows in the Horton River at Rider (Killara) gauge (418015), Myall Creek at Molroy gauge (418017), and Halls Creek at Bingara gauge (418025), plus any water spill and water released for flood mitigation purposes from Copeton Dam water storage,
- (b) 500 ML per day (*ML/day*).

Note. As at 1 July 2020, wetland inflow assessment is based on flows in the Gwydir River at Yarraman Bridge gauge (418004) minus estimated delivery losses and water use between there and the wetland.

54 Flow after extreme wet period

- (1) Despite clause 53, the operator may direct some or all of the minimum flow away from the Gwydir wetlands to elsewhere in the water source or to the Gwydir Unregulated River Water Sources (as defined in the *Water Sharing Plan for the Gwydir Unregulated River Water Sources 2012* or any relevant replacement plan) in accordance with subclause (2).
- (2) Action under subclause (1) must:
 - (a) be for the lesser of 6 months after an extreme wet period or until 31 August, and

- (b) only occur if the NSW Environmental Water Manager has, in consultation with the EWAG determined that the action would not be detrimental to the environmental health of the Gwydir wetlands, and
- (c) not be used to satisfy requirements for water under basic landholder rights or access licences.

55 Consultation

The NSW Environmental Water Manager may consult with any government agency or the EWAG established by the Minister for the Environment for the water source, or both, and consider any relevant advice before taking action under this Plan.

Notes.

- 1 The EWAG for the water source was formerly known as the ECA Operations Advisory Committee.
- 2 As at 1 July 2020, the Minister has conferred the lead role in managing environmental water allowances established under water sharing plans to the NSW Department of Planning, Industry and Environment – Environment, Energy and Science (EES). EES also administers and supports EWAGs to inform the management of environmental water allowances and licensed environmental water. For more information on EWAGs, see *Cooperative management of environmental water to improve river and wetland health in NSW* (2014), available from the following website: www.environment.nsw.gov.au.

Division 2 Environmental water allowance

56 Environmental water allowance rules

- (1) The operator must maintain an environmental water allowance (*EWA*).
- (2) Whenever an available water determination for regulated river (general security) access licences is made under subclause 37 (3), an amount of water calculated according to the following formula is to be credited to the EWA:

$(45,000 / (\text{sum } GS \text{ entitlements} + 45,000)) \times \text{total available water}$
where:

sum GS entitlements is the sum of all regulated river (general security) access licence share components, and

total available water is as defined in clause 37 (4).

- (3) Despite subclause (2), the amount of water in the EWA at any time must not exceed 90,000 ML.

- (4) The operator is to release water from the EWA in accordance with an order made by the NSW Environmental Water Manager and any procedures established by the Minister with the concurrence of the Minister for the Environment.

Division 3 General system operation rules

57 Maintenance of water supply

- (1) In this clause, the period of lowest accumulated inflows to the water source is identified by flow information held by the Department prior to 1 July 2004.
- (2) The operator must operate the water supply system in such a way that water would be able to be supplied during a repeat of the period of lowest accumulated inflows to the water source, to meet the following:
 - (a) the annual water requirements of persons exercising domestic and stock rights and native title rights,
 - (b) available water determinations of 100% of share components for domestic and stock access licences and local water utility access licence,
 - (c) available water determinations of 1 ML per unit share for regulated river (high security) access licences.
- (3) For the purposes of subclause (2), the operator must set aside sufficient volumes of water from inflows into the water source and in reserves held in Copeton Dam water storage.

Note. *Reserves* and *water supply system* are defined in the Dictionary.

58 Replenishment flows to Thalaba Creek

- (1) Unless the operator otherwise determines, the operator is to provide a replenishment flow of 4,000 ML per water year to Thalaba Creek.
- (2) For the purposes of subclause (1), the operator must set aside sufficient volumes of water from inflows into the water source and in reserves held in Copeton Dam water storage to provide for the replenishment flow referred to in subclause (1).

59 Replenishment flows to Mongyer Lagoon

The operator may provide a replenishment flow to Mongyer Lagoon if all of the following circumstances apply:

- (a) the Minister has announced a supplementary water event under clause 44 that covers Moomin Creek,
- (b) the Minister has announced a supplementary water event under clause 44 that covers the segment of the water source downstream of the Mongyer Lagoon block dam regulator and the requirements of supplementary water access licences in that segment have been met,
- (c) as a result of the replenishment flow, the water in the lagoon is expected to remain below 158.5 metres Australian Height Datum.

