

Compliance with the ministers' duty under section 9 of the Water Management Act 2000 – making of the Water Sharing Plan for the North Western Unregulated and Fractured Rock 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 North Western Unregulated and Fractured Rock Water Sources 2024*.

Making or amending 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 or amending a plan, section 9 of the *Water Management Act 2000* (the WM Act) requires 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 their 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, and
- 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 Environment to make the *Water Sharing Plan for the North Western Unregulated and Fractured Rock 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 water sources 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 North Western 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, 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 and the NSW Groundwater 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 recognition of the need to develop a set of methodologies to incorporate climate risk into water sharing plans and water management decision making, and
- Action 1.3 of the NSW Groundwater Strategy to review and update approaches to sustainable groundwater extraction.

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

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 the North Western plan. Refer to the tables below for details.

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Table 1. How the plan promotes 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 (legal conditions)
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 water source and dependent ecosystems 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 Division 2
<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 and Part 6
<ul style="list-style-type: none"> prohibiting the drawdown of pools or the taking of water by surface water access licences when there is no visible flow to reduce risks to refugia and habitat during dry times 	Part 6 Division 4
<ul style="list-style-type: none"> prohibiting the construction of new surface water supply works within and 3 km upstream of a declared Ramsar wetland and within 1 km of a significant wetland identified within the plan area on the Significant Wetland Map 	Part 7 Division 2
<ul style="list-style-type: none"> prohibiting the construction of new surface water supply works within the hydrological catchment of Cooper Creek 	Part 7 Division 2
<ul style="list-style-type: none"> restricting the construction of new groundwater water supply works near groundwater-dependent ecosystems 	Part 7 Division 3
<ul style="list-style-type: none"> prohibiting or conditioning the construction of groundwater water supply works near sources of contamination 	Part 7 Division 3
<ul style="list-style-type: none"> prohibiting trade within specified environmental constraints including into waterfront land, into the hydrological catchment of the Cooper Creek or within or upstream of Ramsar or Significant wetlands 	Part 8
<ul style="list-style-type: none"> applying standards for constructing and decommissioning groundwater water supply works to prevent contamination of and between aquifers and to prevent flow of saline water between aquifers. 	Part 9 Division 4

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Table 2. How the plan promotes 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
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 provisions set out in relation to section 5(2)(a) contribute to protecting and enhancing water quality of water sources.	See Table 1
The plan aims to protect and enhance water quality specifically by:	n/a
<ul style="list-style-type: none"> prohibiting or conditioning the construction of works near sources of contamination 	Part 7 Division 3
<ul style="list-style-type: none"> applying standards for constructing and decommissioning groundwater water supply works to prevent contamination of and between aquifers and to prevent flow of saline water between aquifers. 	Part 9 Division 4

Table 4. How the plan promotes 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 plan manages the cumulative impacts of licences by limiting total extraction from a water source or the distribution of potential extraction by:	n/a
<ul style="list-style-type: none"> establishing LTAAELs that creates long-term average annual commitments of water as planned environmental water 	Part 4 Division 2
<ul style="list-style-type: none"> establishing rules for managing extraction within the LTAAELs 	Part 4 Division 2
<ul style="list-style-type: none"> limiting the volume of water that can be taken from a water source over a specified period by limiting the volume of water that can be debited from each account 	Part 6 Division 2
<ul style="list-style-type: none"> prohibiting constructing new surface water supply works within and 3 km upstream of a declared Ramsar wetland and within and 1km of a significant wetland within the plan area identified on the Significant Wetland Map 	Part 7 Division 2

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How we have promoted the principle in section 5(2)(d)	Relevant plan provisions
<ul style="list-style-type: none"> prohibiting constructing new surface water supply works within the hydrological catchment of Cooper Creek 	Part 7 Division 2
<ul style="list-style-type: none"> restricting the construction of new groundwater water supply works near groundwater-dependent ecosystems 	Part 7 Division 3
<ul style="list-style-type: none"> restricting the construction of new groundwater water supply works near other groundwater water supply works 	Part 7 Division 3
<ul style="list-style-type: none"> prohibiting trade within specified environmental constraints including prohibiting trade into waterfront land, the hydrological catchment of the Cooper Creek or within or upstream of Ramsar or Significant wetlands. 	Part 8

