

# Compliance with the ministers' duty under section 9 of the Water Management Act 2000 – making of the Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2024

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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 Lower Murray-Darling Unregulated River Water Source 2024*.

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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 s 5(3) of the WM Act.

The water sharing management principles under s 5(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 Lower Murray-Darling Unregulated River Water Source 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.

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## 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:

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

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## 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.

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## 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 Lower Murray-Darling River area (which may be 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 source.

There are also actions within the NSW Water Strategy and relevant regional water strategies that are applicable to the Lower Murray-Darling 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 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 plans and water management decision making.

- Priority 3 in the Western 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 they 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 Lower Murray-Darling water sharing plan at some stage in the future.
- The draft Murray Regional Water Strategy Proposed Action 1.2 to improve strategic water management and decision-making frameworks by incorporating new climate and modelled data. The development of new climate data and modelling allows the NSW Government to update regulatory frameworks to be more responsive to a range of current and future climate conditions. Understanding of the drivers of our current climate has increased over recent years. There is the opportunity to incorporate this knowledge into the way water is managed.

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.

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

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 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
<p>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:</p>	n/a
<ul style="list-style-type: none"> <li>specifying the objectives, strategies and performance indicators that measure the effectiveness of plan rules</li> </ul>	Part 2
<ul style="list-style-type: none"> <li>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)</li> </ul>	Part 4, Division 2
<ul style="list-style-type: none"> <li>establishing the rules and arrangements for committing water as planned environmental water, which is not included in the LTAAEL</li> </ul>	Part 4, Division 2
<ul style="list-style-type: none"> <li>establishing daily cease to take rules that protect very low flows for environmental purposes. This will protect a portion of natural flows and enhance hydrological connectivity.</li> </ul>	Part 6
<ul style="list-style-type: none"> <li>prohibiting the drawdown of in-river and off-river natural pools or the taking of water when there is no visible flow to ensure in-river and floodplain pools are protected to provide refugia and habitat during dry times</li> </ul>	Part 6, Division 4
<ul style="list-style-type: none"> <li>restricting the drawdown of certain natural off-river pools, the 3 identified lagoons of the plan and Thegoa Lagoon, or the taking of water when there is no visible flow to ensure floodplain pools are protected to provide refugia and habitat during dry times</li> </ul>	Part 6, Division 4
<ul style="list-style-type: none"> <li>restricting the drawdown of Thegoa Lagoon when there are deliveries of environmental water into the lagoon</li> </ul>	Part 6, Division 4
<ul style="list-style-type: none"> <li>prohibiting the construction of new water supply works within 3 km upstream of, or within, a declared Ramsar wetland and within a significant wetland identified in the plan area on the Significant Wetland Map</li> </ul>	Part 7
<ul style="list-style-type: none"> <li>prohibiting trades into areas within 3 km upstream of, or within, a Ramsar listed wetland and into significant wetlands to protect them from the impacts of surface water extraction by restricting new development and extraction</li> </ul>	Part 8

How we have promoted the principle in section 5(2)(a)	Relevant plan provisions
<ul style="list-style-type: none"> <li>prohibiting trade between certain water bodies and areas within the plan area, thereby protecting the environmental values of those areas. Trade is prohibited into the Great Darling Anabranch, except if it is for an environmental purpose.</li> </ul>	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
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.	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"> <li>establishing the rules and arrangements for committing water as planned environmental water, which is not included in the LTAAEL</li> </ul>	Part 4, Division 2
<ul style="list-style-type: none"> <li>setting limits on take from unregulated flows that can help manage water quality events in downstream connected water sources.</li> </ul>	Part 6, Division 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 LTAAEL and the long-term average sustainable diversion limit (SDL) established by the plan protect water within the water source for environmental purposes.	Part 4, Division 2
LTAAEL and SDL compliance provisions in the plan reduce water availability when the extraction limit has been exceeded.	Part 4, Division 2
The plan limits the volume of water that can be taken from the water source over a specified period by limiting the volume of water that can be debited from the water allocation account of each access licence.	Part 4, Division 2
The plan limits the volume of water that can be taken from individual in-river and off-river pools over a specified period by limiting the volume of water that can be debited from each account.	Part 6, Division 2
The plan restricts the construction of new water supply works within 3 km upstream of, or within, a declared Ramsar wetland and within a significant wetland.	Part 6, Division 4
The plan prohibits trades into areas within 3 km upstream of, or within, a Ramsar listed wetland and into significant wetlands to protect from the impacts of water extraction by restricting new development and extraction.	Part 7
Access licence dealing rules and restrictions 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 and other features of major cultural, heritage or spiritual 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 any extraction limit compliance actions to access licences. Basic landholder rights can 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 can 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 protect flows which may also help to achieve Aboriginal cultural outcomes.	Part 4, Division 2 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"> <li>specifying economic and social strategies and performance indicators which will provide measurable evidence of whether outcomes have been achieved</li> </ul>	Part 2
<ul style="list-style-type: none"> <li>defining an LTAAEL and a long-term average sustainable diversion limit, which provides water for community and economic benefit</li> </ul>	Part 4, Division 2

How we have promoted the principle in section 5(2)(g)	Relevant plan provisions
<ul style="list-style-type: none"> <li>establishing the volume of water that is credited to water allocation accounts and that can subsequently be debited under licences in a given period</li> </ul>	Part 4, Division 1 Part 6, Division 2
<ul style="list-style-type: none"> <li>allowing a person to apply for a specific purpose access licence for Aboriginal cultural purposes</li> </ul>	Part 5
<ul style="list-style-type: none"> <li>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</li> </ul>	Part 8
<ul style="list-style-type: none"> <li>supporting social and community requirements by setting cease to pump rules which reserve water for basic landholder rights (including native title rights), licensed domestic and stock needs and town water supplies.</li> </ul>	Part 6, Division 4

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 audits and reviews the plan at 10-year intervals, to inform whether the plan’s rules are being applied and remain fit for purpose.	WM Act sections 43A and 44
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 may 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 protect water for the environment.	Part 9
The plan includes amendment provisions allowing for it to be changed under particular circumstances. This could be in response to monitoring or improvements in the 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 (BLR)

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 LTAAEL and the 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), licensed domestic and stock needs and town water supplies.	Part 6, Division 4
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

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## 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.