



*Submission to NSW Government on:*

*Gwydir Surface Water Resource Plan Area  
(SW15)*

*By:*

*Gwydir Valley Irrigators Association Inc*

*November 2018*



*making every drop count*

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## 1 Summary and Purpose

This document has been developed by the Gwydir Valley Irrigators Association (GVIA) on behalf of its members as a formal submission for consideration by the NSW Government during their consultation on the Gwydir Surface Water Resource Plan (SW15 Gwydir Surface Water Resource Plan Area).

This document aims to represent the concerns, views and experiences of our members, not as individuals but as a local industry. Each member reserves the right to express their own opinion and is entitled to make their own submission.

Every member of the GVIA is also a member of the NSW Irrigators Council and as such we endorse their submission unless clearly outlined otherwise.

## 2 Introduction

The Gwydir Valley Irrigators Association (GVIA) as the representative body for irrigation entitlement holders in the Gwydir Valley is acutely aware of the requirements for NSW to deliver Water Resource Plans in NSW by 1 July 2019 that are compliant with the *Basin Plan 2012 (Cth)*. We welcome the opportunity to provide this submission to the Department of Industry – Water (DOI-W) as part of their public consultation.

We congratulate the Department for delivering the first draft Water Resource Plan for public consultation but acknowledge that the Gwydir Surface Water Resource Plan, as the pilot, is an incomplete draft WRP. We anticipate and have recommended that further consultation will be required with the Gwydir Stakeholder Advisory Panel (SAP) and/or targeted consultation with the GVIA, following the review of submissions and prior to accreditation.

The Basin Plan requirements have clearly provided an added level of complexity and regulatory burden on NSW and stakeholders. The requirements are rigorous and in some instances the benefits questionable, when they create barriers to genuine efficiency gains

and good planning outcomes. The result is an overwhelming volume of material that in parts, is very difficult to read and cannot be easily followed without simultaneously reading multiple pieces of legislation or policies. Further consideration on ways to streamline information and present a complete picture of requirements is required.

Unfortunately, for the GVIA, the release of the draft Gwydir Surface WRP has confirmed the least desirable outcome for industry and our communities, which are new versions of our regulated and unregulated Water Sharing Plans (WSPs) with minimal changes. Effectively, in some instances locking in inefficient and/or unnecessary rules for another 10-years.

The frustration felt by industry is exacerbated because the implementation of the Healthy Floodplains Project is incomplete and is unlikely to address the agreed policy objectives of bringing legitimate, historical access into the licencing framework but be used as an opportunity to reduce access and increase regulation, on a targeted group of water users.

As part of our review, the GVIA has focused our resources on the WSP component of the WRP package. As such, we have provided several recommendations to change administrative and material issues within both the regulated and unregulated WSP. There is no reason as part of the current consultation process, why changes cannot be made to either WSP, where it can be clearly demonstrated the rules are unnecessary or creating an impact, for no clear purpose and amendments do not undermining other's rights or outcomes. We recommend that a genuine attempt to improve these aspects are undertaken in both WSPs.

Although in some instances, our recommended changes will not be the responsibility of DOI-W but of other agencies within the NSW Government. We ask that these issues are highlighted to the appropriate authorities and addressed accordingly.

It is important to highlight that there have been significant improvements in the development of WSPs. The clarity between objectives, strategies and measures are welcomed and the mapping of these to rules is very important to provide a line of sight for stakeholders. Improvements in the readability of many provisions and providing clear direction, where the previous plan was silent, will help to enable a shared understanding of the various rights and priorities of different users under a range of water availability scenarios. The new opportunities for environmental water managers, to add value to their held-environmental water portfolios with targeted delivery of planned environmental water should also be recognised as key positive outcomes. These changes signify the maturity of environmental planning and delivery in our region and are supported.

We welcome further discussions with the GVIA to work through many of the complex issues identified within this submission. We have provided a list of our 58 recommendations at the end of this submission and separated these into general comments and those relevant to the two WSPs.

## 3 About the GVIA

### 3.1 Our region

The Gwydir Valley Irrigators Association (GVIA) represents more than 450 water entitlement holders in the Gwydir Valley, centred around the town of Moree in North-West New South

Wales. Our mission is to build a secure future for its members, the environment and the Gwydir Valley community through irrigated agriculture.

The Moree Plains Shire region alone is highly dependent on agriculture and irrigated agriculture for economic activity contributing over 72% of the value of gross domestic product (cotton is around 60%), employing 20-30% of the population and accounting for almost 90% of exports from the Shire<sup>1</sup>.

The 2011 agricultural census estimates that the total value of agricultural commodities for the Moree Plains Shire region was \$911,951,079 up from \$527,744,851 in the 2005-06 census. This is an estimated 7.83% of NSW's total agricultural production from a 1,040,021Ha principally used for agricultural crops<sup>2</sup>.

The Gwydir is characterised as having low water reliability with most water held as general security water with a reliability of 36% (that means irrigators could expect in the long-term just over a third of their entitlement can be accessed). Supplementary water entitlement is somewhat more reliable with 55% but accounts for less than a quarter of the total volume. Groundwater reliability is considered 100% but there is less than 30,000ML available.

The total volume of water available to be accessed by irrigators has been reduced significantly over time due to reforms as outlined below in Table 1: Summary of Water Reform. Entitlements owned for environmental purposes totals more than 186,000ML, which includes an Environmental Contingency Allowance (ECA) of 45,000ML. The NSW and Commonwealth environmental water managers are now responsible for 28.5% of high security entitlement, 29% of general security entitlement and 13% of supplementary entitlement for environmental use. Despite environmental water being held in the Gwydir prior to the first water Sharing Plan. Environmental water is primarily used to contribute waterbird and fish breeding events and to maintain the condition and extent of the internationally recognised Gwydir Wetlands but as the portfolio has grown, so has the application and use of environmental water.

As a result, only approximately 19% of the total river flows are available for diversion for productive use<sup>3</sup>. This equates irrigators holding 575,000ML from regulated entitlement (high security, general security and supplementary water) and 28,000ML available from groundwater aquifers.

**Table 1: Summary of Water Reform**

Year	Program	Volume of entitlement
1970	Creation of replenishment flow	5,000ML
1995	Murray-Darling Basin 1993/94 Interim Cap established to limit future growth in access	
1996	Voluntarily reduced their general security reliability by 5%, by establishing the original	25,000ML General Security

<sup>1</sup> Cotton Catchment Communities CRC Communities and People Series 2009

<sup>2</sup> 2010 2011 Agricultural Census Report – agdata cubes, 71210D0005-201011 Agricultural Commodities, Australia

<sup>3</sup> Based on IQQM long-term modelling and the volume of water purchased for the environment

Year	Program	Volume of entitlement
	Gwydir Valley Environmental Contingency Allowance (ECA) of general security equivalent water.	
2004	Gwydir Regulated River Water Sharing Plan further reduced reliability by 4%, primarily through increasing the ECA and enhancing its use and storage provision. Rules created for the WSP also reduced access, particularly to supplementary flow previously known as high flow.	20,000ML General Security
2006	Lower Gwydir Groundwater Source Water Sharing Plan reduced groundwater entitlements from 68,000 megalitres to 28,700 megalitres.	39,300ML Groundwater
2008 +	NSW State Government has purchased general security entitlement as well as supplementary for wetlands recovery programme.	17,092ML General Security 3,141ML Supplementary
	NSW Government infrastructure works	1,249ML High Security
	Commonwealth buy-back program.	88,133ML General Security 20,451ML Supplementary
2016	Commonwealth infrastructure programs.	4,508ML High Security 1,392ML General Security
<b>TOTALS</b>		5,757 High Security 156,617ML General Security (including ECA) 23,592 ML Supplementary

The main broad acre irrigated crop is cotton with irrigated wheat, barley and Lucerne also occurring depending on commodity prices. The total broad acre irrigated area is approximately 90,000 ha (although recent analysis indicate that maximum planting area is now 70,000ha) but is rarely cropped in one year. In 2010-11 census data indicated the total production value of irrigated cotton was \$623M and is estimated to be worth three times that to the local community using the Cotton Catchment Communities Research Corporation economic multiplier for cotton regions<sup>4</sup>.

Currently there are also pecans, walnuts, oranges and olives being grown within the region covering approximately 1,500 hectares and generating an estimated \$31M with considerable benefits to the local community as a high intensity, permanent crop. There is significant potential for expansion into horticulture and improvement in water utilisation but the area of expansion is limited by the availability of high security water.