60 Water delivery and channel capacity constraints

In managing the water supply system, the operator must consider, determine and specify the operating channel capacities throughout the water source in accordance with procedures established by the Minister, taking into account the following:

- (a) the inundation of private land or interference with access,
- (b) the effects of inundation on the floodplain and associated wetlands,
- (c) the transmission losses expected to occur,
- (d) the capacities of structures in the water supply system.

Notes.

- 1 **Transmission losses** and **water supply system** are defined in the Dictionary.
- 2 Operating channel capacity affects daily supply capability. The following operating channel capacities have been determined as at 1 July 2020:
 - (a) Carole Creek and Gil Gil Creek—2,200 ML/day,
 - (b) Mehi River—5,800 ML/day,
 - (c) Moomin Creek—2,200 ML/day,
 - (d) Gwydir River downstream Tyreel—1,100 ML/day.

61 Priority of delivery for access licences and EWA water

- (1) This clause does not apply to supplementary water access licences.
- (2) If supply capability due to channel capacity is insufficient in any segment of the water source to satisfy all water orders, basic landholder rights, the minimum flow requirements in this Part and the delivery of EWA water, the following rules of priority apply:
 - (a) the operator is to give first priority to the minimum flow and the requirements for water to satisfy basic landholder rights,

- (b) once the requirements in (a) have been met, the operator is to supply water to domestic and stock access licences, local water utility access licences and regulated river (high security) access licences that have placed orders for water, in that order,
- (c) once the requirements in (b) have been met, unless otherwise directed by the Minister, any remaining supply capability is to be shared between the following in accordance with any procedures established by the Minister with the concurrence of the Minister for the Environment:
 - (i) EWA deliveries that have been ordered,
 - (ii) regulated river (general security) access licences that have placed an orders for water.
- (3) The operator is to consult with water user representatives, the NSW Environmental Water Manager and relevant government agencies, as the Minister considers appropriate, before determining the method in subclause (2) (c).

Notes.

- 1 **Supply capability** is defined in the Dictionary.
- 2 This clause may be amended if individual daily extraction components are imposed.
- 3 During periods of channel capacity constraint, the implementation of the above provisions may result in ordering delays and an inability to supply water requirements from regulated water deliveries on a daily basis.

62 Rates of change to storage releases

In changing the rate of the release of water from a water storage or other water supply system structure, the operator must consider relevant environmental matters, damage to river banks and public safety, in accordance with any procedures established by the Minister.

63 Delivery of orders when water supplies are low

- (1) The operator may group water orders and periodically release water if the operator determines that the total remaining volume of water supplies has been reduced to a level where the continuous delivery of water orders would involve unacceptably high delivery losses.
- (2) The operator is to consult with water user representatives before grouping water orders and releasing water in accordance with subclause (1).

64 Dam operation during floods and spills

The operator must operate Copeton Dam during times of flood and spilling of water from that dam in accordance with the following:

- (a) in a manner that maintains the safety of dam infrastructure,
- (b) subject to paragraph (a), as follows:
 - (i) by leaving the storage at full supply level after the flood or spilling of water,
 - (ii) by ensuring that the general rate of increase of outflow does not exceed the rate of increase of inflow,
 - (iii) by seeking to minimise downstream flood damage,
 - (iv) by considering the temporary storage of water above the normal maximum storage level to reduce flood effects and manage the rate of release of this water to avoid aggravating downstream flood damage.

Part 11 Mandatory conditions

Note. Mandatory conditions relating to metering equipment and recording of information are imposed by the *Water Management (General) Regulation 2018*. Clauses in this Plan that provide for mandatory conditions to be imposed in relation to metering apply only until the roll out of the metering and reporting mandatory conditions that are prescribed in Part 10 and Part 11 of the *Water Management (General) Regulation 2018*.

Division 1 General

65 Requirement to notify

In this Part, a requirement to notify the Minister in writing will only be satisfied by writing to the email address for enquiries on the Department's website.

Division 2 Access licences

Note. This Division is made in accordance with sections 17 (c), 20 and 66 of the Act.

