

Compliance with the ministers' duty under section 9 of the Water Management Act 2000 – making of the Water Sharing Plan for the NSW Border Rivers Unregulated River 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 NSW Border Rivers Unregulated River 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:

- 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):

- 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 a. and b.

The Minister for Water obtained the agreement of the Minister for the Environment to make the *Water Sharing Plan for the NSW Border Rivers Unregulated River Water Sources 2024* (the plan). In doing so, the ministers ensured that they promoted the water management principles of the WM Act and prioritised 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 limits (LTAAELs)** for the water sources. 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 plan rules.

How water sharing in the plan protects basic landholder rights

The plan protects landholders' ability to exercise basic landholder rights by identifying the current 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 Border Rivers area (which may be either wetter or drier) 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. 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. This enables the plan to respond to climate change impacts to the water sources.

There are also actions within the NSW Water Strategy and relevant regional water strategies that are applicable to the Border Rivers region, 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 recognition of the need to develop a set of methodologies to incorporate climate risk into water sharing plan and water management decision making.
- Priority 3 in the Western Regional Water Strategy and Priority Action 4.5 in the Border Rivers Regional Water Strategy to improve connectivity across the northern Basin. More than 90% of flows in the Barwon-Darling come from upstream catchments. Modelling conducted for the Western Regional Water Strategy shows that under a dry climate future scenario the volume of inflows from the tributaries would reduce and there would be more times tributary flows do not connect with the Barwon-Darling. The Northern Basin Connectivity Program is progressing

these connectivity improvements, including analysis to inform potential rule changes to water sharing plan flow targets. The aim is to improve water flows across the connected catchments of the northern NSW Murray-Darling basin at important times to meet downstream environmental and human needs. This may result in changes to the Border Rivers water sharing plan at some stage in the future.

The current plan has included provision to consider the outcomes of current review work for inland regulated river systems in relation to maintenance of water supply and then consider the review of rules for unregulated plans too.

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

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

The NSW Government has taken all reasonable steps to act in accordance with and promote the water management principles of the WM Act in making this plan. Refer to the tables below for details.

Table 1. How the plan promotes 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
The plan aims to protect and restore water sources, floodplains and dependent ecosystems (including groundwater and wetlands) through the provision of water for the environment and contains rules:	n/a
<ul style="list-style-type: none"> specifying the objectives, strategies and performance indicators that measure the effectiveness of plan rules 	Part 2
<ul style="list-style-type: none"> establishing long-term average annual extraction limits (LTAAELs) which, on average, protect water above those limits 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 4
<ul style="list-style-type: none"> establishing the rules and arrangements for committing water as planned environmental water, which is not included in the LTAAELs 	Parts 4 and 6

How we have promoted the principle in Section 5(2)(a)	Relevant plan provisions
<ul style="list-style-type: none"> establishing cease to pump rules that protect very low flows for environmental purposes in the Glen Innes Water Source and specific management zones in the Inverell and Mole River water sources. This will protect a portion of natural flows and maintain hydrological connectivity. 	Part 6
<ul style="list-style-type: none"> except in limited circumstances, prohibiting the drawdown of in-river and off-river natural pools or the taking of water when there is no visible flow in relevant water sources to ensure in-river and floodplain pools are protected to provide refugia and habitat during dry times 	Part 6
<ul style="list-style-type: none"> prohibiting the construction of new water supply works within and within 3 km upstream of a declared Ramsar wetland and within a significant wetland identified on the Significant Wetlands Map 	Part 7
<ul style="list-style-type: none"> prohibiting the construction of in-river dams on third or higher order streams in water sources that have been identified as having high environmental value 	Part 7
<ul style="list-style-type: none"> prohibiting trades into areas within or within 3 km upstream of a Ramsar listed wetland and into significant wetlands to protect them from the impacts of surface water extraction by restricting new development and extraction 	Part 8
<ul style="list-style-type: none"> prohibiting trade between certain water sources and management zones within the plan area, protecting the environmental values of the water sources 	Part 8

Table 2. How the plan promotes 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
<p>The plan protects and restores habitats, animals, and plants that benefit from water through water for the environment and the provisions set out above in Table 1.</p>	See Table 1

Table 3. How the plan promotes 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:	n/a
<ul style="list-style-type: none"> establishing the rules and arrangements for committing water as planned environmental water, which is not included in the LTAAELs. 	Part 4
<ul style="list-style-type: none"> setting limits on take from unregulated flows that can help manage water quality events in downstream connected water sources. 	Part 6, Divisions 3 and 4