Table 5. How the plan promotes the water management principle of section 5(2)(e) and (f) – geographical and other features of Aboriginal significance and of major cultural, heritage or spiritual significance should be protected

How we have promoted the principle in section 5(2)(e)	Relevant plan provisions
The plan protects features of Aboriginal significance and major cultural, heritage or spiritual significance by:	n/a
<ul style="list-style-type: none"> specifying social, cultural, and Aboriginal objectives, strategies and performance indicators 	Part 2
<ul style="list-style-type: none"> recognising water required to satisfy native title determinations and providing for amendment if there is a determination of native title in the future 	Part 3 Division 1 Part 10
<ul style="list-style-type: none"> giving priority to current and future basic landholder rights by targeting extraction limit compliance actions at unregulated river or aquifer access licences only 	Part 3 Division 1 Part 4 Division 2
<ul style="list-style-type: none"> allowing a person to apply for an aquifer (Aboriginal community development) access licence 	Part 5
<ul style="list-style-type: none"> allowing a person to apply for a specific purpose access licence for Aboriginal cultural purposes, which could be used to provide water to these features 	Part 5
<ul style="list-style-type: none"> prohibiting the construction of new groundwater water supply works near groundwater-dependent culturally significant areas 	Part 7 Division 3
<ul style="list-style-type: none"> protecting groundwater-dependent culturally significant areas and water-dependent Aboriginal cultural assets. 	Part 10
While planned environmental water rules may not target Aboriginal outcomes specifically, they provide flows which may help to achieve Aboriginal cultural outcomes.	See Table 1

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Table 6. How the plan promotes 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:	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 which provide water for community and economic benefit 	Part 4 Division 2
<ul style="list-style-type: none"> defining a LTAAEL for the groundwater source that is more than the current water requirements, providing for potential new entitlements subject to controlled allocations under the WM Act 	Part 3 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"> allowing a person to apply for an aquifer (Aboriginal community development) access licence 	Part 5
<ul style="list-style-type: none"> restricting the construction of new groundwater water supply works near existing groundwater water supply works. 	Part 7 Division 3
The plan protects basic landholder rights by:	n/a
<ul style="list-style-type: none"> not affecting basic landholder rights if there is non-compliance with a LTAAEL. Instead, available water determinations for only unregulated river access licences and aquifer access licences are reduced if necessary 	Part 4 Division 1 Division 2
<ul style="list-style-type: none"> protecting low flows from surface water licenced extraction for the environment and basic landholder rights 	Part 6 Division 4
<ul style="list-style-type: none"> restricting the construction of new groundwater water supply works near a groundwater supply work used to take water solely for basic landholder rights 	Part 7 Division 3
<ul style="list-style-type: none"> allowing change to the plan to give effect to, or in connection with, a determination of native title under the <i>Native Title Act 1993</i> of the Commonwealth. 	Part 10

Table 7. How the plan promotes 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 inform whether the plan rules are being applied and remain fit for purpose.	WM Act Sections 43A and 44

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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
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 such as the updating of the High Priority Groundwater-dependent Ecosystem Map to reflect new information about an ecosystem.	Part 10

Table 8. How the plan promotes 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 ecosystems by the provisions set out in Table 1.	See Table 1

Table 9. How the plan promotes 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 protects basic landholder rights by:	n/a
<ul style="list-style-type: none"> not affecting basic landholder rights if there is non-compliance with a LTAAEL, instead available water determinations for only unregulated river access licences and aquifer access licences are reduced if necessary 	Part 4 Division 1 and Division 2
<ul style="list-style-type: none"> protecting low flows from surface water licenced extraction for the environment and basic landholder rights 	Part 6 Division 4
<ul style="list-style-type: none"> restricting the construction of new groundwater supply works near a groundwater supply work used to take water solely for basic landholder rights 	Part 7 Division 3
<ul style="list-style-type: none"> allowing change to the plan to give effect to, or in connection with, a determination of native title under the <i>Native Title Act 1993</i> of the Commonwealth. 	Part 10

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Table 10. How the plan promotes 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 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 [Barwon Darling and West Region water sharing plan webpage](#).

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