<sup>4</sup> Social and Economic Analysis of the Moree Community, 2009. Cotton Catchment Communities CRC

Changes in water availability either through climate or government policy has a direct impact on the productivity of the region as well as on the local economy. Analysis by the Murray Darling Basin Authority highlighted this relationship during the northern review and revealed that for both Moree and Collarenebri social and economic indicators declined through 2001 to 2011 including education, economic resources and disadvantage, resulting in an estimated 200 jobs lost due to the implementation of the Basin Plan in the region.

### 3.2 What we do

The GVIA's mission is to build a secure future for our members, the environment and the broader Gwydir Valley community through irrigated agriculture, we can do this together by making every drop count in the river or the aquifer, on-farm, for the environment, or for our community<sup>5</sup>.

GVIA members hold entitlements within the Gwydir regulated and un-regulated surface water areas, in addition to groundwater resources. All of which are managed through water sharing plans, which have been progressively developed since early 2000.

The GVIA organisation is voluntary, funded by a nominal levy, cents/megalitre on regulated, unregulated and groundwater irrigation entitlement. In 2016-17 the levy was paid and supported by more than 84% of the eligible entitlement (excludes entitlement held by the NSW and Commonwealth governments).

Much of the activity of the association revolves around negotiating with government at a Federal, State and Local level to ensure the rights of irrigators are maintained and respected. While the core activities of the Association are funded entirely through the voluntary levy, the Association does also undertake programs to maintain and improve the sustainability of members on-farm activities and from time to time, undertakes special projects, which can be funded by government or research corporations.

The Association is managed by a committee of a minimum 11 irrigators and employs a full-time executive officer and a part-time administrative assistant, as well as hosting a Project Officer funded through the Cotton Research and Development Corporation, the Gwydir Valley Cotton Growers Association and the GVIA.

The GVIA and its members, are members of both the National Irrigators Council and the NSW Irrigators Council.

### 3.3 Contacts

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## 4 General Comments

### 4.1 Water resource plan development

The requirement under the *Basin Plan 2012 (Cth)* to prepare a Water Resource Plan (WRP) has provided an added level of complexity and regulatory burden on the NSW Government and stakeholders that cannot be overlooked and must be acknowledged. The requirements are rigorous and in some instances the benefits questionable, when they create barriers to genuine efficiency gains and good planning outcomes.

The fact that the Gwydir Surface Water Plan includes a total of 953 pages of information across ten schedules, multiple appendices to these schedules and three appendices is in our opinion, regulatory over-kill. It is unrealistic to expect that industry representatives, individual water entitlement holders or community members without background in hydrology, environmental science or law could possibly provide input into this process.

Now, following the completion of several WRPs for NSW, the requirements should now be revised to ensure that they are relevant and practical and provide the appropriate flexibility to Basin States to manage their water resources to achieve overarching objectives.

For example, the requirement (or interpretation) to implement a two-stage compliance regime for NSW and Basin Plan monitoring of water extractions presents unnecessary regulatory burden on governments and additional risk on water users and communities. Not to mention the difficulties in understanding what are the compliance requirements, where an individual must have knowledge of, or copies of each of the following documents to read the appropriate part of the WRP or WSP, including:

- a) *Basin Plan 2012 (Cth)*;
- b) *Water Act 2007 (Cth)*;
- c) *Water Management Act 2000 (NSW)*;
- d) Relevant WSP;
- e) MDBA's Reporting and Compliance Framework<sup>6</sup>; and
- f) Relevant resource description reports or current water usage information from the register.

The fact that to read either the WRP or the WSP, you need to have at least documents a) – e) available undermines the overall readability of the documents and the ability for individuals to understand the rules.

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<sup>6</sup> 2018, Sustainable Diversion Limit Reporting and Compliance Framework, MDBA <https://www.mdba.gov.au/sites/default/files/pubs/SDL-Reporting-Compliance-Framework-Nov-18.PDF>



**We recommend an evaluation of the Basin Plan requirements for Water Resource Plans be undertaken, following the completion of the first tranche of plans to assess their relevancy, practicalities and effectiveness in enabling positive water sharing outcomes.**

#### 4.2 *Water sharing plan reviews*

The development, review and implementation of Water Sharing Plan (WSP) are core aspect of the GVIA's role in representing irrigation entitlement holders in the region. We as a result have participated throughout the review and development phase, initiated in 2013 which has culminated in the development of the draft Water Resource Plan. Whilst the protracted development process has been frustrating, we have fully participated on the belief that all stakeholders would have a genuine opportunity to evaluate the effectiveness of the previous plans, review and amend these plans where necessary.

Unfortunately, the reality for us and many others within the Murray Darling Basin regions, is government delays, poor resourcing and an inability to make decisions at multiple levels of government has resulted in minimal changes to our plan and the unlikely opportunity for others. This is the least desirable outcome for industry and our communities. As WSP have in some instances, 'locked in' inefficient and/or unnecessary rules for another 10-years.

The frustration felt by industry is exacerbated in the Gwydir Valley because the implementation of the Healthy Floodplains Project is incomplete and is likely to not address the agree policy objectives of bringing legitimate, historical access into the licencing framework but be an opportunity to reduce access and increase regulation, on a targeted group of water users.

As such, to rebuild this missed opportunity we recommend that a genuine response is made to amend plans where material and administrative changes can be identified that do not undermine the rights of others or outcomes. We have made several recommendations where changes should be made to enhance water sharing outcomes rather than detract from them in both the regulated and unregulated WSP.

Further to this, we also recommend that for issues that cannot be addressed without further assessment, a statutory mid-plan review is included in all water sharing plans in NSW and that all outstanding issues from this current process are included as an appendix to the water sharing plan so that a formal record of the issues to be considered are maintained on the public record.

To initiate the development of such a record in the Gwydir, we recommend the following outstanding issues be recorded as a priority for future reviews:

- Model upgrades are completed to allow for the thorough analysis of the benefits of carryover for supplementary allocations;
- The relevancy, benefit and impact of the Interim North West-Flow Plan (now Schedule 1 of the Water Sharing Plan for the Gwydir Regulated River Water Source);
- Incorporation of floodplain harvesting entitlements and regulatory impact of these on the local community (if these are implemented prior to 1 July 2019).

**We recommend that a mid-term review of water sharing plans is included in each plan and that outstanding issues are recorded as an appendix.**

We also recommend that the NSW Government provide a commitment to NSW communities to appropriately fund monitoring and evaluation of NSW water sharing plans to genuinely collect the information available to inform both the mid-term review and the 10-year review.

**We recommend that the NSW Government adequately resource the monitoring and evaluation of water resource plan (and water sharing plans) to enable a thorough and genuine mid-term and final review.**

### 4.3 *The water resource plan package*

We acknowledge that the Gwydir surface WRP is a document for the Murray Darling Basin Authority and not for water access entitlement holders. However, NSW has provided simple techniques to help address the MDBA requirements but also ensure readability of the WRP.

The GVIA acknowledge that the WRP on public exhibition is an initial draft and we expect further consultation and opportunity to review further drafts, prior to submitting it for accreditation by the MDBA.

We note that there are occasional references to the Water Sharing Plan for the Gwydir Alluvium Water Source in this WRP and question whether these references are appropriate considering the Plan forms part of the Gwydir Alluvium WRP.

**We recommend further consultation following review of submissions on the WRP and completion of unresolved elements of the WSPs, prior to any accreditation by the MDBA.**

#### 4.3.1 *Water sharing plan*

The core document and focus of the GVIA's resources has been on the WSPs and not the WRP. We have made specific recommendation to each of the WSP in the following sections.

However, as outlined above, the GVIA was disappointed that key elements of the water sharing plans in both the regulated and unregulated systems are missing as part of this public exhibition process. The exclusion of floodplain harvesting entitlements due to delays in the implementation of the Healthy Floodplains Project, result in sections of the WRP and the WSPs being incomplete. The fact that there is neither a long-term average annual extraction limit or reportable sustainable diversion limit, undermines the ability for industry to review risk to water users and the community.

We note that general template changes to the WSPs within the WRP package have improved ability to understand the relevant provisions and provide linkages between objectives, strategies and measures which is welcomed. But as outlined earlier, the requirement to need multiple documents, acts to reduce this improved readability of the plan. The density and lack of consolidation may act to limit the ability of users to comprehend the rules, and result in a lack of clarity. We are concerned that this complexity may also broaden the scope of interpretation.

**We recommend continuing to utilise notes to comprehensively expand on relevant provisions that require linkages to other key legislation, to provide greater clarity and reduce interpretation.**

Furthermore, with the Gwydir Surface and Alluvium WRPs being on public exhibition simultaneously, the GVIA had the opportunity to review both WRPs. In doing so, we noticed

inconsistencies between these plans in terms of language (around compliance) and drafting. Particularly around the use of notes and the level of detail provided within the plans for key provisions.

