

Compliance with water management principles – Amending the Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016

The NSW Government has amended the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016*. This document explains how the changes comply with the water management principles of the *Water Management Act 2000*.

Requirements for amending a water sharing plan

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

- take all reasonable steps to promote the water management principles and
- 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):

1. Sharing water from a water source must protect the water source and its dependent ecosystems.
2. Sharing water from a water source must protect basic landholder rights.
3. 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 gained the agreement of the Minister for the Environment to amend the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016*. In changing the plan, the ministers ensured that they promote the water management principles of the WM Act and prioritise its water sharing principles appropriately.

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

In the plan for the Upper Namoi and Lower Namoi regulated river water sources, there are 2 key mechanisms for protecting water sources and dependent ecosystems:

- **Long-term average annual limits on water take**, which includes the:
 - long-term average annual extraction limit for the water sources

- sustainable diversion limit for each water resource plan area, established under the Murray–Darling Basin Plan 2012 through extensive, peer-reviewed scientific analysis.

We have included both limits in the water sharing plan, which also contains provisions (legal conditions) to assess extractions and ensure water users comply with the limits. On a long-term average annual basis, all water above these limits is protected for environmental benefit.

- **Specific, operational plan rules** that aim to protect explicit ecosystem functions and/or environmental assets in the water sources. The tables below give details of these rules for the Upper Namoi and Lower Namoi regulated water sharing plan.

How water sharing in the plan protects basic landholder rights

The plan also protects basic landholder rights, allowing landholders to exercise these under Part 1 of Chapter 3 of the WM Act. The plan gives priority to current and future basic landholder rights by ensuring any compliance actions for extraction and diversion limits does not apply to these rights.

How we have promoted water management principles

The NSW Government has taken all reasonable steps to promote the water management principles set out in the WM Act and to make the Upper Namoi and Lower Namoi water sharing plan reflect these principles. Refer to the tables below for details.

Table 1. How the plan changes promote the water management principle 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 protects and restores floodplains by including provisions to help us roll out licences to bring floodplain harvesting within the licensing and approval framework of the WM Act. The rollout of floodplain harvesting licences will result in more accurate accounting against the long-term average annual extraction limit, and provides the mechanisms to limit floodplain harvesting if it causes an exceedance of this.</p> <p>The plan aims to protect and restore dependent ecosystems through the provision of water for the environment and contains rules to:</p>	See below.
<ul style="list-style-type: none"> • establish both a long-term average annual extraction limit and a long-term average sustainable diversion limit and ensure extraction does not exceed these. This results in a long-term average annual commitment of water as planned environmental water 	Part 6, Division 2, 3 and 4
<ul style="list-style-type: none"> • provide replenishment flows of up to 14,000 ML per year to Pian Creek 	Clause 56
<ul style="list-style-type: none"> • allow for the storage and release of water to achieve minimum end of system environmental flow targets between June and August 	Part 10, Division 1
<ul style="list-style-type: none"> • ensure a portion of tributary flows are protected from extraction in the Upper Namoi water source 	Part 8, Division 2

How we have promoted the principle in Section 5(2)(a)	Relevant plan provisions
<ul style="list-style-type: none"> limit extraction during any medium- and high-flow events to ensure a portion of natural flow is protected during periods of supplementary access in the Lower Namoi water source 	Part 8, Division 3
<ul style="list-style-type: none"> take into account the potential for river bank and land degradation (erosion) when managing storage releases during normal times and flood events 	Clauses 59, 61, 62
<ul style="list-style-type: none"> take into account the potential effects of unseasonal inundation on floodplains and wetlands when managing storage releases 	Clause 57
<ul style="list-style-type: none"> specify objectives, strategies and performance indicators that measure the effectiveness of plan rules 	Part 2
<ul style="list-style-type: none"> protect flood-dependent ecosystems within declared floodplains by: <ul style="list-style-type: none"> applying the relevant rules contained in the floodplain management plans to works that are both a flood work and water supply work prohibiting new or enlarged works in high environmental value floodplain areas 	Part 7