Table 4. How the plan promotes 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
The plan manages the cumulative impact of licences through rules limiting total extraction. The LTAAELs and the long-term average sustainable diversion limit (SDL) established by the plan protect water within the water sources for environmental purposes.	Part 4
LTAAEL and SDL compliance provisions in the plan reduce water availability where the extraction limits have been exceeded.	Part 4
The plan limits the volume of water that can be taken from the water sources over a specified period by limiting the volume of water that can be debited from the water allocation account of each access licence.	Part 6, Division 2
The plan restricts the construction of new water supply works within and within 3 km upstream of a declared Ramsar wetland and within a significant wetland identified on the Significant Wetlands Map.	Part 7
The plan prohibits the construction of in-river dams on third or higher order streams in certain water sources that have been identified as having high environmental value.	Part 7

How we have promoted the principle In Section 5(2)(d)	Relevant plan provisions
The plan prohibits trades into areas within or within 3 km upstream of a Ramsar listed wetland and into significant wetlands to protect from the impacts of water extraction by restricting new development and extraction.	Part 8
Access licence dealing restrictions and rules manage the cumulative impacts of trade on water sources and their dependent ecosystems	Part 8

Table 5. How the plan promotes 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
The plan specifies social, cultural, and Aboriginal objectives, strategies and performance indicators which will provide measurable evidence of whether outcomes have been achieved.	Part 2
The plan provides for the recognition of native title determinations as they are made. It can be amended to refer to new determinations of native title.	Part 3, Division 1 Part 10
The plan gives priority to current and future basic landholder rights by targeting extraction limit compliance actions to access licences. This allows basic landholder rights extractions to increase. Basic landholder rights include native title rights.	Part 3 and Part 4, Division 2
The plan makes water available for Aboriginal cultural purposes via a specific purpose access licence category, which could be used to provide water for features of major cultural, heritage or spiritual significance.	Part 5
While planned environmental water rules may not target Aboriginal outcomes specifically, they provide flows which may also help to achieve Aboriginal cultural outcomes.	Part 4 and Part 6

Table 6. How the plan promotes 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:	n/a
<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"> defining LTAAELs and a long-term average sustainable diversion limit which provide water for community and economic benefit 	Part 4, Division 2
<ul style="list-style-type: none"> establishing the volume of water that is credited to water allocation accounts and that can subsequently be debited under licences in a given period 	Part 4 Division 1 Part 6 Division 2
<ul style="list-style-type: none"> allowing a person to apply for a specific purpose access licence for Aboriginal cultural purposes 	Part 5
<ul style="list-style-type: none"> providing an exemption for in-river dams for town water supply purposes, where the plan otherwise prohibits their construction 	Part 7
<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 and water dependent business to manage their own supply requirements and risks 	Part 8
<ul style="list-style-type: none"> supporting social and community requirements by setting cease to pump rules which reserve water for basic landholder rights (including native title rights), domestic and stock needs and considers town water supplies. 	Part 6, Divisions 4 and 5

Table 7. How the plan promotes 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
The Natural Resources Commission plan audits and reviews the plan at 10-year intervals, to inform whether the plan rules are being applied and remain fit for purpose.	WM Act sections 43A and 44

How we have promoted the principle in Section 5(2)(h)	Relevant plan provisions
The Minister may amend a plan if satisfied it is in the public interest to do so.	WM Act section 45
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 the implementation of the plan rules and provision of water for the environment.	Part 9
The plan includes amendment provisions allowing the plan to be changed under particular circumstances that could be in response to monitoring or improvements in understanding of ecological water requirements.	Part 10

Table 8. 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 protects the water source and its dependent ecosystems by the provisions set out in Table 1.	See Table 1

Table 9. How the plan promotes the water management principles 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 establishes rules for making reduced available water determinations to ensure compliance with the LTAAELs and SDL.	Part 4
The plan sets cease to pump rules which prevent take of water under access licences but still allow access to water for basic landholder rights (including native title rights), domestic and stock needs and considers town water supplies.	Part 6, Divisions 4 and 5

How we have promoted the principle in Section 5(3)(b)	Relevant plan provisions
The plan allows for the recognition of any current and future native title determinations.	Part 3, Division 1 Part 10

Table 10. How the plan promotes 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 1–9 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.	All tables above

More information

To read the water sharing plan and supporting fact sheets, visit the department’s [water sharing plan status page](#).

To read the manual for making water sharing plans, refer to the [Replacement Water Sharing Plan Manual](#) published on the department’s website.