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New South Wales
Government

Temporary Water Restriction (Mortons Creek Water Source) Order 2020

under the

Water Management Act 2000

I, Allan Raine, by delegation from the Minister administering the *Water Management Act 2000*, in pursuance of section 324(1) of the *Water Management Act 2000* and being satisfied that it is necessary in the public interest to do so, make the following Order.

Dated 2nd July 2020

ALLAN RAINE
A/Director, Water Planning Implementation
Department of Planning, Industry and Environment
By delegation

Explanatory note

The objects of this Order are as follows:

- (a) to impose a temporary water restriction on the take of water from the Mortons Creek Water Source by imposing certain access rules and cease to pump restrictions,
- (b) to require the recording of take from the Mortons Creek Water Source in logbooks.

This Order is made under section 324(1) of the *Water Management Act 2000* in order to manage the water source to ensure equitable sharing between licence holders and protection of the environment.

Temporary Water Restriction (Mortons Creek Water Source) Order 2020

under the

Water Management Act 2000

1 Name of Order

This Order is the *Temporary Water Restriction (Mortons Creek Water Source) Order 2020*.

2 Commencement

This Order commences on the day it is published in the Gazette.

3 Duration

This Order will remain in force up to and including 11 December 2020 unless that date is amended or the order is repealed before that date.

4 Temporary water restrictions

This Order is a direction to restrict the take of water from the water sources specified in Schedule 1 in accordance with the restriction specified in Schedule 1.

5 Interpretation

- (1) References to the Mortons Creek Water source and upriver alluvial sediments in this order have the same meaning as references to that water source and upriver alluvial sediments in the *Water Sharing Plan for the Hastings Unregulated and Alluvial Water Sources 2019*.
- (2) Unless otherwise defined, words and expressions that are defined in the *Water Management Act 2000*, in regulations made under that Act or the *Water Sharing Plan for the Hastings Unregulated and Alluvial Water Sources 2019* have the same meaning in this Order.

Schedule 1 Restrictions

1 Who does this order apply to?

- (1) This Order applies to holders of access licences taking water under that licence from the Mortons Creek Water Source (including the upriver alluvial sediments within the Mortons Creek Water Source).
- (2) However, this Order does not apply to holders of access licences in relation to incidental take of water that is caused by aquifer interference activity.

2 Take of water must be recorded in a logbook

- (1) A holder of an access licence must not take water unless:
 - (a) the holder records the take in a logbook in the form at Appendix 1, and
 - (b) keeps the information recorded in the logbook for the duration of this Order, and
 - (c) provides the information recorded in the logbook to either the Natural Resources Access Regulator or Water NSW.
- (2) A holder of an access licence is not required to record take in a logbook if the take is from a water supply work that has an operational meter that complies with Australian Standard AS4747, *Meters for non-urban water supply* and a data logger.

Note. See the Logbook form in Appendix 1 at the end of this Order

3 Cease to pump restrictions for Mortons Creek Water Source

(1) General cease to pump restrictions for surface water

The cease to pump restrictions under subclauses (2), (3), (4) and (5) do not apply to the take of upriver alluvial sediments within the Mortons Creek Water Source.

- (2) A holder of an access licence must not take water, unless the take is from an off-river pool, if flows at the Mortons Creek at Mortons Creek Road gauge (207017) are less than or equal to 1ML/day.
- (3) A holder of the access licence specified in Column 1 of Table B in Schedule 2 must not take water if flows at the Mortons Creek at Mortons Creek Road gauge (207017) are less than or equal to 1ML/day.
- (4) A holder of an access licence must not take water, unless the take is from an off-river pool, for a period of 24 hours after the flow at the Mortons Creek at Mortons Creek Road gauge (207017) first exceeds 1 ML/day following any period during which flows in that water source are less than or equal to 1ML/day.
- (5) A holder of an access licence must not take water if there is no visible flow at the location at which water is proposed to be taken unless the take is from an in-river pool or an off-river pool.

Notes.