Table 2. How the plan changes promote the water management principle 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
<p>The plan protects and restores animals and habitats through:</p> <ul style="list-style-type: none"> the provision of water for the environment the same provisions set out above in relation to section 5(2)(a) 	See Table 1 above

Table 3. How the plan changes promote the water management principle 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
<p>The plan aims to protect and enhance water quality by providing environmental water for flushing flows. In particular:</p>	See below.
<ul style="list-style-type: none"> replenishment flows to Pian Creek can help manage water quality issues 	Part 10, Division 2
<ul style="list-style-type: none"> the protection of supplementary flows can help manage water quality events in downstream connected water sources 	Part 8, Division 3

How we have promoted the principle in Section 5(2)(c)	Relevant plan provisions
the end of system flow requirement helps manage water quality in the Namoi and downstream	Part 3
The operation of all environmental water rules, and the delivery of water for regulated river licences, can provide water quality benefits within the river.	n/a

Table 4. How the plan changes promote the water management principle 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
We manage the cumulative impacts of licences through rules limiting total extraction. The long-term average annual extraction limit and long-term average sustainable diversion limit established by the plan protects water within the water source for environmental purposes.	Part 6, Division 2 and 3
Water available for extraction is reduced if these limits are exceeded.	Part 6, Division 4
Access licence dealing rules allow for a variety of dealings (trade) within specified environmental constraints.	Part 9
The plan allows for access to supplementary water to be restricted or prohibited, if necessary, to ensure that outflows from the water source contribute to meeting specified flow targets in the downstream Barwon–Darling water source. We can change these rules to allow for critical environmental needs in downstream water sources.	Part 8, Division 3
The amended rules for water supply work approvals that are both a water supply work and flood work ensure the comprehensive and cumulative assessment criteria contained in a relevant floodplain management plan will apply.	Part 7

Table 5. How the plan changes promote the water management principle of section 5(2)(e) – Geographical and other features of Aboriginal significance should be protected

How we have promoted the principle in Section 5(2)(e)	Relevant plan provisions
Rules for granting specific purpose access licences (Aboriginal cultural). These rules have been amended to ensure greater certainty to Aboriginal people and communities when applying for this category of licence.	Clause 40(2)

How we have promoted the principle in Section 5(2)(e)	Relevant plan provisions
The plan provides for the recognition of native title determinations as they are made. We can amend the plan to reference the decisions resulting in a determination of native title.	Clauses 19 and 74(2)
The plan may be amended to provide for the protection of water dependent Aboriginal cultural assets	Clause 74(8)
While environmental flow rules may not explicitly target Aboriginal outcomes, they may help achieve or partially achieve Aboriginal cultural outcomes.	Part 8, Division 2 and Division 3 Part 10, Division 1
The plan also requires the operator to run the water supply system so that water could be supplied during a repeat of the period of lowest accumulated inflows to the water sources, to meet the annual water requirements of people exercising domestic and stock rights and native title rights.	Clause 55
The plan also requires the operator to set aside enough water from inflows into the water sources and in reserves held in Split Rock Dam and Keepit Dam water storages to provide a replenishment flow of up to 14,000 ML/year to Pian Creek downstream of Dundee Weir.	Clause 56
The amended rules for water supply work approvals that are both a water supply work and flood work ensure the comprehensive rules and assessment criteria contained in a relevant floodplain management plan will apply, including rules relating to Aboriginal cultural assets and values.	Part 7

Table 6. How the plan changes promote the water management principle of section 5(2)(f) – Geographical and other features of major cultural, heritage or spiritual significance should be protected

How we have promoted the principle in Section 5(2)(f)	Relevant plan provisions
Provisions as per Table 5	See Table 5
Rules for granting specific purpose access licences (Aboriginal cultural). These rules have been amended to ensure greater certainty to Aboriginal people and communities when applying for this category of licence.	Clause 40(2)