**We recommend that consistency between approaches is maintained where possible.**

#### 4.3.2 *Connectivity in the Gwydir*

The Gwydir Surface WRP outlines there is “significant hydrologic connection between water resources of the Gwydir surface water resource plan area and other surface water resources down stream of this plan area”<sup>7</sup>.

The GVIA raised concerns with the classification of “significant hydrologic connection” in our advice to the Department in April 2018<sup>8</sup>. This is largely because:

- The Gwydir is a closed hydrological system as it is an inland delta that finishes in a terminal wetland – all water once flowed to the Gwydir wetlands.
- The Gwydir Valley now contributed greater end of system flows due to water sharing plans, than historically before dam development.
- There remains limited capacity to divert water out of the Gwydir system due to system constraints, these also make it inefficient to send water out of the Gwydir as losses would result in minimal water reaching its destination. These limitations should be referenced in the WRP.

**We recommend that the level of significance be redefined and that channel constraints are represented as part of the narrative provided in the WRP.**

**We recommend removal of the alluvial references as this would be presented in the alluvium and groundwater WRP.**

#### 4.3.3 *Risk assessment*

The GVIA acknowledges several amendments to the look and readability of the Risk Assessment for the Gwydir Surface Water Resource Plan – Schedule D, from the earlier version presented to the Gwydir Stakeholder Advisory Panel in April 2017.

Whilst this change and the inclusion of a risk treatment pathway and the summarising of risk outcomes are welcomed, a quick comparison revealed several overall risk rating changes between the two version for example:

Table 4-16 Risk of increased BLR extraction impacting on water available for the environment in unregulated water sources of the Gwydir Surface WRP<sup>9</sup> has different overall risk ratings as compared to the previous version of the same table, being Table 10: Risk of insufficient water for the environment due to basic landholder right extractions<sup>10</sup>.

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<sup>7</sup> Page 21, Gwydir Surface Water Resource Plan, 2018

<sup>8</sup> GVIA letter to DOI-W, template feedback, April 2018.

<sup>9</sup> Page 41, Risk Assessment for the Gwydir Surface Water Resource Plan Area (SW15): Part 1, 2018.

<sup>10</sup> Page 38, draft Risk Assessment for the Gwydir Surface Water Resource Plan Area (SW15), 2017.

A review of the leading documentation does not indicate either new information or a change in methodology, yet the results for Gingham Watercourse, Millie Creek and Thalaba Creek have all increased to higher risk profiles.

There was not documentation to suggest that there have been material changes to the risk assessment and hence, we ask what is driving these changes and what other changes exist within the Risk Assessment.

Understanding these changes are important considering that the Risk Assessment sets the foundation for planning for environmental water use and the setting of objectives and measures for the Water Sharing Plans.

**We request further consultation on the material changes on the Risk Assessment.**

#### 4.3.4 Incident response guide

We request that stakeholder consultation be engrained within the incident response guide and that appropriate lead time is provided at each criticality level, to ensure that stakeholders are aware of the issues and strategies at the time of implementation.

#### 4.3.5 Long-term environmental watering plan

The GVIA will be providing comments directly to the NSW Office of Environment and Heritage (OEH) on the Gwydir long-term environmental water plan.

Our initial review recommends that clearer identification of what risks can be managed through environmental water actions should be considered as well as further development of water requirements for the environment based on these principles.

## 5 Water Sharing Plan for the Gwydir Regulated River Water Source

### 5.1 Part I: Introduction

Section 1 Name of Plan, we suspect should read:

*“Water Sharing Plan for the Gwydir Regulated Water Source 2016 (amended 2019)”*

**Recommended that NSW use the updated name of the Plan being *Water Sharing Plan for the Gwydir Regulated Water Source 2016 (amended 2019)* as “this Plan”.**

The GVIA notes that there have been drafting changes to remove previous reference to Water Act 1912. We ask is this because all licenses in the plan areas have been converted? And then wonder why this section does not read as repealed rather than just removed?

### 5.2 Part 2: Vision, objectives, performance indicators and strategies

We note that the NSW Government has included a forward note to provide acknowledgement to traditional owners as a new addition to the Plan as part of NSW led changes to the WSP template.

We note that in this process, that there has been a change in language from the use of ‘sharing’ to ‘efficient use’ as part of the drafting of the vision and objectives. It is our opinion that the core purpose of the plan is to efficiently share water resources between users and that it is then up to those users, how they utilise their rights.

**We recommend that the Plan vision and state-wide template for Section 7 Vision Statement be amended to:**

**The vision for this Plan is to enable the sustainable and efficient sharing of water to:**

- **maintain or enhance water source and water dependant ecosystems health;**
- **encourage productive and economic use of water resources;**
- **deliver social and cultural benefits to urban and rural communities; and**
- **deliver spiritual, social, customary and economic benefits to Aboriginal communities**

Thus, reinforcing the core role of a Water Sharing Plan, while maintaining the secondary goals for communities, the environment and the economy.

The GVIA note that the expanded objectives separate each of the key beneficiaries of the water sharing as separate themed objectives being environmental, economic, social and Aboriginal. This process offers significant improvement to the identification of objectives but also the alignment of these with strategies and key performance indicators.

However, the GVIA notes the consistent ordering of these as environmental, economic, social and Aboriginal in some way suggests prioritisation of these beneficiaries. As such we recommend providing a note to indicate that this is not the case.

**Recommend providing a note that the ordering of beneficiaries of water sharing does not suggest a priority of order or hierarchy. Priorities for water sharing are provided for in later sections.**

The GVIA note the objective in Section 8 (2) (a) (iii) states *“to protect and, where possible, enhance the following over the term of this Plan: the connectivity between water sources to support downstream processes including priority carbon and nutrient pathways and priority fish passage”*.

Yet a note (Note 3) reads *“Downstream processes may include maintaining connectivity with downstream water sources”*, which appears circular in nature; suggesting that connectivity is important for downstream processes which can be, to provide connectivity. While the GVIA supports that connectivity between water sources is an underlying objective of the Plan. All other objectives are supported through articulation of benefits to “targeted populations” or “ecological conditions” which can then be subsequently measured. Whereas, the third note in this section, suggests that any connectivity, regardless of what benefits it may or may not provide, can be supported as part of this plan despite the region having a historical low connectivity down stream as all water flowed towards the Gwydir Wetlands.

**We recommend that Note 3 from Section 8 (2) (a) (iii) is removed.**

We note that the Plan clearly outlines the following environmental strategies of the Plan in Section 3 (a) – (e) being:

- a) reserves water for the environment as per water outside of LTAAEL.
- b) natural flows include reservation of minimum flows with three tributaries provided first 500ML to the wetlands and subsequent flows being 50% shared
- c) reiteration as per above.
- d) Environmental Water Allowance.

e) downstream requirements.

Whilst these strategies can be argued to outline rules to address either critical water needs or planned environmental water requirements, they do not address how that the establishment of the Plan framework provides additional opportunity to utilise held environmental entitlements and allocations in a predictable yet flexible way water (as stated in Section (3)(a) and (b) under economic strategies). An additional tool to environmental water managers now is their broad and diverse portfolio of held environmental water, which can be utilised to the benefit of the environment.

**We recommend that two additional strategies in Section 8 (3) be included to reflect those in the economic strategies, that aim to provide a stable and predictable framework for the sharing of water among water users and where possible to provide for the flexibility to access to water.**

For economic strategies, we note that the Plan focuses on water trade as measures of success. We recommend expansions of measures to be crop output and value, as to clearly articulate the economic benefits of the Plan.

**We recommend Section 9 (5) be expanded to measures other than water trade, including but not limited to crop output and value.**

We note that social and cultural objectives largely include outcomes for fish or access to water either for stock domestic rights or recreation. We are concerned that these objectives could be interpreted as now drivers to water sharing rather than as secondary benefits for example, with recreation and fish population outcomes. Hence, we ask for greater clarity around the relative importance of each of the objectives in water sharing decisions.

### *5.3 Part 3: Planned environmental water provisions*

We note that Section 13 (a)-(c) acts as an amended definition of planned environmental water than in the previous WSP that reads to be all water other than that committed to Basic Landholder Rights or extraction. While consistent, such changes should have been highlighted to stakeholders as part of the consultation.

We further note, that the current version of the Plan removes the previous objectives for environmental water provisions and these are not included elsewhere in the Plan. While the Plan does refer to the NSW Environmental Water Manager and its relevant plans (which must be consistent with the Basin Wide Watering Strategy).

The exclusion of EWA objectives for use of environmental water, ignores the history of environmental water management in the Gwydir Valley. This change coupled with the removal of the statutory Environmental Contingency Allocation Operations Advisory Committee (ECAOAC) and the delegation of all environmental water responsibility to NSW Office of Environment and Heritage has the potential to remove local input into environmental water decision making framework.