66 Mandatory conditions on access licences

- (1) Each access licence must have mandatory conditions to give effect to the following:
 - (a) upon becoming aware of a breach of any condition of the access licence, the licence holder must:
 - (i) notify the Minister as soon as practicable, and
 - (ii) if the notification under paragraph (i) is not in writing, confirm the notification in writing within seven days of becoming aware of the breach,
 - (b) the taking of water in accordance with the access licence may only occur if the resulting debit to the access licence water allocation account does not exceed the volume of water allocation remaining in the account,
 - (c) any other condition required to implement the provisions of this Plan.
- (2) Each access licence, other than a supplementary water access licence, must have mandatory conditions requiring that the access licence holder must not take water unless it has been ordered in accordance with procedures established by the Minister.
- (3) Each supplementary water access licence must have a mandatory condition that gives effect to Division 2 of Part 8.

Division 3 Water supply work approvals

Note. This Division is made in accordance with sections 17 (c) and 100 of the Act.

67 General conditions

- (1) Each water supply work approval must have mandatory conditions to give effect to:
 - (a) the clauses set out in this Division, and
 - (b) any other condition required to implement the provisions of this Plan.
- (2) 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 Part 8.
- (3) Upon becoming aware of a breach of any condition of the approval, the approval holder must:
 - (a) notify the Minister as soon as practicable, and
 - (b) if the notification under paragraph (a) was not in writing, confirm the notification in writing within seven days of becoming aware of the breach.
- (4) Flow measurement devices must be installed and maintained on all water supply works used for extraction of water under an access licence and must be of a type and maintained in a manner which is acceptable to the Minister.
- (5) Water extraction, water management infrastructure and cropping details must be provided on request, in the form and in accordance with procedures established by the Minister.
- (6) The taking of water may only occur in accordance with the conditions applying to the access licence that will have its water allocation account debited for that take.
- (7) Despite subclause (1), subclauses (4) to (6) do not apply to approvals for water supply works held by WaterNSW provided the approval is not nominated by an access licence.
- (8) Water supply work approvals held by WaterNSW must have mandatory conditions to give effect to the provisions in Part 10.
- (9) If an approval for a water supply work is subject to a mandatory metering equipment condition in relation to the work, subclause (4) ceases to have effect in relation to the work on the day on which the condition applies to the approval.

- (10) If an approval for a water supply work is subject to a mandatory condition imposed by Part 10 or Part 11 of the *Water Management (General) Regulation 2018* relating to the recording or reporting of water that is taken by the work, subclauses (4) and (5) cease to have effect in relation to the work on the day on which the condition applies to the approval.

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

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

Notes.

- 1 **Mandatory metering equipment condition** is defined in clause 228 of the *Water Management (General) Regulation 2018*.
- 2 Clause 230 of the *Water Management (General) Regulation 2018* provides that the mandatory metering equipment condition applies to existing and new water supply works required to have a meter from 1 April 2019, and to other approvals in the water source from 1 December 2021.

Part 12 Amendment of this Plan

Notes.

- 1 This Part sets out amendments authorised by this Plan.
- 2 For the purposes of section 87 of the Act, the initial period for the water source expired before the commencement of this Plan.

68 General

For the purposes of section 45 (1) (b), this Part provides for when this Plan may be amended and any such amendment is taken to be authorised by this Plan.

69 Amendments relating to Part 1

Part 1 may be amended to add, modify or remove a river or segment of river to or from the water source providing that:

- (a) any amendment is consistent with any applicable regulated river order, and
- (b) the Minister is satisfied that there will be no impact on the water available to the environment under Division 1 and 2 of Part 10, or available to any access licence in the water source.

70 Amendments relating to supplementary water access licences

Clause 44 may be amended in relation to announcements for the Mehi River, Carole Creek, or a river that receives flows from the Mehi River or Carole Creek.

71 Amendments relating to floodplain harvesting

This Plan may be amended to provide for the management of floodplain harvesting.

Note. *Floodplain harvesting* is defined in the Dictionary.

72 Amendments relating to individual daily extraction components

This Plan may be amended to provide for individual daily extraction components.

73 Amendments relating to SDLAM projects

This Plan may be amended to provide for the implementation of any NSW sustainable diversion limit adjustment mechanism project in the water source under the Basin Plan.

74 Dictionary

The Dictionary may be amended to add, modify or remove a definition.

75 Schedules

Schedule 1 may be amended to add, modify or remove a flow target.