Table 7. How the plan changes promote the water management principle 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 to:	See below
<ul style="list-style-type: none"> define a long-term average annual extraction limit and a long-term sustainable diversion limit, which provide water for community and economic benefit 	Part 6, Division 2 and 3
<ul style="list-style-type: none"> trade licensed entitlement and account water, allowing the market to drive strong economic outcomes and water-dependent businesses to manage their own supply requirements and risks 	Part 9
<ul style="list-style-type: none"> maintain supply and replenishment flows for basic human needs, town water supply and domestic and stock requirements 	Clauses 55, 56, 57 and 58
<ul style="list-style-type: none"> provide environmental flows that also have positive social and community outcomes 	Part 10, Division 1
<ul style="list-style-type: none"> provide environmental flows and meet downstream targets that contribute to the mitigation of poor water quality events 	Part 10, Division 1 and clause 47(2)
<ul style="list-style-type: none"> support social and community requirements by reserving water for basic landholder rights (including native title rights), domestic and stock needs, and urban water needs, before making water available for lower priority uses 	Clause 55 and Part 6 Division 5
<ul style="list-style-type: none"> improve social and economic benefits to Aboriginal communities through changes to the rules for Aboriginal cultural access licences. 	Part 7

Table 8. How the plan changes promote the water management principle 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
The Natural Resources Commission audits and reviews the plan at 10-year intervals to assess whether the plan rules remain fit for purpose.	WM Act sections 43A and 44
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.	Part 2
Mandatory metering and reporting requirements will inform how we apply the plan rules and make water available for the environment.	Part 11

How we have promoted the principle in Section 5(2)(h)	Relevant plan provisions
A number of amendment provisions are included in the plan which allow for consideration of new information	Part 6 and Part 12

Table 9. How the plan changes promote the water management principle 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"> provisions that provide for a portion of tributary flows protection from extraction in the Upper Namoi water source a limit on extraction during any medium- and high-flow events to ensure a portion of natural flow is protected during periods of supplementary access in the Lower Namoi water source 	Part 8 Division 2 and Division 3
<ul style="list-style-type: none"> environmental flow provisions that provide a physical presence of water in the water source 	Part 10 Division 1
<ul style="list-style-type: none"> both a long-term average annual extraction limit and a long-term sustainable diversion limit to create a long-term average annual commitment of water as planned environmental water. 	Part 6
The amended rules for water supply work approvals that are both a water supply work and flood work ensure the comprehensive assessment contained in a relevant floodplain management plan criteria to protect floodplain environmental values will apply.	Part 7
In particular, the plan:	See below.
<ul style="list-style-type: none"> establishes a long-term average annual extraction limit, which protects water within the water source above that limit for environmental purposes (that is, we are setting a limit on how much water users can take and setting aside the remaining water for the environment) 	Part 6, Division 2
<ul style="list-style-type: none"> establishes flow targets and environmental water rules to protect the water sources, downstream water sources and their dependent ecosystems 	Clause 47(2) and Part 10, Division 1
<ul style="list-style-type: none"> includes objectives, strategies and performance indicators that measure the effectiveness of the plan rules in delivering environmental outcomes. 	Part 2

Table 10. How the plan changes promote the water management principle of section 5(3)(b) – Sharing of water from a water source must protect basic landholder rights

How we have promoted the principle in Section 5(3)(b)	Relevant plan provisions
Recognise and provide for native title rights in accordance with the <i>Native Title Act 1993</i> of the Commonwealth, including under any determination of native title and any indigenous land use agreement.	Part 5
The plan includes provisions for maintaining compliance with the long-term average annual extraction limit and sustainable diversion limit, which target supplementary water licences and general security licences only. These provisions give priority to current and future basic landholder rights by allowing their extractions to increase at the expense of future access for supplementary and general security licences.	Part 6
The plan also requires the operator to:	See below.
<ul style="list-style-type: none"> operate the water supply system so it can meet the annual water requirements of domestic and stock rights and native title rights during a repeat of the period of lowest accumulated inflows to the water source that happened before 1 July 2004 	Clause 55
<ul style="list-style-type: none"> set aside enough water from inflows into the water sources and in reserves held in Split Rock Dam and Keepit Dam water storages to provide a replenishment flow of up to 14,000 ML/year to Pian Creek downstream of Dundee Weir. 	Clause 56

