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New South Wales
Government

Temporary Water Restriction (Barwon-Darling) Order 2020

under the

Water Management Act 2000

I, Emma Solomon, 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 28 February 2020

EMMA SOLOMON
Executive Director, Policy, Planning & Sciences
Department of Planning, Industry and Environment
By delegation

Explanatory note

The object of this Order is to continue temporary water restrictions on certain take of water from the Barwon-Darling Unregulated River Water Source and the Barwon-Darling Valley Floodplain until 17 April 2020.

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

INT20/26915

Temporary Water Restriction (Barwon-Darling) Order 2020

under the

Water Management Act 2000

1 Name of Order

This Order is the *Temporary Water Restriction (Barwon-Darling) Order 2020*.

2 Commencement

This Order commences on 29 February 2020.

3 Duration

This Order will remain in force up to and including 17 April 2020 unless that date is amended or the order is repealed before that date.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 source and floodplain specified in Schedule 1 in accordance with the restrictions specified in Schedule 1.

5 Interpretation

(1) In this order:

Barwon-Darling Unregulated River Water Source means the Barwon-Darling Unregulated River Water Source as described in the *Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2012*.

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).

farm dam means a privately owned dam typically of earthen construction designed to collect or store water for use on a property.

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.

- (2) A management zone specified in Column 2 of the table to Schedule 1 has the same meaning as that management zone in the *Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2012*.
- (3) 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 Restrictions

Part 1 Restriction for Barwon-Darling Unregulated River Water Source

1 Restriction

- (1) Unless approved by the Director, a holder of a licence specified in Column 3 of the table to this Part is prohibited from taking water from any part of the Barwon-Darling Unregulated River Water Source in the management zones specified opposite the licence in Column 2 of the table.
- (2) The Director may approve, in any manner, the licence holder to take water 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 licence holder because there is, or is forecasted to be, sufficient water available for higher priority needs, and
 - (b) up to and including 17 April 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 licence holder because there is, or is forecasted to be, insufficient water available for higher priority needs.
- (3) Subclause (1) does not prohibit the taking of water:
 - (a) from a farm dam, or
 - (b) for the purpose of testing metering equipment in accordance with clause 2.

2 Take of water permitted for testing 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) up to and including 17 April 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.

Table

Column 1	Column 2	Column 3
Water Sharing Plan	Management Zone	Access Licence
<i>Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2012</i>	Culgoa River Junction to Bourke Management Zone	unregulated river (A Class) access licence
	Bourke to Louth Management Zone	unregulated river (B Class) access licence
	Louth to Tilpa Management Zone	unregulated river (B Class) access licence
	Tilpa to Wilcannia Management Zone	unregulated river (C Class) access licence
	Wilcannia to Upstream Lake Wetherell Management Zone	unregulated river (C Class) access licence

Part 2 Restriction for Barwon-Darling Valley Floodplain

3 Restriction

- (1) Unless approved by the Director, a person must not take water for the purpose of floodplain harvesting from the Barwon-Darling Valley Floodplain unless the take is by a work for the purpose of a tailwater return system.
- (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 17 April 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) Subclause (1) does not apply to 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.

Notes.

- 1 See Schedule 6 to the *Water Management (General) Regulation 2018* for a map of the Barwon-Darling Valley Floodplain at www.legislation.nsw.gov.au.
- 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.