Communities and impacted landholders, together with industry, must be assured of a future role in decision making and implementation of environmental water use in their regions. The benefits of local knowledge and empowerment of communities to be part of the decision-making process should be engrained within the Plan rather than delegated to other authorities, that over-time may have a difference of opinion. We therefore, recommend

maintaining a provision to clearly outline the role and purpose of an Environmental Water Advisory Group (EWAG) including at a minimum, that its composition includes local representatives with a balance of environmental, economic and social interests. There is opportunity to move towards skills-based selection of committee representatives as well.

**Recommendation that Part 3 being amended to include the overall objectives, role and composition of Environmental Water Advisory Groups, rather than a full delegation of powers to NSW Environmental Water Manager or NSW Office of Environment and Heritage.**

#### 5.4 Part 4: Requirements for Water

The GVIA questions why the start date for all entitlements is listed as 1 April 2019. We appreciate that the Floodplain Harvesting component may not be decided until this time, but we are unsure why this would affect other forms of entitlement.

**Recommendation for NSW to provide clarity as to why the entitlement dates are as of 1 April 2019 and not 1 July 2019 for instance.**

The GVIA notes that in the notes for Section 14, the total share components of access licences in the water source may change during the term of this Plan where as the previous plan allowed for access licences to be increased where estimates were provided. The GVIA wants to ensure that the granting of new licences allowed under this section, will not be to the detriment of the security and reliability of existing water access licences otherwise it is likely to trigger Section 87 of the *Water Management Act 2000 (NSW)*. For example, how the granting of new access licenses under Part 6 of this Plan can be made without impacting the current supply and reliability of other entitlements.

Furthermore, the GVIA seek clarity around drafting with Basic Landholder Rights, which appear to be given the highest priority order of rights in the Plan and are defined as domestic and stock rights (not access licences), native title rights and harvestable rights (excluding rainfall runoff). Firstly, the GVIA do not see these rights as having a higher priority than other essential supplies such as stock and domestic rights, water utilities and high security licence holders (see discussion on Part 7). Furthermore, there is little information on water requirements for these forms of take, yet they are required to be met prior to the allocation of other water entitlements which makes demonstrating compliance with such a rule impossible.

We also ask for greater clarity around the process and accountability of issuing Native Title Rights under *the Native Title Act 1993 (Cth)* and how estimates for water requirements and usage will be incorporated and managed, when and if any such claims arise.

**We recommend that a note be added to this section outlining the NSW Government's intention to develop reasonable use guidelines for Basic Landholder Rights and whether this should include Native Title Rights.**

In addition, there remains uncertainty around the two forms of cultural water currently within the Plan.

**We recommend information be provided to clearly delineate the two forms of cultural water within the Plan; Native Title Rights and the granting of a Specific Purpose access licence for Aboriginal Cultural purposes.**

Finally, for improved transparency we recommend that the split of unit shares for held environmental water is provided and that it be considered appropriate to also indicate cultural water unit shares, when and if these become available.

**We recommend for clarity proposes a note in Section 20, 22 and 23 be added to outline the current held environmental water component of these unit shares rather than as the note in Division 3.**

### 5.5 Part 5: Bulk access regime

We note that Section 24 (1)(d) should be linked to dealing rules in this part as was in the old Plan but note they are in Part 9.

### 5.6 Part 6: Rules for Granting licences

As outlined under our comments in Part 4, there needs to be clarity around how the issuing of new Special Purpose licences will be made without having third party impacts on other entitlements and potentially triggering compensation.

The GVIA would have also expected to see provisions for the granting of new local utility licences within this section of the Plan.

**We recommend that a provision for these is included to future proof our region, as per Section 66 of the *Water Management Act 2000 (NSW)*.**

### 5.7 Part 7: Limits to the availability of water

This is a core component of the Plan and the most difficult to read and understand. A stakeholder could not ascertain from this Plan, what limits they must comply with and by when without referring to multiple sources of documentation and waiting for the completion of the Floodplains Harvesting Project.

**We recommend a thorough review of the language and use of external references (rather than directly referencing requirements) in Part 7 following the completion of the Healthy Floodplains Project and advice on the requirements to include Basin Plan compliance mechanisms within the NSW Water Sharing Plan.**

Clarity around whether the two forms of compliance must be within the Plan should be provided. We would argue that water management still constitutionally resides with State governments and as the Plan is an NSW instrument, we are unclear if it is required to refer to cumulative compliance requirements for the *Basin Plan 2012 (Cth)*. A schedule to the Water Resource Plan could be developed to provide the method for calculation and assessment, reasonable excuse provisions and compliance steps, relevant for Commonwealth legislation be prepared separately. This would avoid confusion by clearly separating the two forms of compliance that NSW water users will now be assessed against.

**We recommend that cumulative compliance requirements are removed from the Plan and provided in separate schedule that includes full disclosure of Basin Plan requirements including methodologies, assessment processes and reasonable excuse provisions. We recommend that if this cannot occur, at a minimum the specific Basin Plan requirements are included within the Plan, including notes regarding reasonable excuses for non-compliance.**



However, if Commonwealth requirements must be included within the Plan, we recommend that the cumulative compliance method and assessment process, reasonable excuses and compliance steps are included within the Plan rather than referring to the Basin Plan and its various schedules. We also recommend that there is consistency in language between plans.

We note that Division 2 Section 28 (2) (b) includes Basic Landholder Rights (BLR) plus share components, whereas the previous Plan did not require an estimate of BLR. The GVIA asks how this estimate will be provided and therefore monitored at the implementation of this Plan.

The GVIA seeks clarification of how the LTAAEL is varied for licenced environmental water and recommends adding a note that explains what variations have been made, for example, 45,000ML of Environmental Water Allowance and the 3,949ML of Adaptive Environmental Licence.

We note that the calculated average annual extraction in Division 2 Section 29 provides a more streamlined version of compliance than in the previous plan which is welcomed. However, as the LTAAEL comparison will be the only tool by which NSW can monitor environmental water growth, we consider it appropriate that strategies to identify the source of growth be considered as part the Plan.

Furthermore, we consider that a review of the appropriateness of the 3% variation between model comparisons be undertaken with consideration of a 5% trigger more appropriate considering inherent model uncertainty and additional estimates for BLR. The changes present no risk to environmental water managers as productive users will be monitored under Basin Plan compliance requirements. This would also provide consistency between other WSPs.

**Recommendation that Section 30 (2) be amended to be by 5% or more.**

Furthermore, we note that this section does not deal with non-compliance to the LTAAEL and that this is presented later in Division 4.

**We recommend that 'Actions following non-compliance' follow directly after Section 30 Assessment of compliance with the long-term average annual extraction limit, for ease of reading.**

Although Division 3 is recommended to be removed as per above. A review of the wording and language must also be undertaken prior to the development of a separate Schedule. All requirements should also be inserted rather than referred to as ease of reading.

The GVIA also has not been informed of a decision from either NSW Government or Ministerial Council regarding the allocation of shared component of water recovery for the Basin Plan.

**We recommend the NSW Government engage with GVIA and other Northern Basin industry bodies regarding the apportionment of shared reductions for the Basin Plan.**

Division 4 outlines actions following non-compliance and should be inserted following the assessment process rules earlier in the Plan. Prior to determining a compliance action, we recommend that the Minister should consider considering the antecedent conditions and

seasonal forecast of water availability and usage, as part of the assessment of risk of continued non-compliance.

**Recommendation that Division 4 Section 34 (6) to include information relating to the continued risk of non-compliance including antecedent conditions and seasonal forecast of water availability and usage.**

The GVIA questions the limitation on high security available water determination under Division 5 following the provision of water losses associated with the holding and delivery of 'environmental water rules' and BLR. Whilst the GVIA appreciates that provisions for all held water licences or accounts should be reserved prior to making an AWD, the use of 'environmental water rules' suggests this could incorporate other planned or adaptive rules as part of the Plan.

Furthermore, the inclusion of BLR which is not known and currently not accounted for in Copeton Dam but is rather operationalised as 'delivery losses' suggests it has higher priority of use than entitlements such as high security.

**We recommend that Division 5 Section 38 (2)(a)(i) be amended to read, to meet existing allocations within environmental water allowance accounts. In addition to (ii) being removed.**

The GVIA note that one change to the water sharing plan was to provide clarity on how water was to be allocated to the Environmental Water Allowance account. We question the location of rules for provided Available Water Determination to the EWA in Part 10 Division 2, rather than in Division 5.