Table 11. How the plan changes promote the water management principle 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 previously discussed ensure basic landholder rights are protected and we uphold the principles for the protection of the water sources and their dependent ecosystems.	All above

Floodplain harvesting

To manage floodplain harvesting and comply with the water management principles under the WM Act, licences must be issued.

The NSW Government has changed the plan to include provisions for managing floodplain harvesting. In developing the rules for floodplain harvesting, we have taken all reasonable steps to promote the water management principles as follows.

Table 12. How the floodplain harvesting related amendments promote the water management principle 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 protects the water source and its dependent ecosystem by identifying certain water as planned environmental water, which cannot be taken or used for non-environmental purposes.	Part 4
The plan ensures water is committed and identified as planned environmental water by establishing:	Part 6
<ul style="list-style-type: none"> • provisions for environmental flow that provide a physical presence of water in the water source • both a long-term average annual extraction limit and a long-term sustainable diversion limit to create a long-term average annual commitment of water as planned environmental water. 	Part 6 Divisions 2 and 3
In particular, the plan ensures floodplain harvesting (regulated river) access licences are included as part of the long-term average annual extraction limit and protects water within the water source above that limit for environmental purposes.	As above

Table 13. How the floodplain harvesting related amendments promote the water management principle of section 5(3) (b) – Sharing of water from a water source must protect basic landholder rights

How we have promoted the principle in Section 5(3) (b)	Relevant plan provisions
The plan includes provisions for maintaining compliance with the long-term average annual extraction limit and long-term sustainable diversion limit. These target supplementary water access licence, general security access licences and floodplain harvesting (regulated river) access licences. These provisions give priority to current and future basic landholder rights by allowing their extractions to increase at the expense of future access for supplementary, general security and floodplain harvesting (regulated river) access licences.	Part 6 Division 4

Table 14. How the floodplain harvesting related amendments promote the water management principle 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 previously discussed ensure that we uphold the principles for the protection of the water sources, their dependent ecosystems and basic landholder rights.	All above

Table 15. How the floodplain harvesting related amendments promote the water management principle 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 protects and restores floodplains by including provisions to help us roll out of licences and bring floodplain harvesting within the licensing and approval provisions of the WM Act. The rollout of floodplain harvesting licences will make accounting against the long-term average annual extraction limit and long-term sustainable diversion limit more accurate.</p> <p>The plan aims to protect and restore dependent ecosystems through water for the environment and contains provisions to:</p>	See below
<ul style="list-style-type: none"> establish a long-term average annual extraction limit and long-term sustainable diversion limit which protects a percentage of flows within the water source for environmental purposes 	Part 6, Division 2
<ul style="list-style-type: none"> includes objectives, strategies and performance indicators which measure the effectiveness of plan rules 	Part 2
<ul style="list-style-type: none"> identify and prioritise flood-dependent ecological assets and values on the floodplain. We have used this information to inform the trade rules for floodplain harvesting licences and manage the granting and amending of water supply work approvals 	Part 9 Part 7

Table 16. How the floodplain harvesting related amendments promote the water management principle 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
<p>The plan protects habitats, animals and plants and restores habitats through water for the environment and the same provisions set out in the above table in relation to section 5(2)(a)</p>	See above

Table 17. How the floodplain harvesting related amendments promote the water management principle 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
<p>The plan includes amendment provisions that allow us to introduce access rules when appropriate information becomes available.</p>	Part 12
<p>Including access rules for floodplain harvesting complements existing rules for supplementary water access licences that contribute to the management of water quality events in downstream connected water sources.</p>	Part 8 Division 4

