

Compliance with the Minister's duty under section 9 of the Water Management Act 2000 – making of the Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2024

This document details how the ministers have promoted and given effect to the water management principles of the *Water Management Act 2000* in the making of the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2024*.

Making a water sharing plan requires the approval of the NSW Minister for Water and the agreement of the NSW Minister for the Environment. When making a plan, section 9 of the *Water Management Act 2000* (the WM Act) requires the ministers to:

- (a) take all reasonable steps to promote the water management principles and
- (b) give priority to the water management principles relating to water sharing in the order they are set out under s5(3) of the WM Act.

The water sharing management principles under s5(3) of the WM Act are (in order of priority):

- a) Sharing water from a water source must protect the water source and its dependent ecosystems.
- b) Sharing water from a water source must protect basic landholder rights.
- c) Sharing or extraction of water under any other right must not prejudice the principles set out in points 1 and 2.

The Minister for Water obtained the agreement of the Minister for the Environment to make the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2024* (the plan). In doing so, the ministers ensured that they promote the water management principles of the WM Act and prioritise its water sharing principles in accordance with the WM Act.

How water sharing in the plan protects the water source and dependent ecosystems

In the plan, there are 2 key mechanisms for protecting water sources and dependent ecosystems:

- **Long-term average annual extraction limit (LTAAEL)** for each water source. On a long-term average annual basis, all water above these limits is protected for environmental benefit.
- **Specific, operational plan rules** in the plan that aim to protect explicit ecosystem functions and /or environmental assets in the water sources. The tables below give details of the rules for the plan.

How water sharing in the plan protects basic landholder rights

The plan protects landholders' ability to exercise basic landholder rights by identifying the current and future requirements for water to satisfy basic landholder rights, and including rules to ensure the sharing or extraction of water under licences does not prejudice the exercise of basic landholder rights.

How climate change has been considered in replacing the plan

Water sharing plans are made for a period of 10 years, with plan review and remake providing an opportunity to apply an adaptive process to respond to climate change. Current climate change modelling does not provide a clear view on the likelihood or extent of change in the Bega River area within the 10-year period of the plan. The plan provides for a number of circumstances and matters in relation to which the plan may be amended, and the minister can amend the plan at any time with the concurrence of the Minister for the Environment, if it is in the public interest to do so, which enables the plan to respond to climate change impacts to the water sources.

There are also actions within the NSW Water Strategy, NSW Groundwater Strategy and the relevant Regional Water Strategy that will further integrate climate change considerations into the water sharing plan framework. Some of these include:

- Priority 4 in the NSW Water Strategy to increase resilience to changes in water availability due to climate variability and change. This includes the development of regional drought

resilience plans, as well as the recognition of the need to develop a set of methodologies to incorporate climate risk into water sharing plan and water management decision making.

- Action 2.3 of the Regional Water Strategy for the South Coast to establish sustainable extraction limits for surface water and groundwater sources within the South Coast area. This will consider effects of climate change in setting future sustainable limits in these highly connected surface and groundwater coastal systems.
- Action 1.6 of the Regional Water Strategy for the South Coast to assess the vulnerability of surface water supplies to sea level rise and saltwater intrusion.

As this climate change work progresses, future water sharing plan reviews provide a structured and regular regulatory opportunity to assess and build in further mechanisms in response to these broader actions.

How the water management principles have been promoted and given effect to

The NSW Government has taken all reasonable steps to promote and give effect to the water management principles of the WM Act in making the *Bega River Area Regulated, Unregulated and Alluvial Water Sources 2024*. Refer to the tables below for details.

Table 1. How the plan promotes the water management principles of section 5(3)(a) – Sharing of water from a water source must protect the water source and its dependent ecosystems

How we have promoted the principle in Section 5(3)(a)	Relevant plan provisions
The plan ensures water is committed and identified as planned environmental water by establishing:	See below
<ul style="list-style-type: none"> • environmental flow provisions that provide a physical presence of water in the water source 	Part 6
<ul style="list-style-type: none"> • a long-term average annual extraction limit to create a long-term average annual commitment of water as planned environmental water. 	Part 4
In particular, the plan is:	See below
<ul style="list-style-type: none"> • including objectives, strategies and performance indicators which measure the effectiveness of plan rules. 	Part 2

How we have promoted the principle in Section 5(3)(a)	Relevant plan provisions
<ul style="list-style-type: none"> establishing the rules and arrangements for committing water as planned environmental water, which is not included in the long-term average annual extraction limit. 	Part 4, Division 2 & 4 Part 6, Division 4
<ul style="list-style-type: none"> ensuring extraction is managed within the long term average annual extraction limit and establishing rules for making reduced available water determinations to ensure compliance with the long term average annual extraction limit 	Part 4 Division 1 & 2
<ul style="list-style-type: none"> establishing daily cease to take rules that protect very low flows for environmental purposes 	Part 6 Division 4
<ul style="list-style-type: none"> prohibiting in-river dams in third order or higher streams in certain water sources 	Part 7, Division 2
<ul style="list-style-type: none"> prohibiting construction of water supply works in in certain sensitive water sources or areas 	Part 7, Division 2
<ul style="list-style-type: none"> establishing the rules for managing the construction and use of supply works to prevent unacceptable impacts on groundwater dependent ecosystems (GDEs) and wetlands at a local scale. These rules are based on published Australian guidelines for water bore construction and technical assessment of pumping impacts on GDEs 	Part 7 Division 3
<ul style="list-style-type: none"> prohibiting or conditioning the construction of works near sources of contamination as informed by the Australian guidelines for water bore construction 	Part 7 Division 3 & Section 65
<ul style="list-style-type: none"> prohibiting water supply works having greater than minimal harm on wetlands listed in Coastal SEPP 	Part 7, Division 2
<ul style="list-style-type: none"> prohibiting groundwater supply works within specified distances of where acid sulphate soils are likely to occur. 	Part 7, Division 3