**We recommend that rules for provision of AWD for EWA are provided in Division 5 and reference in Part 10.**

### *5.8 Part 8: Water allocation management rules*

We note that changes to Division 1 Section 42 (1) do not include rules for debiting the EWA adaptive environmental licences or special purpose licences. Whilst EWA rules are provided later in Part 10, no provisions remain for the other licence types that could exist.

**We recommend that consideration be given to provide clarity around how debits from water allocation accounts will be undertaken for adaptive environmental licences and special purposes licences.**

Whilst the GVIA supports the inclusion of a mechanism to allow for the capturing of uncontrolled flows. There is no detail on how these amounts will be determined and measured which should be considered prior to implementation.

The GVIA notes that Division 2 does not include a reference to minimum flow requirements in Part 10 Division 1 Section 57, which provide the three tributary calculations into the Gwydir Wetlands.

**We recommend that Section 48 be amended to include reference to uncontrolled flows greater than the minimum flow requirements in Part 10 Division 1 Section 57 for flows within the Gwydir River.**

The GVIA has throughout the WSP review and WRP development process asked for the rules now referred to in Division 2 and listed in Schedule 1 (known previously as the Interim North-West Flow Plan) to be revised due to updated modelling in catchment areas, the

Northern Basin Review and the relevancy of science objectives being targeted and the effectiveness and impact of restricting supplementary flows to achieve these targets<sup>11</sup>.

To date, the GVIA has not received any information regarding the relevancy of these targets under the Basin Plan and their impact to water users, if they were implemented.

**We recommend urgent consultation with the GVIA and other northern Valleys industry groups and environmental water managers, to discuss the relevancy and impact of these restrictions to supplementary water access.**

We do welcome drafting changes to ensure an assessment of effectiveness is included as part of the adoption of this restriction. However, the Plan is silent regarding the process for assessing and communicating a restriction and how communities and industry are engaged in this decision.

We note that slight wording changes has removed the allowed for supplementary allocations to be used to meet downstream orders which is common practice of the operator and should be reflected.

**We note that this Section 48 (2)(b) refers to subclause (4)(c) rather than (3)(c)**

A new section, Section 49 Management of residual water has been added in-line with discussions during Stakeholder Advisory Panel meetings and listed in the fact sheet<sup>12</sup>. However, the drafting of the clause does not align with the GVIA's understanding of the intent for the Environmental Water Manager to have control over the portion of water not accessed and not needed for delivery of the allocated portion of supplementary water.

**We recommend that Section 49 (1) be amended to read that the supplementary event volume that the Minister has not permitted to be taken under clause 48 or that is determined by the operator to not be needed to deliver that portion of water to its designated area, can be directed by the NSW Environmental Water Manager to manage environmental assets.**

### 5.9 Part 9: Access licence Dealing rules

We note that there has been a re-drafting and streamlining of the access dealing rules which is welcomed. However, we uncovered that for 71R dealings the previous note was removed from the Plan regarding connectivity of the Gwydir to other water sources. This note is important in reinforcing the level of connectivity that the Gwydir has with its surrounding catchments.

**We recommend that Section 52 should include the following 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.**

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<sup>11</sup> For example, refer to GVIA submission to the NSW Government and Natural Resources Commission on Water Sharing Plans, dated February 2013, and more recently GVIA advice on WRP template, April 2018.

<sup>12</sup>[https://www.industry.nsw.gov.au/\\_data/assets/pdf\\_file/0010/178768/Gwydir-surface-changes-regulated-wsp-fact-sheet.pdf](https://www.industry.nsw.gov.au/_data/assets/pdf_file/0010/178768/Gwydir-surface-changes-regulated-wsp-fact-sheet.pdf)

## 5.10 Part 10: System operation rules

The GVIA welcomes new rules to provide greater flexibility in how environmental water managers can achieve outcomes with their water as proposed within the Plan.

However, we would anticipate that the NSW Environmental Water Manager would engage the local Environmental Water Advisory Group (EWAG) as part of their process to make recommendations on the possible benefits of such a decision.

**As such we recommend that Division 1 Section 58 and 59, read that all delegations to the NSW Environmental Water Manager, should seek EWAG advice in preparing strategies to utilise environmental water.**

Furthermore, as outlined earlier more information around the statutory role of the EWAG should be reinstated and included in Section 60, including at a minimum, that its composition includes local representatives with a balance of environmental, economic and social interests. There is opportunity to move towards skills-based selection of committee representatives as well.

As outlined earlier we recommend locating accounting rules and AWD processes in the one location, or at a minimum refer to these between two locations to provide improved readability.

Drafting changes in Division 3 suggest that BLR and Native Title Rights are provided the highest priority of water extractions in the Plan. We do not consider this the current hierarchy of priority particularly when BLR allocations are not well understood, are not currently accounted for and are not monitored. Hence, we recommend a re-drafting so that BLR, local water utilities, stock and domestic and then High Security entitlements, followed by all other entitlements is listed as the priority of allocations and extractions. We note that EWA and general security entitlements have the same level of priority.

**We recommend the re-drafting of entitlement priorities to have BLR and stock and domestic and local water utilities the same level of priority, then High Security and all other entitlements and/or allocations.**

Furthermore, we recommend that Section 66 be amended to clarify that priority of extractions to EWA do not include High Security as these should be considered a higher priority entitlement than EWA, which are more representative of General Security.

We note that the draft Plan, does not refer to a general priority of extractions and whether this should be considered as part of managing access as per Section 45 of the current Plan, being:

### *45 General priority of extractions*

*Where extraction components of access licences do not specify the rate as a share of supply capability or a volume per unit time, the following priority of extractions shall apply whenever supply capability is insufficient to satisfy all orders for water in any section of this water source:*

*(a) water shall be supplied to domestic and stock access licences, local water utility access licences and regulated river (high security) access licences that have placed orders for water, and*

*(b) then any remaining supply capability shall be shared between regulated river (general security) access licences that have placed an order for water, in proportion to share components specified on the access licences.*

Any consultation on priority of access should occur with the NSW Environmental Water Manager and other customers. Although the GVIA note that these rules alone may not address capacity constraints issues in certain circumstances, where held environmental water and EWA water orders are required during peak irrigation delivery and there are not shares for either these types of licences in the delivery section.

**Recommendation that priority off access clause in Section 66 be re-drafted to clarify the priorities with consideration to the current Plan's provisions and incorporate engagement with Environmental Water Managers and customers, if a conflict occurs.**

## 5.11 Part II: Mandatory Conditions

The GVIA notes that mandatory conditions within this Plan would need to be updated to match the recently released Water Management (General) Regulation 2018 for non-urban water metering.

### 5.12 Schedules and appendices

We note that in the Dictionary, the definition of rainfall runoff should be amended to align with the current Floodplain Harvesting Policy<sup>13</sup>.

**We recommend that Rainfall Runoff be amended to stipulate that this is off areas developed for irrigation and has the relevant exclusions.**

We note that in Appendix 2 the relevant hyperlinks need to be inserted.

## 6 Water Sharing Plan for the Gwydir Unregulated River Water Sources

### 6.1 Part I: Introduction

Section 1 Name of Plan, we suspect should read:

*“Water Sharing Plan for the Gwydir Unregulated River Water Source 2012 (amended 2019)”*

**Recommended that NSW use the updated name of the Plan being *Water Sharing Plan for the Gwydir Unregulated River Water Source 2012 (amended 2019)* as “this Plan”.**

### 6.2 Part 2: Vision, objectives, strategy and measures

As with the Regulated Plan, we note that there has been a change in language from the use of 'sharing' to 'efficient use' as part of the drafting of the vision and objectives. It is our opinion that the core purpose of the plan is to efficiently share water resources between users and that it is then their rights to utilise this water as they see fit.

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<sup>13</sup> Page 4, NSW Floodplains Harvesting Policy 2018  
[https://www.industry.nsw.gov.au/\\_data/assets/pdf\\_file/0017/143441/NSW-Floodplain-harvesting-policy.pdf](https://www.industry.nsw.gov.au/_data/assets/pdf_file/0017/143441/NSW-Floodplain-harvesting-policy.pdf)

**We recommend that the Plan vision and state-wide template for Section 9 Vision Statement be amended to:**

**The vision for this Plan is to enable the sustainable and efficient sharing of water to:**

- **maintain or enhance water source and water dependant ecosystems health;**
- **encourage productive and economic use of water resources;**
- **deliver social and cultural benefits to urban and rural communities; and**
- **deliver spiritual, social, customary and economic benefits to Aboriginal communities**

Thus, reinforcing the core role of a Water Sharing Plan, while maintaining the secondary goals for communities, the environment and the economy.

The GVIA note the objective in Section 10 (2) (a) (iii) states *“to protect and, where possible, enhance the following over the term of this Plan: the connectivity between water sources to support downstream processes including priority carbon and nutrient pathways and priority fish passage”*.