76 Other amendments (general)

- (1) This Plan may be amended to include provisions for the following:
 - (a) the interception of water before it reaches a stream or aquifer by plantations or other means,
 - (b) the management of salt interception schemes,
 - (c) water return flows, as referred to in Division 5 of Part 2 of Chapter 3 of the Act,
 - (d) provide for the conversion of regulated river (high security) licences with share components that specify the water source to access licences with share components that specify connected upstream unregulated water sources.
- (2) This Plan may be amended to facilitate total extractions reaching the long-term average annual extraction limit or long-term average sustainable diversion limit should an assessment of compliance with those limits made under Part 6 show that total extractions are in the Minister's opinion significantly less than those limits over the long term.
- (3) Division 3 of Part 6 may be amended to establish a long-term average sustainable diversion limit that combines the long-term average sustainable diversion limits for the water source and the Gwydir Unregulated River Water Sources.
- (4) This Plan may be amended to give effect to, or in connection with, a determination of native title under the *Native Title Act 1993* of the Commonwealth.
- (5) An amendment authorised by this Plan is taken to include any consequential amendments required to be made to this Plan to give effect to that particular amendment.
- (6) Consequential amendments may be made to this Plan as a result of an amendment to the Act or regulations.

Dictionary

Aboriginal person has the same meaning as it has in section 4 of the *Aboriginal Land Rights Act 1983*.

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

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

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

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

EWA means the environmental water allowance referred to in clause 56.

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

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

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

Minister means the Minister administering the Act.

ML means megalitres.

Murray-Darling Basin Agreement means the Murray-Darling Basin Agreement as set out in Schedule 1 of the *Water Act 2007* of the Commonwealth.

natural flow means a flow that occurs in a watershed or waterbody under natural unregulated conditions.

NSW Environmental Water Manager means the NSW Government department or agency whose responsibility it is to manage licensed environmental water that is held by the NSW Government.

Note. As at 1 July 2020, this is the NSW Department of Planning, Industry and Environment – Environment, Energy and Science (EES).

operator means the operator of the water supply system for the water source.

Note. As at the commencement of this Plan, this is WaterNSW.

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

replenishment flows means flows provided to refill pools and water holes in river systems downstream of the water source and provide water for household and town use and stock watering.

reserves are volumes of water put aside in a **water storage** to provide for future water requirements.

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

supplementary water event means a period during which the taking of water under supplementary water access licences is permitted in all or part of the water source.

supply capability means the rate at which the Minister determines water can be supplied to a segment of the water source without incurring unacceptable transmission losses.

the water source is as defined in clause 4.

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

transmission losses means the additional water required to ensure that a specified quantity of water is delivered to a specified delivery point.

uncontrolled flows means flows not able to be captured in a water storage that are in excess of that needed to meet the environmental provisions in Divisions 1 and 2 of Part 10, basic landholder rights, water orders placed by access licences and the water required to meet transmission losses associated with those water orders.

water storage means a state owned dam, weir or other structure that is used to regulate and manage river flows in the water source and the water body impounded by this structure.

water supply system means the water storages and all other infrastructure that can influence water supply controlled by the operator, including regulators and weirs.

water use development means all privately owned water management structures, and all aspects of farm, industry, town and private household development that affect the volumes of water taken from the water source, and the management practices that are applied in relation to them.

weighted average unit price means the total value of all units sold divided by the number of units sold for a monetary value.

Schedule 1 Flow targets

(clause 44)

1 Application

The flow targets under clause 2 of this Schedule apply to clause 44.

2 Flow targets

(1) Flows of each of the following:

- (a) 150 ML/day in the Darling River at Wilcannia gauge (425008),
- (b) 280 ML/day in the Darling River at Louth gauge (425004),
- (c) 390 ML/day in the Darling River at Bourke gauge (425003),
- (d) 550 ML/day in the Darling River at Brewarrina gauge (422002),
- (e) 700 ML/day in the Barwon River at Dangar Bridge gauge (422001).

Note. This subclause is intended to protect flows for basic landholder rights requirements along the Barwon- Darling River.

(2) Between 1 September and 28 (or in leap year , 29) February, inclusive, a flow for five consecutive days of (a) or (b), provided two such flow events have not already occurred during that period in that water year:

- (a) 14,000 ML/day in the Darling River at Brewarrina gauge (422002),
- (b) 10,000 ML/day in the Darling River at Bourke gauge (425003).