Table 2. How the plan promote the water management principles of section 5(3)(b) – Sharing of water from a water source must protect basic landholder rights (BLR)

How we have promoted the principle in Section 5(3)(b)	Relevant plan provisions
The plan protects basic landholder rights by:	See below
<ul style="list-style-type: none"> protecting low flows from licenced extraction for the purposes of the environment and the exercise of basic landholder rights 	Part 6
<ul style="list-style-type: none"> establishing rules for making reduced available water determinations to ensure compliance with the long term average annual extraction limit 	Part 4
<ul style="list-style-type: none"> establishing rules to minimise the risk of basic landholder right groundwater works (bores) from interference from surrounding groundwater works 	Part 7, Division 3
<ul style="list-style-type: none"> providing for storage and release of water from Cochrane Dam under declared drought conditions. 	Part 8A
<p>Extraction is managed to the LTAAEL by first setting aside water for basic landholder rights and then applying an available water determination to ensure the sum of basic landholder’s rights and licenced extraction do not exceed the long-term average annual extraction.</p> <p>The plan protects basic landholder rights by establishing the rules for managing the construction and use of water supply works to prevent unacceptable impacts on take from basic landholder rights bores at a local scale. This is informed by the Australian guidelines for water bore construction and the imposition of bore extraction limits to meet the published impact criteria</p>	Parts 4 & 7 & 9

Table 3. How the plan promote the water management principles of section 5(3)(c) – Sharing or extraction of water under any other right must not prejudice the principles set out in paragraphs (a) and (b).

How we have promoted the principle in Section 5(3)(c)	Relevant plan provisions
The rules set out in Tables 2 and 3 ensure the plan promotes and gives effect to the principles for the protection of the water sources and their dependent ecosystems and basic landholder rights.	As above

How we have promoted the principle in Section 5(3)(c)	Relevant plan provisions
<p>Planned environmental water is the volume of water that is committed for fundamental ecosystem health and other environmental purposes. Planned environmental water is separate from the volume of water included in the LTAAEL. Extraction is managed to the LTAAEL by first setting aside water for basic landholder rights and then applying an available water determination to ensure the sum of basic landholder rights and licensed extraction do not exceed the long-term average annual extraction.</p>	<p>Part 4</p>

Table 4. How the plan promote the water management principles of section 5(2)(a) – Water sources, floodplains, and dependent ecosystems (including groundwater and wetlands) should be protected and restored and, where possible, land should not be degraded

How we have promoted the principle in Section 5(2)(a)	Relevant plan provisions
<p>The plan aims to protect and restore dependent ecosystems through the provision of water for the environment and contains rules:</p>	<p>See below</p>
<ul style="list-style-type: none"> specifying the objectives, strategies and performance indicators that measure the effectiveness of plan rules 	<p>Part 2</p>
<ul style="list-style-type: none"> identifying planned environmental water by specifying LTAAELs 	<p>Part 4</p>
<ul style="list-style-type: none"> establishing the rules and arrangements for preserving planned environmental water above LTAAELs 	<p>Parts 4 & 6</p>
<ul style="list-style-type: none"> establishing the rules for managing the construction and use of supply works to prevent unacceptable impacts on GDEs and wetlands at a local scale. These rules are based on published Australian guidelines for water bore construction and technical assessment of pumping impacts on GDEs 	<p>Part 7</p>
<ul style="list-style-type: none"> establishing daily cease to take rules that protect very low flows for environmental purposes. 	<p>Part 6</p>

Table 5. How the plan promote the water management principles of section 5(2)(b) – habitats, animals and plants that benefit from water or are potentially affected by managed activities should be protected and (in the case of habitats) restored

How we have promoted the principle in Section 5(2)(b)	Relevant plan provisions
The plan protects and restores animals and habitats through water for the environment and the provisions set out above in Table 4.	Parts 2, 4, 6, 7, 9 & 10

Table 6. How the plan promote the water management principles of section 5(2)(c) – the water quality of all water sources should be protected and, wherever possible, enhanced

