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New South Wales
Government

Temporary Water Restriction (Northern Basin) (Floodplain Harvesting) Order 2020

under the

Water Management Act 2000

I, Vanessa O'Keefe, 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 7 February 2020

VANESSA O'KEEFE
A/Executive Director, Policy, Planning & Sciences
Department of Planning, Industry and Environment
By delegation

Explanatory note

The object of this Order is to prohibit the take of water for the purpose of floodplain harvesting across the floodplains within the Northern Basin except where the take is by a work for the purpose of a tailwater return system. This order does not apply to the take of water pursuant to basic landholder rights (including harvestable rights) or passive take by water management works (including on-farm storages, dams and open channels).

This Order is made under section 324 (1) of the *Water Management Act 2000* in order to cope with a water shortage.

Temporary Water Restriction (Northern Basin) (Floodplain Harvesting) Order 2020

under the

Water Management Act 2000

1 Name of Order

This Order is the *Temporary Water Restriction (Northern Basin) (Floodplain Harvesting) Order 2020*.

2 Commencement

This Order commences on Friday 7 February 2020.

3 Duration

This Order will remain in force up to and including 28 February 2020 unless that date is amended or the order is repealed before that date.

4 Temporary water restrictions

This Order is a direction to prohibit the take of water from the floodplains specified in Schedule 1 in accordance with the prohibition specified in Schedule 1.

5 Interpretation

(1) In this order:

Director means any of the following:

- (a) Director, Water Planning Implementation, Water Group for the Department of Planning, Industry and Environment,
- (b) Executive Director, Policy, Planning & Sciences, Water Group for the Department of Planning, Industry and Environment,
- (c) any person who is for the time being acting or performing the duties and responsibilities of the role specified in paragraph (a) or (b).

forecast includes a qualitative assessment or quantitative assessment.

higher priority needs includes the requirements for the relevant water source, or part of the relevant water source, and its dependent ecosystems, basic landholder rights and access licences (including town water supply) of a higher priority to floodplain harvesting (regulated) access licences and floodplain harvesting (unregulated) access licences.

- (2) Unless otherwise defined, words and expressions that are defined in the *Water Management Act 2000* or in regulations made under that Act have the same meaning in this Order.

Schedule 1 Prohibition

1 Prohibition of take for the purpose of floodplain harvesting

- (1) Unless approved by the Director, a person must not take water for the purpose of floodplain harvesting from any of the following floodplains unless the take is by a work for the purpose of a tailwater return system:
 - (a) Barwon-Darling Valley Floodplain,
 - (b) Gwydir Valley Floodplain,
 - (c) Lower Namoi Valley Floodplain (as designated and amended under the *Water Act 1912*, Gazette No. 164 of 23.12.2005, p11253 and Gazette No. 139 of 28.09.1984, p 4848),
 - (d) Narrabri – Wee Waa Floodplain (as designated under the *Water Act 1912*, Gazette No. 164 of 23.12.2005, p 11253)
 - (d) Narromine to Oxley Station Floodplain (as designated under the *Water Act 1912*, Gazette No. 155 of 5.12.2008 and sometimes referred to as the Macquarie Valley Floodplain),
 - (e) Upper Namoi Valley Floodplain.
- (2) The Director may approve, in any manner, the person to take water for the purpose of floodplain harvesting for the following period:
 - (a) from the day in relation to which the Director is of the opinion that there is, or is forecasted to be, water available for take by the person because there is, or is forecasted to be, sufficient water available for higher priority needs, and
 - (b) up to and including 28 February 2020 or, if earlier, the day in relation to which the Director is of the opinion that there is, or is forecasted to be, no water available for take by the person because there is, or is forecasted to be, insufficient water available for higher priority needs.
- (3) This order does not apply any of the following:
 - (a) a person taking water pursuant to a basic landholder right,
 - (b) the take of water by a water management work that cannot be reasonably prevented from taking water due to the nature of the work (*passive take*).

Note. For example, this order does not apply to passive take by on-farm storages, dams, and open channels.

Note.

- 1 See Schedule 6 to the *Water Management (General) Regulation 2018* for maps of the Gwydir Valley Floodplain, Barwon-Darling Valley Floodplain and Upper Namoi Valley Floodplain or the Department's website at www.industry.nsw.gov.au/plans-programs/healthy-floodplains-project/plans. See the Gazettal notices for maps of the Narromine to Oxley Station Floodplain, Lower Namoi Valley Floodplain and Narrabri – Wee Waa Floodplain at www.legislation.nsw.gov.au/#/notifications.
- 2 WaterNSW may notify the person of any approval given by the Director.

- 3** 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.