Yet a note (Note 3) reads *“Downstream processes may include maintaining connectivity with downstream water sources”*, which appears circular in nature; suggesting that connectivity is important for downstream processes which can be, to provide connectivity. While the GVIA supports that connectivity between water sources is an underlying objective of the Plan. All other objectives are supported through articulation of benefits to “targeted populations” or “ecological conditions” which can then be subsequently measured. Whereas, the third note in this section, suggests that any connectivity, regardless of what benefits it may or may not provide, can be supported as part of this plan despite the region having a historical low connectivity downstream as all water flowed towards the Gwydir Wetlands.

**We recommend that Note 3 from Section 10 (2) (a) (iii) is removed.**

Further to this we note that Section 10 (2)(c) states *“to protect connectivity with the Gwydir Regulated River Water Source to support environmental watering events that contribute to the maintenance or enhancement of ecological condition within these water sources. Note. Environmental water events that contribute to these water source maybe an EWA or other environmental release that are managed in accordance with the Water Sharing Plan for the Gwydir Regulated River.*

While we agree in a board objective in all Plans to provide connectivity between water sources for identified purposes (see above), this objective goes further and suggests the need for greater protection indicating that environmental water holders, can be awarded a greater level of protection and authority than other entitlement holders. No other water entitlement holders are afforded “protection” between water sources, in fact assignment of rights and allocations between water sources is not legally permissible not to mention the

Intergovernmental Agreement on the Basin Plan Water reforms being clear on licences maintaining their characteristics regardless of their change of ownership or use<sup>14</sup>.

**We recommend that Section 10 (2)(c) is amended to include a note that protections of water during environmental water releases must recognise the principles agreed to in the Intergovernmental Agreement on Implementing Water Reform in the Murray Darling Basin.**

### 6.3 Part 3: Bulk Access Regime

No comment.

### 6.4 Part 4: Planned Environmental Water

No comment.

### 6.5 Part 5: Requirements for water

We appreciate that the Domestic and Stock rights as provided as part of the Plan have not changes but these are largely estimated that are not currently well understood or managed. We welcome the development of reasonable use guidelines for these and stock and domestic access licences.

We note that there are some inconsistencies in numbering with the repealing of certain sections of the Plan with the removal of the Gwydir Alluvium.

**We recommend that for consistency, Section 22(bb) should read repealed and 22(cc) read 5,596-unit shares in the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source.**

We note that the Minister's note after Section 23A states FPH licenses unregulated are not being modelled and that new estimates will be updated in the Plan once this has been completed. However, it is our understanding for Gwydir unregulated FPH licences, the volumetric conversion process will be utilised to calculate shares rather than a model. The GVIA is unclear how this may impact the distribution of unit shares for FPH and how rainfall runoff will be calculated. We anticipate further consultation as part of the implementation of the Healthy Floodplains Project.

### 6.6 Part 6: Limits to availability of Water

In Division 1, there are inconsistencies between how the annual requirements in Part 5 and the Limits to availability for water in Part 6 are presented. For consistency, we recommend listing out the BLR the same.

**Recommendation to amend Section 27(1)(d) the annual water requirement pursuant to BLR should be detailed out as with Section 24 share components and stock and domestic which would remove Section 27(1)(d).**

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<sup>14</sup> Page 5, Section 5.2: Intergovernmental Agreement on Implementing Water Reform in the Murray Darling Basin, 2017 <https://www.coag.gov.au/sites/default/files/agreements/iga-water-reform-murray-basin-march-2017.pdf>

**We recommend that 27 (1) (a) clearly outlines this includes stock and domestic access licences, local water utilities and unregulated river access licences.**

We note that the Plan refers to both the long-term annual average extraction limit and the Basin Plan SDL but, in neither case, lists these limits. Clarity around what these limits are should be provided as part of the Plan rather than referring to secondary documentation.

**We recommend that a note outlining what the long-term annual average extraction limit and the Basin Plan SDL are for these water sources are included in the Plan.**

**As with the Regulated WSP, we recommend that greater clarity is provided for users around the process for monitoring and managing compliance to the Plan and the Basin Plan, as well as notes outlining the use by environmental water (if there is any).**

Whilst we note the intention of Section 30 (3)(b) is to equally reduce unregulated licences and FPH, this socialises the impact of any growth in extractions and assumes that unregulated entitlement holders equally hold unregulated FPH access licences and unregulated river access licences, which is not the case.

**We recommend that Section 30 (2) and (3) are amended to consider reductions in AWD on entitlement categories where any growth has been identified and that any reductions in AWD should consider information relating to the continued risk of non-compliance including antecedent conditions and seasonal forecast of water availability and usage.**

This will provide consistency with Regulated Plan but also recognise the highly variable nature of unregulated systems and assess the ongoing risk to non-compliance. We recommend that consultation is undertaken when gathering this information.

The GVIA notes that in Division 2, Section 34A indicates that unregulated FPH access licences will receive an initialisation of 2ML per unit share. This is inconsistent with the recently approved NSW Floodplains Policy<sup>15</sup> whereby, initialisation and account management rules are to be assessed on a valley by valley basis following the completion of the Healthy Floodplains Project.

**We recommend that further consultation on these rules are undertaken prior to the finalisation of the Plan.**

## 6.7 Part 7: Rules for Granting Access Licences

No comment.

## 6.8 Part 8: Rules for managing licenses

The GVIA notes that Section 39 individual access licence account management rules outline the carryover and average water usage allowances for all licences. During the WSP development, the GVIA clearly identified that the Gwydir region as unpredictable intermittent (Class 7) flow regime and indicated that this flow pattern was generalised that the eastern

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<sup>15</sup> Page 11, NSW Floodplain Harvesting Policy, 2018  
[https://www.industry.nsw.gov.au/\\_data/assets/pdf\\_file/0017/143441/NSW-Floodplain-harvesting-policy.pdf](https://www.industry.nsw.gov.au/_data/assets/pdf_file/0017/143441/NSW-Floodplain-harvesting-policy.pdf)



upper headwaters of the Murray-Darling drainage system<sup>16</sup>. Such streams are highly variable with a very low predictability, characteristics which accurately describe many of the unregulated streams within the Gwydir valley. Hence, the three-year timeframe for account management rules should be aligned with the compliance methodology to allow for this variability, extensions to carryover should also be considered.

**We recommend that the Section 39 (3) be amended to read for a period of any five years after the first water year.**

**We recommend that consideration to carryover rules in Section 39 (4) be reviewed.**

We note that on Division 2 Section 42 establishes flow classes for water sources and management zones. However, Section 42 (4) indicates that the Minister may change these and publish this information on the website. We recommend that if the Minister is to materially change flow class conditions that licence holders should be afforded the standard procedures to provide written notice, reasonable opportunity to appeal and consideration of any submissions as per the Water Management Act 2000 (NSW)<sup>17</sup> for the amendment of any mandatory conditions.

The GVIA is aware of amendments to licence conditions whereby individuals were not duly aware, could have inadvertently been in breach of their conditions and has resulted in inconsistent rules between licences, works approvals and the water sharing plan. A process to circumvent changes being made without licence holders' knowledge, would be to ensure that the Department have a record of contact with the licence holder regarding the change and that a right of appeal is granted.

**We recommend that Section 42 (4) be amended to allow for a right of appeal.**

We also note that during the preparation of the initial water sharing plan, there were negotiations with the establishment of flow classes as presented in Section 42. We note during this process, the GVIA supported the efficient and effective implementation of the Gwydir Regulated Water Sharing plan rules but could not support the undermining of water users' rights to access licence entitlement.

However, despite the best efforts to engage on fit for purpose flow classes, the classification and then later interpretation of flow classes in the Lower Gingham Water Management Zone has resulted in a material impact on water users in that region. Supporting documents for the development of the Gwydir Unregulated Water Sharing Plan stated for the Gingham Water Management Zone<sup>18</sup>:

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<sup>16</sup> M.J. Kennard<sup>1</sup>, B.J. Pusey<sup>1</sup>, J.D. Olden<sup>2</sup>, S. Mackay<sup>1</sup>, J. Stein<sup>3</sup> and N. Marsh<sup>4</sup>. Appendix 5: Ecohydrological classification of Australia's flow regimes, in Ecohydrological regionalisation of Australia a tool for management and science by Brad Pusey, Fran Sheldon, Mark Kennard, Mike Hutchinson for Land and Water Australia.

<sup>17</sup> For example, in *Section 102* Imposition or change of conditions after approval has been granted.