How we have promoted the principle in Section 5(2)(c)	Relevant plan provisions
The plan aims to protect and enhance water quality by:	See below
<ul style="list-style-type: none"> prohibiting ground water supply works where acid sulphate soils are likely to occur 	Parts 6, 7 and 9
<ul style="list-style-type: none"> prohibiting or conditioning the construction of works near sources of contamination as informed by the Australian guidelines for water bore construction and the NSW contaminated sites register 	Parts 6, 7 and 9
<ul style="list-style-type: none"> applying standards to water bore construction to prevent contamination of and between aquifers and prevent flow of saline water between aquifers. This is informed by the Australian guidelines for water bore construction 	Parts 6, 7 and 9
<ul style="list-style-type: none"> establishing daily cease to take rules that protect very low stream flows in connected surface water sources for environmental purposes including water quality. 	Parts 6, 7 and 9

Table 7. How the plan promote the water management principles of section 5(2)(d) – the cumulative impacts of water management licences and approvals and other activities on water sources and their dependent ecosystems, should be considered and minimised

How we have promoted the principle in Section 5(2)(d)	Relevant plan provisions
<p>We manage the cumulative impact of licences through rules limiting total extraction. The long-term average annual extraction limits established by the plan protect water within the water sources for environmental purposes.</p> <p>Long-term average annual extraction limit compliance provisions reduce water availability where the extraction limits have been exceeded.</p>	Part 4
<p>The plan provides setback rules to limit construction of new bores within defined distances from identified GDEs.</p>	Part 7
<p>Access licence dealing rules allow for a variety of dealings (trade) within specified environmental constraints. For example, prohibiting or restricting trade of entitlements or allocations into water sources assessed as having high risks to instream values.</p>	Part 8
<p>The plan prohibits in-river dams in certain water sources.</p>	Part 7

Table 8. How the plan promote the water management principles of section 5(2)(e) and (f) – geographical and other features of Aboriginal significance should be protected

How we have promoted the principle in Section 5(2)(e) and (f)	Relevant plan provisions
<p>The plan specifies social, cultural, and Aboriginal objectives, strategies and performance indicators which will provide measurable evidence of whether outcomes have been achieved.</p>	Part 2
<p>The plan provides for applications for groundwater Aboriginal cultural licences.</p> <p>The plan provides for applications for groundwater Aboriginal community development licences in certain water sources.</p>	Part 5
<p>The plan recognises requirements for water consistent with the exercise of native title rights.</p>	Part 3

How we have promoted the principle in Section 5(2)(e) and (f)	Relevant plan provisions
The plan gives priority to current and future basic landholder rights by targeting extraction limit compliance actions to aquifer access licences only. This allows BLR extractions to increase. BLR includes native title rights.	Part 4
The plan provides setback rules to limit construction of new bores within defined distances from identified groundwater dependent culturally significant areas.	Part 7
The <i>Access Licence Dealing Principles Order 2004</i> also applies to assessment of dealings (trade) of groundwater entitlements and allocations. Dealings are only approved if they do not adversely affect geographical and other features of indigenous significance, or major cultural, heritage or spiritual significance.	<i>Access Licence Dealing Principles Order 2004</i>
The plan provides for its amendment if there is a determination of native title in future.	Part 10

Table 9. How the plan promote the water management principles of section 5(2)(g) – the social and economic benefits to the community should be maximised

How we have promoted the principle in Section 5(2)(g)	Relevant plan provisions
The plan maximises the social and economic benefits to the community and contains provisions:	See below
<ul style="list-style-type: none"> specifying economic and social strategies and performance indicators which will provide measurable evidence of whether outcomes have been achieved 	Part 2
<ul style="list-style-type: none"> establishing defined long-term average annual extraction limits which provide an amount of water for community and economic benefit 	Part 4
<ul style="list-style-type: none"> establishing the percentage of licence shares for each category of licence that may be allocated to water accounts and subsequently taken under licence in any one water year 	Part 4

How we have promoted the principle in Section 5(2)(g)	Relevant plan provisions
<ul style="list-style-type: none"> enabling applications for licences including Aboriginal cultural and Aboriginal community development licences 	Part 5
<ul style="list-style-type: none"> providing rules for trade of licensed entitlement and account water to allow the market to drive improved economic outcomes 	Part 8
<ul style="list-style-type: none"> supporting social and community requirements by reserving water for BLR (including native title rights), domestic and stock needs, and urban water needs, before making water available for lower priority uses. 	Part 6

Table 10. How the plan promote the water management principles of section 5(2)(h) – the principles of adaptive management should be applied, which should be responsive to monitoring and improvements in understanding of ecological water requirements

How we have promoted the principle in Section 5(2)(h)	Relevant plan provisions
<p>The Natural Resources Commission audits and reviews the plan at 10-year intervals, to inform whether the plan rules are being applied and remain fit for purpose.</p>	WM Act sections 43A and 44
<p>The plan includes a set of objectives, strategies, and performance indicators. Monitoring of these indicators could trigger an earlier review of the plan, if necessary.</p>	Part 2

More information

To read the water sharing plan and supporting fact sheets, visit water.dpie.nsw.gov.au/plans-and-programs/water-sharing-plans/status/south-coast-region

To read the manual for making water sharing plans, refer to the published document www.industry.nsw.gov.au/_data/assets/pdf_file/0009/492453/replacement-water-sharing-plan-manual.pdf