- 1 Flows at gauges can be found on the WaterNSW website at www.watarnsw.com.au or on the WaterNSW App "WaterLive".
- 2 Further instruction on how to find flows are provided for the in the Reason For Decision for this order on the Department's website at www.industry.nsw.gov.au/water/allocations-availability/temporary-water-restrictions

(6) Cease to pump restrictions for take from an off-river pool

A holder of an access licence, other than an access licence specified in Column 1 of the Table B in Schedule 2, must not take water from an off-river pool if the volume of water in that pool is at less than the volume of water that can be held by the pool when at full capacity.

Note. See Schedule 2 at the end of this order. **Full capacity** is defined in the Water Sharing Plan for the *Hastings Unregulated and Alluvial Water Sources 2019*.

Cease to pump restrictions for licences with higher cease to take conditions under the Water Act 1912

- (7) The holder of an access licence specified in Table A in Schedule 2, or the holder of an access licence that is granted as a result of a subdivision under section 71P of the Act of an access licence specified in Table A in Schedule 2, must not take water in accordance with the access rule specified in column 3 of the table if water is taken by a water supply work nominated on the licence specified in the table at the commencement of the Water Sharing Plan for the *Hastings Unregulated and Alluvial Water Sources 2019*.
- (8) The exceptions to the cease to pump restrictions under clause 4 do not apply to the above cease to pump restriction under subclause (7).

(9) Cease to pump restrictions for take from upriver alluvial sediments

The cease to pump restrictions at subclauses (10), (11) and (12) only apply to take from the upriver alluvial sediments within the Mortons Creek Water Source if:

- (a) take is under an aquifer access licence that was converted from an unregulated river access licence and the take of water is by a water supply work that is located 40 metres or less from the top of the high bank of a river, or
- (b) take is under an access licence, other than an aquifer access licence, that nominates a water supply work that is capable of being used to take water from the upriver alluvial sediments and the work is located 40 metres or less from the top of the high bank of a river.

- (10) A holder of an access licence must not take water from the upriver alluvial sediments if flows at the Mortons Creek at Mortons Creek Road gauge (207017) are less than or equal to 1ML/day.
- (11) A holder of an access licence must not take water from the upriver alluvial sediments if there is no visible flow in the river immediately adjacent to the water supply work from which the water is proposed to be taken.
- (12) A holder of an access licence must not take water from the upriver alluvial sediments for a period of 24 hours after the flows at Mortons Creek at Mortons Creek Road gauge (207017) first exceed 1 ML/day following any period during which flows in the Mortons Creek Water Source were less than or equal to 1ML/day.

Note. Upriver alluvial sediments means water contained within the alluvial sediments below the surface of the land within the Mortons Creek Water Source. See clause (4) (3) (c) of the *Water Sharing Plan for the Hastings Unregulated and Alluvial Water Sources 2019*.

4 Exceptions to the cease to pump restrictions

- (1) A holder of an access licence subject to the cease to pump restrictions under clause 3 (except for the cease to pump restriction under clause 3(7)), may take water in accordance with this clause.

- (2) **Take of no more than 20 kilolitres permitted**

This subclause only applies to the following:

- (a) access licences that replaced the licences listed in column 1 of the Table in Schedule 2 to the *Water Sharing Plan for the Hastings Unregulated and Alluvial Water Sources 2019* in relation to taking water from the Mortons Creek Water Source (but not including the upriver alluvial sediments),
 - (b) access licences that replaced the licences listed in clause 1 of Schedule 4 of the *Water Sharing Plan for the Hastings Unregulated and Alluvial Water Sources 2019* in relation to taking water from the upriver alluvial sediments within the Mortons Creek Water Source.
- (3) A holder of an access licence may take no more than 20 kilolitres of water per day for any of the following purposes:
 - (a) fruit washing,
 - (b) cleaning of dairy plant and equipment for the purpose of hygiene,
 - (c) poultry watering and misting,
 - (d) cleaning of enclosures used for intensive animal production for hygiene purposes.

(4) Take from runoff harvesting dam pool

A holder of an access licence may take water from a runoff harvesting dam pool within the Mortons Creek Water Source that is created by a structure that is authorised by a water supply work approval if the flow or storage level of the pool is at more than the cease to take condition specified on the Water Act 1912 entitlement that the access licence replaced.