<sup>18</sup>Page 28, Background document for the Water Sharing Plan for the Gwydir unregulated and alluvial water source.  
[http://www.water.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0010/547921/wsp\\_gwydir\\_unregulated\\_alluvial\\_background.pdf](http://www.water.nsw.gov.au/__data/assets/pdf_file/0010/547921/wsp_gwydir_unregulated_alluvial_background.pdf)

*The Gingham Watercourse Water Source is considered to have a very high environmental value due to the presence of the Ramsar listed Gwydir wetlands. In recognition of this the IRP, after extensive consultation, recommended the following suite of commence to pump rules:*

- *Commence to pump at 250 ML/day measured at Tillaloo Gauge.*
- *Minimum flow depth of 1m on the Gingham Bridge Gauge and a cumulative flow of 4000 ML past the Gingham Bridge and a visible flow at Morialta Road.*
- *Establishment of planned environmental water class commence to pump.*

*The justification for the above recommendations were the protection of environmental water, including releases delivered from the regulated Gwydir River, whilst continuing to provide irrigation opportunities for unregulated water users.*

The incorporation of a dual condition, to be simultaneously achieved for the second flow rule, has resulted in unintended consequences to the access holder, when at the time of development, they were believed to be independent of each other.

The inconsistency of the negotiated licence, works and water sharing plan conditions in this case are also of a concern for the GVIA. Particularly if this is not an isolated case and other unregulated access licence holders have similar inconsistencies, which may result in unintended breaches of conditions. The GVIA asks for clarity around the hierarchy of conditions to which an access licence should adhere to being either; licence conditions or, works approval or the water sharing plan.

**We therefore, recommend that a review of flow classes be considered, and a consistent approach applied to protect the minimum, low flow scenario that streamlines conditions and simplifies accountability.**

**We also recommend the NSW Government review unregulated works and licence conditions to ensure consistency of rules and provide advice to licence holders on the hierarchy of conditions that must comply with.**

## *6.9 Part 9: Rules for managing water supply works approvals*

No comment.

## *6.10 Part 10: Access dealing rules*

We note that a key objective of the water sharing plan in Section 11 (2)(a) is to provide water trading opportunities for water-dependent economic activities, which is consistent with the Basin Plan trading rules. However, Section 55 (2) (a)-(d) established eight trading zones within four water sources in the unregulated water source areas. Background documentation for the development of the unregulated plan identified reasons for the establishment of dealing restrictions being:

- High in-stream values
- High hydrologic stress (although there is limited data on this)
- Downstream trades are permitted provided there is connectivity.
- Trades between different water sources (regulated and unregulated) are not permitted.

- Trades within water sources are allowed provided there no need to limit demand in areas of stress.<sup>19</sup>

Since the inception of the Plan, much more is known about the behaviours and utilisation of licences in the unregulated system. The GVIA questions the validity of hydrological stress used to determine the trade zones in the Upper Gwydir, Moredun, Copeton Dam and Mehi Water Sources. Noting that the Risk Assessment for the Gwydir Surface Water Resource Plan area<sup>20</sup> states that for:

- Upper Gwydir, Moredun Creek and Copeton Dam the high risks to environmental water provisions are around low and cease to flow events and the triggering water extractions but it's unclear of the actual risk versus perceived i.e. what is the known water usage in this area and how well is it monitored.
- Mehi Water source in unregulated sections have low risk to being able to meet environmental water provisions.
- Upper Gwydir, Moredun, Copeton Dam and Mehi water source there is low risk to BLR and climate change impacts.

The information within the risk assessment does not suggest to the GVIA that there is further evidence to support the maintenance of the current barriers to trade. Any barrier acts to undermine the value of a water access licence holders' entitlement and restrict the opportunity for the highest value use of the entitlement to occur.

For example, the trade restriction for the Mehi Water Source essentially limits the movement of access licences in or out, of the Mallowa Creek which is considered an environmental asset of value for NSW and Commonwealth Environmental Water Managers<sup>21</sup>. The restriction subsequently excludes the opportunity to trade out of this region, into the surrounding water source which would benefit the sensitive Mallowa system, reduce regulatory and policy burden on the government and reduce delivery risks for environmental water managers.

**We recommend the trade restrictions within Section 55 (2) are reviewed and reassessed for their consistency with contemporary planning policies.**

**We recommend that the trade restriction on the Mehi River Water Source be revised to allow for the temporary or permanent trading of water access rights or allocations from the Mallowa Creek Trading zone into the surrounding water source of the Mehi River Tributaries trading zone but that trades into the Mallowa Creek Trading zone are not permitted to reduce the risk to the environmental assets.**

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<sup>19</sup> Page 27, Background information for the Water Sharing Plan for the Gwydir unregulated and alluvial water source, [http://www.water.nsw.gov.au/\\_data/assets/pdf\\_file/0010/547921/wsp\\_gwydir\\_unregulated\\_alluvial\\_background.pdf](http://www.water.nsw.gov.au/_data/assets/pdf_file/0010/547921/wsp_gwydir_unregulated_alluvial_background.pdf)

<sup>20</sup> Schedule D: Risk Assessment for the Gwydir Surface Water Resource Plan Area – Part 1

<sup>21</sup> See Gwydir Valley Annual Environmental Priorities 2018-19 <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Water/Water-for-the-environment/annual-environmental-watering-priorities-2018-19-gwydir-180368.pdf?la=en&hash=E476C7EC8C2DAABE949E934770714593AC7043D0>

## 6.11 Part II: Mandatory conditions

The GVIA notes that mandatory conditions within this Plan would need to be updated to match the recently released Water Management (General) Regulation 2018 for non-urban water metering.

## 6.12 Part 12: Amendments

The GVIA notes that a new amendment provisions in Section 70 (3) for Division 1 Part 6 are added to allow for the establishment of two long-term extraction limits one for the Basin Plan and one for all other water not accounted for in the Basin Plan. The GVIA seeks clarification on the requirement for this and for consideration of consistency being language between the regulated and unregulated plans and the groundwater plans.

**We see clarification on Section 70 (3).**

We also question the list of other amendments in Section 77 (1), particularly the need to amend plans for the shepherding of water when it is the GVIA understanding that the NSW Government's position is to assess the active management of flows using Individual Daily Extraction Limits or other tools to provide protection of held environmental water entitlements,

**We recommend the removal of Section 77 (1) (c) in preference for the in-principle support for the development and evaluation of active management of flows rather than shepherding.**

## 6.13 Schedules and appendices

We note that Schedule 2 still has two water access licences that do not appear to have been converted from the Water Act 1912 into the Water Management Act.

**We recommend that the outstanding Water Act 1912 licences in Schedule 2 are converted as priority.**

We note that Schedule 8 should be updated following our previous recommendation to review the trading zones.

The GVIA were alarmed to read the variety of conditions attached to licences within the unregulated water sources and the inconsistency between how these could be measured, independently verified and/or audited. For example, the conditions on 90SL100012 reads:

*WATER SHALL NOT BE ABSTRACTED FROM GURLEY CREEK BY MEANS OF THE PUMPS REFERRED TO IN THIS LICENSE WHEN THE LEVEL OF THE WATER IN THE SAID CREEK AT THE CROSSING OF THE NARRABRI-MOREE STOCK ROUTE IN C.R. 8723, PARISH OF BURRANBAH, COUNTY OF COURALLIE IS LOWER THAN 1.52 METRES BELOW THE LEVEL OF A BENCHMARK ESTABLISHED ON A GUM TREE ON THE LEFT BANK OF THE WATERCOURSE NEAR THE SAID CROSSING.*

Conditions such as these present unacceptable risk to water users and the Government as they cannot be effectively monitored and managed, let alone independently verified or audited.

**The GVIA recommends an immediate review of all active licences and their conditions to assess the immediate risk to access holders.**

We note that Appendix 5 is a duplication of Schedule 6.

## 7 Conclusion

The GVIA welcome the opportunity to provide this submission to the DOI-W as part of their public consultation approach.

We acknowledge that some recommendation may not be in the remit of DOI-W but are the responsibility of another authority within the NSW Government, we request your assistance in ensuring the appropriate authorities is informed of our recommendations.

We welcome further discussions to work through many of the complex issues identified within this submission and look forward to a review of another draft Gwydir Surface WRP.