Table 18. How the floodplain harvesting related amendments promote the water management principle 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
The amended rules for an administrative subdivision of a water supply work approval nominated by a floodplain harvesting access licence prohibit the addition of any new works to the subdivided approvals.	Part 9
The plan manages cumulative impacts through:	See below
<ul style="list-style-type: none"> rules limiting total extraction. The plan establishes both a long-term average annual extraction limit and long-term sustainable diversion limit which protect water within the water source above those limits for environmental purposes. 	Part 6 Division 2
<ul style="list-style-type: none"> compliance provisions for the long-term average annual extraction limit and long-term average sustainable diversion limit that reduce water availability where the extraction limits have been exceeded. 	Part 6 Division 4
<ul style="list-style-type: none"> access licence dealing rules that allow for a variety of dealings (trade) within specified environmental constraints 	Part 9
<ul style="list-style-type: none"> rules for the granting or amending of water supply work approvals 	Part 7

*Note Division 2 of Part 4 of Chapter 6 of the Basin Plan 2012 specifies the requirements for complying with the SDL

Table 19. How the floodplain harvesting related amendments promote the water management principle of section 5(2)(e) – Geographical and other features of Aboriginal significance should be protected

How we have promoted the principle in Section 5(2)(e)	Relevant plan provisions
The plan contributes to the protection of cultural assets and values, including Aboriginal cultural values on the floodplain, by:	See below
<ul style="list-style-type: none"> identifying and prioritising flood-dependent Aboriginal values on the floodplain. We used this information to inform the trade rules for floodplain harvesting licences and manage the granting and amending of water supply work approvals 	Part 9 Part 7

Table 20. How the floodplain harvesting related amendments promote the water management principle of section 5(2)(f) – Geographical and other features of major cultural, heritage or spiritual significance should be protected

How we have promoted the principle in Section 5(2)(f)	Relevant plan provisions
The plan contributes to the protection of cultural assets and values, including Aboriginal cultural values and heritage sites on the floodplain, by:	See below

How we have promoted the principle in Section 5(2)(f)	Relevant plan provisions
<ul style="list-style-type: none"> identifying and prioritising flood-dependent cultural assets on the floodplain. We used this information to inform the trade rules for floodplain harvesting licences and manage the granting and amending of water supply work approvals 	Part 9 Part 7

Table 21. How the floodplain harvesting related amendments promote the water management principle 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 by:	See below
<ul style="list-style-type: none"> setting a defined long-term average annual extraction limit and long-term sustainable diversion limit, which provides an amount of water available for community and economic benefit 	Part 6, Division 2
<ul style="list-style-type: none"> creating certainty of access for licence holders for the duration of the plan 	Part 8, Division 1
<ul style="list-style-type: none"> giving rules for trade of licensed entitlement and account water to allow the market to drive strong economic outcomes 	Part 9
<ul style="list-style-type: none"> facilitating the granting or amending of water supply work approvals 	Part 7
<ul style="list-style-type: none"> provide potential social and economic benefits through the amended rules for an administrative subdivision of a water supply work approval nominated by a floodplain harvesting access licence to improve flexibility in measurement options 	Part 9

Table 22. How the floodplain harvesting related amendments promote the water management principle 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 principle has been promoted in Section 5(2)(h)	Relevant plan provisions
The plan is reviewed at 10-year intervals by the Natural Resources Commission, to inform whether the plan rules remain fit for purpose.	S43A of the WM Act
The plan includes a set of objectives, strategies, and performance indicators. An earlier review of the plan could be triggered if required, based on monitoring of these indicators.	Part 2
Mandatory measurement requirements will inform how we apply the plan rules and provision of water for the environment.	Part 11

More information

To read the water sharing plan and supporting fact sheets, visit <https://water.dpie.nsw.gov.au/plans-and-programs/water-sharing-plans/status/namoi-region>.

To read the protocol for amending water sharing plans, refer to the fact sheet https://water.dpie.nsw.gov.au/data/assets/pdf_file/0004/509863/water-sharing-plan-amendment-protocol.pdf.