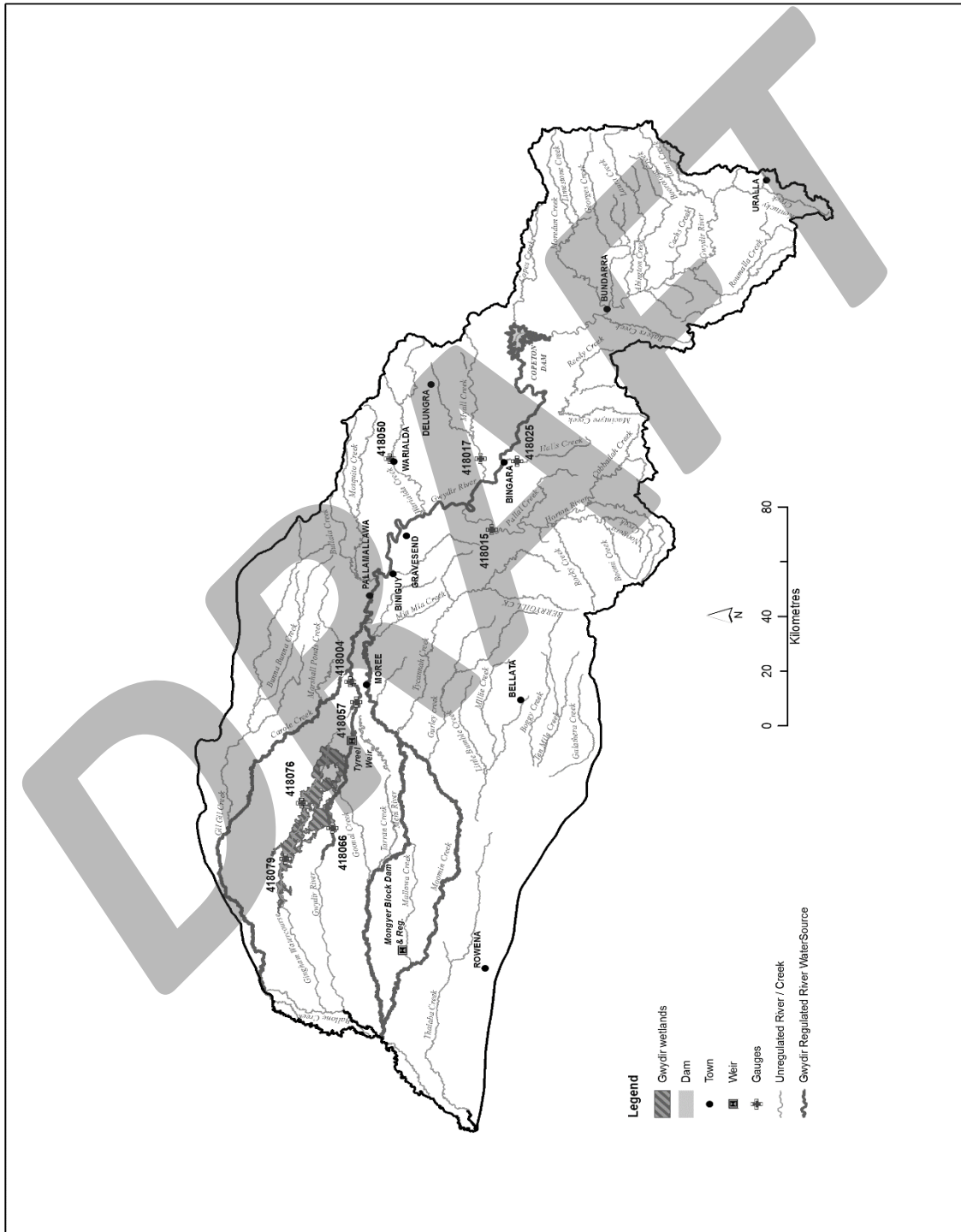
Note. This subclause is intended to provide opportunity for the passage of fish across the major weirs in the Barwon-Darling River.

(3) Between 1 October and 30 April, inclusive, a flow for five consecutive days of 2,000 ML/day in the Darling River at Wilcannia gauge (425008), provided this target has not been reached during the preceding three months.

Note. This subclause is intended to protect flows needed to suppress blue-green algae blooms.

Appendix 1 Overview map of the Gwydir Regulated River Water Source

Overview map of the Gwydir Regulated River Water Source



Completion Date: 2011/2019

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