## 8 Recommendations

### 8.1 General Comments

1. We recommend an evaluation of the Basin Plan requirements for Water Resource Plans be undertaken, following the completion of the first tranche of plans to assess their relevancy, practicalities and effectiveness in enabling positive water sharing outcomes.
2. We recommend that a mid-term review of water sharing plans is included in each plan and that outstanding issues are recorded as an appendix.
3. We recommend that the NSW Government adequately resource the monitoring and evaluation of water resource plan (and water sharing plans) to enable a thorough and genuine mid-term and final review.
4. We recommend further consultation following review of submissions on the WRP and completion of unresolved elements of the WSPs, prior to any accreditation by the MDBA.
5. We recommend continuing to utilise notes to comprehensively expand on relevant provisions that require linkages to other key legislation, to provide greater clarity and reduce interpretation.
6. We recommend that consistency between approaches is maintained where possible.
7. We recommend that the level of significance be redefined and that channel constraints are represented as part of the narrative provided in the WRP.
8. We recommend removal of the alluvial references as this would be presented in the alluvium and groundwater WRP.
9. We request further consultation on the material changes on the Risk Assessment.

### 8.2 Water Sharing Plan for the Gwydir Regulated River Water Source

10. Recommended that NSW use the updated name of the Plan being Water Sharing Plan for the Gwydir Regulated Water Source 2016 (amended 2019) as “this Plan”.
11. We recommend that the Plan vision and state-wide template for Section 7 Vision Statement be amended to:

The vision for this Plan is to enable the sustainable and efficient sharing of water to:

- maintain or enhance water source and water dependant ecosystems health;
  - encourage productive and economic use of water resources;
  - deliver social and cultural benefits to urban and rural communities; and
  - deliver spiritual, social, customary and economic benefits to Aboriginal communities
12. Recommend providing a note that the ordering of beneficiaries of water sharing does not suggest a priority of order or hierarchy. Priorities for water sharing are provided for in later sections.
  13. We recommend that Note 3 from Section 8 (2) (a) (iii) is removed.
  14. We recommend that two additional strategies in Section 8 (3) be included to reflect those in the economic strategies, that aim to provide a stable and predictable framework for the sharing of water among water users and where possible to provide for the flexibility to access to water.
  15. We recommend Section 9 (5) be expanded to measures other than water trade, including but not limited to crop output and value.
  16. Recommendation that Part 3 being amended to include the overall objectives, role and composition of Environmental Water Advisory Groups, rather than a full delegation of powers to NSW Environmental Water Manager or NSW Office of Environment and Heritage.
  17. Recommendation for NSW to provide clarity as to why the entitlement dates are as of 1 April 2019 and not 1 July 2019 for instance.
  18. We recommend that a note be added to this section outlining the NSW Government's intention to develop reasonable use guidelines for Basic Landholder Rights and whether this should include Native Title Rights.
  19. We recommend information be provided to clearly delineate the two forms of cultural water within the Plan; Native Title Rights and the granting of a Specific Purpose access licence for Aboriginal Cultural purposes.
  20. We recommend for clarity proposes a note in Section 20, 22 and 23 be added to outline the current held environmental water component of these unit shares rather than as the note in Division 3.
  21. We recommend that a provision for these is included to future proof our region, as per Section 66 of the *Water Management Act 2000 (NSW)*.
  22. We recommend a thorough review of the language and use of external references (rather than directly referencing requirements) in Part 7 following the completion of the Healthy Floodplains Project and advice on the requirements to include Basin Plan compliance mechanisms within the NSW Water Sharing Plan.
  23. We recommend that cumulative compliance requirements are removed from the Plan and provided in separate schedule that includes full disclosure of Basin Plan requirements including methodologies, assessment processes and reasonable excuse provisions. We recommend that if this cannot occur, at a minimum the specific Basin Plan requirements are included within the Plan, including notes regarding reasonable excuses for non-compliance.
  24. Recommendation that Section 30 (2) be amended to be by 5% or more.
  25. We recommend that 'Actions following non-compliance' follow directly after Section 30 Assessment of compliance with the long-term average annual extraction limit, for ease of reading.

26. We recommend the NSW Government engage with GVIA and other Northern Basin industry bodies regarding the apportionment of shared reductions for the Basin Plan.
27. Recommendation that Division 4 Section 34 (6) to include information relating to the continued risk of non-compliance including antecedent conditions and seasonal forecast of water availability and usage.
28. We recommend that Division 5 Section 38 (2)(a)(i) be amended to read, to meet existing allocations within environmental water allowance accounts. In addition to (ii) being removed.
29. We recommend that rules for provision of AWD for EWA are provided in Division 5 and reference in Part 10.
30. We recommend that consideration be given to provide clarity around how debits from water allocation accounts will be undertaken for adaptive environmental licences and special purposes licences.
31. We recommend that Section 48 be amended to include reference to uncontrolled flows greater than the minimum flow requirements in Part 10 Division 1 Section 57 for flows within the Gwydir River.
32. We recommend urgent consultation with the GVIA and other northern Valleys industry groups and environmental water managers, to discuss the relevancy and impact of these restrictions to supplementary water access.
33. We recommend that Section 49 (1) be amended to read that the supplementary event volume that the Minister has not permitted to be taken under clause 48 or that is determined by the operator to not be needed to deliver that portion of water to its designated area, can be directed by the NSW Environmental Water Manager to manage environmental assets.
34. We recommend that Section 52 should include the following 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.
35. We recommend that Division 1 Section 58 and 59, read that all delegations to the NSW Environmental Water Manager, should seek EWAG advice in preparing strategies to utilise environmental water.
36. We recommend the re-drafting of entitlement priorities to have BLR and stock and domestic and local water utilities the same level of priority, then High Security and all other entitlements and/or allocations.
37. Recommendation that priority off access clause in Section 66 be re-drafted to clarify the priorities with consideration to the current Plan's provisions and incorporate engagement with Environmental Water Managers and customers, if a conflict occurs.
38. We recommend that Rainfall Runoff be amended to stipulate that this is off areas developed for irrigation and has the relevant exclusions.

### 8.3 *Water Sharing Plan for the Gwydir Unregulated Water Source*

39. Recommend that NSW use the updated name of the Plan being *Water Sharing Plan for the Gwydir Unregulated River Water Source 2012 (amended 2019)* as "this Plan".
40. We recommend that the Plan vision and state-wide template for Section 9 Vision Statement be amended to:
 

The vision for this Plan is to enable the sustainable and efficient sharing of water to:

  - maintain or enhance water source and water dependant ecosystems health;
  - encourage productive and economic use of water resources;

- deliver social and cultural benefits to urban and rural communities; and
  - deliver spiritual, social, customary and economic benefits to Aboriginal communities
41. We recommend that Note 3 from Section 10 (2) (a) (iii) is removed.
  42. We recommend that Section 10 (2)(c) is amended to include a note that protections of water during environmental water releases must recognise the principles agreed to in the Intergovernmental Agreement on Implementing Water Reform in the Murray Darling Basin.
  43. We recommend that for consistency, Section 22(bb) should read repealed and 22(cc) read 5,596-unit shares in the Rocky Creek, Cobbadah, Upper Horton and Lower Horton Water Source.
  44. Recommendation to amend Section 27(1)(d) the annual water requirement pursuant to BLR should be detailed out as with Section 24 share components and stock and domestic which would remove Section 27(1)(d).
  45. We recommend that 27 (1) (a) clearly outlines this includes stock and domestic access licences, local water utilities and unregulated river access licences.
  46. We recommend that a note outlining what the long-term annual average extraction limit and the Basin Plan SDL are for these water sources are included in the Plan.
  47. We recommend that Section 30 (2) and (3) are amended to consider reductions in AWD on entitlement categories where any growth has been identified and that any reductions in AWD should consider information relating to the continued risk of non-compliance including antecedent conditions and seasonal forecast of water availability and usage.
  48. We recommend that further consultation on these rules are undertaken prior to the finalisation of the Plan.
  49. We recommend that the Section 39 (3) be amended to read for a period of any five years after the first water year.
  50. We recommend that consideration to carryover rules in Section 39 (4) be reviewed.
  51. We recommend that a review of flow classes be considered, and a consistent approach applied to protect the minimum, low flow scenario that streamlines conditions and simplifies accountability.
  52. We also recommend the NSW Government review unregulated works and licence conditions to ensure consistency of rules and provide advice to licence holders on the hierarchy of conditions that must comply with.
  53. We recommend the trade restrictions within Section 55 (2) are reviewed and reassessed for their consistency with contemporary planning policies.
  54. We recommend that the trade restriction on the Mehi River Water Source be revised to allow for the temporary or permanent trading of water access rights or allocations from the Mallowa Creek Trading zone into the surrounding water source of the Mehi River Tributaries trading zone but that trades into the Mallowa Creek Trading zone are not permitted to reduce the risk to the environmental assets.
  55. We recommend the removal of Section 77 (1) (c) in preference for the in-principle support for the development and evaluation of active management of flows rather than shepherding.
  56. We recommend that the outstanding Water Act 1912 licences in Schedule 2 are converted as priority.



57. The GVIA recommends an immediate review of all active licences and their conditions to assess the immediate risk to access holders.