(5) Take from in-river dam pool

(a) A holder of an access licence may take water from an in-river dam pool within the Morton Creeks Water Source that is created by a structure authorised by a water supply work approval if the flow or storage level of that pool is at more than the cease to take condition specified on the Water Act 1912 entitlement that the access licence replaced.

(b) A holder of an access licence may take water from an in-river dam pool within the Mortons Creek Water Source if:

(i) the in-river dam is constructed, operated and maintained in accordance with the conditions specified on the water supply work approval for the in-river dam, and

(ii) the in-river dam pool is passing such flows in such circumstances as are specified on the water supply work approval for the in-river dam.

(6) Domestic consumption under domestic and stock access licences

A holder of a domestic and stock access licence or a domestic and stock (domestic) access licence may take up to 1 kilolitre or less of water per house for domestic consumption under the licence.

(7) Stock watering under domestic and stock access licences

A holder of a domestic and stock access licence, or a domestic and stock (stock) access licence, may take up to 14 litres or less of water (but not from the upriver alluvial sediments) per hectare of grazeable area per day for stock watering under the licence.

5 Taking water to test metering equipment

This order does not restrict the take of water if the following applies:

- (a) the holder of the access licence is, or will be, required to comply with the mandatory metering equipment condition,
- (b) the take of water is done in compliance with the conditions of the licence and the relevant approval, including in accordance with any cease to pump, reporting and recording conditions on the licence,

- (c) the take of water is for the purpose of a duly qualified person validating, or checking the accuracy of, metering equipment for compliance with the mandatory metering equipment condition,
- (d) the total take of water for the purpose under subclause (c) from 20 December 2019 until 11 December 2020 must be:
 - (i) no more than 0.5ML, or
 - (ii) if take is from a pump that is greater than 500mm, no more than 1ML,
- (e) the duly qualified person notifies the Natural Resources Access Regulator within 24 hours of the take of water for the validation or accuracy checking by:
 - (i) phone on 1800 633 362, or
 - (ii) email to nrar.enquiries@nrar.nsw.gov.au.

Schedule 2 Specific cease to pump restrictions

Table A Cease to pump restrictions higher under *Water Act 1912*

Column 1	Column 2	Column 3
Access licence replaced by the Water Act 1912 entitlement	Water source	Access rule
30SL066544	Mortons Creek Water Source	Water must not be taken from Mortons Creek unless there is a flow of 100mm over the rock bar 20 metres downstream of the boundary of Lot 117 DP 754442 and Lot 145 DP 754446

Table B Cease to pump restrictions for take from an off-river pool for certain licences

Column 1	Column 2	Column 3	Column 4
Access licence replaced by the Water Act 1912 entitlement	Water source	Gauge	Flow rate
30SL065105	Mortons Creek Water Source	Mortons Creek at Mortons Creek Road gauge (207017)	Less than or equal to 1ML/day

Note. It is an offence, under section 336C of the Water Management Act 2000, to fail to comply with this direction. An individual found guilty of an offence under section 336C is liable to a penalty not exceeding 4,550 penalty units and, in the case of a continuing offence, a further penalty not exceeding 600 penalty units for each day the offence continues. A corporation found guilty of an offence under section 336C is liable to a penalty not exceeding 18,200 penalty units and, in the case of a continuing offence, a further penalty not exceeding 1,200 penalty units for each day the offence continues. As at the commencement of this Order, a penalty unit is \$110.

APPENDIX 1 LOGBOOK FORM

At the end of each take, record the following information:

Date of take	
Authorisation	Access licence number under which water is taken <hr/> Approval number under which water is taken
Confirmation water may be taken¹	Confirmation that cease to take conditions do not apply and water may be taken <hr/> Method of confirmation e.g. visual inspection, internet search <hr/> Time of confirmation <hr/> Flow rate or water level at the reference point in the water source
Details of water take	Meter reading before water is taken (only if a water meter is installed) <hr/> Start time when water is taken <hr/> End time when water is taken
Volume	Volume of water taken <hr/> Volume of water taken for domestic consumption and/or stock watering <hr/> Pump capacity per unit of time
Purpose	Purpose/s for which water is taken <hr/> Type of crop <hr/> Area cropped

Dates of planting and harvesting	
Name of person who recorded information	

Reference number:(n2020-3004)