

Changes to multiple water sharing plans

A summary of changes made to multiple water sharing plans in October 2024.

The NSW Government has amended multiple water sharing plans to:

1. Address drafting inconsistencies in plans for the making of available water determinations to ensure the Ministers discretion is not fettered in making such determinations
2. Ensure rules relevant to flood works located within a declared floodplain apply equally to an application to amend a water supply work approval when the work is both a flood work and water supply work
3. Ensure that rules for granting an Aboriginal cultural access licence provide greater certainty to Aboriginal people and communities
4. Allow for administrative subdivisions of water supply work approvals nominated by a floodplain harvesting access licence.

Additionally, we’ve made changes to address a drafting error which incorrectly excluded part of the declared Regulated River in the *Water Sharing Plan for the NSW Border Rivers Regulated River Water Source 2021* and to correct an anomaly in the way reductions to water allocations held in storage to account for evaporative losses are applied in the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*.

A water sharing plan may be amended under section 45 (1) (a) and (b) of the *Water Management Act 2000* (WM Act) by the Minister for Water if the minister is satisfied that it is in the public interest to do so, or if the relevant water sharing plan provides for such an amendment. The minister must obtain the concurrence of the Minister for the Environment before making such an amendment (section 45 (3)).

Table 1 summarises these amendments.

Table 1. Summary of changes to the water sharing plans

Clause	Section 45 (1) change in amended plan	Basis for change
Part 1: Introduction Water Sharing Plan for the Border Rivers Regulated River Water Source 2021	(b)	The current Border Rivers Regulated River Water Sharing Plan 2021 incorrectly excludes part of the declared regulated river. The amendment ensures the plan includes waters in the Severn River downstream of the Pindari Dam Wall to its junction with the Macintyre River.
Part 6 or 7: Limits to the availability of water Various water sharing plans	(a)	The amendments ensure consistency of available water provisions to minimise any risk that the Minister for Water would be unable to make a reduced available water determination other than when there is non-compliance with extraction limits

Clause	Section 45 (1) change in amended plan	Basis for change
Part 7 or 9: Rules for granting access licences and water supply work approvals Various water sharing plans	(a)	The amendments ensure that rules in a floodplain management plan apply to an application to amend a water supply work approval for a work located within a declared floodplain that is both a flood work and water supply work. Floodplain management plans set rules for where flood works may and may not be constructed, for example to prevent adverse impacts from changing the flow of floodwaters. The amendments to various water sharing plans ensure that this intent is carried through to the water sharing plan provisions.
Part 7: Rules for granting access licences All water sharing plans (excluding those being remade at 1 July 2024) All water sharing plans	(a)	Some Aboriginal communities have expressed concern that they may inadvertently break the law if they use an Aboriginal cultural licence primarily for cultural purposes, but the communities gain a secondary, ancillary or incidental commercial benefit. The amendment to water sharing plan provides greater certainty to Aboriginal people and communities in this regard. It clarifies that, where applications for new specific purpose access licences of a subcategory “Aboriginal cultural” are made, commercial benefit can be obtained from the taking or use of the water if that commercial benefit is ancillary or incidental to the cultural purpose for which the water was taken.
Part 9 or 10: Access licence dealing rules Various water sharing plans	(a)	This amendment to several water sharing plans allows for the administrative subdivision of a water supply work approval nominated by a floodplain harvesting access licence. This allows for the newly created (subdivided) approval to be nominated by the existing floodplain harvesting access licence under a section 71W dealing, providing the new approval does not authorise any works in addition to those that were authorised by the original approval.
Part 8: Operation of water allocation accounts and managing access licences Water Sharing Plan for the Lachlan Regulated River Water Source 2016	(a)	This amendment extends the application of the evaporative loss reduction to any allocations in a regulated river (high security) access licence account that have been transferred in from the ‘carry over’ allocations from a regulated river (general security) access licence. It closes an unintended loophole evaporative loss accounting framework within the water sharing plan and clarifies how the rule will be implemented.

Why we have made these changes

We have made these amendments to:

- provide administrative clarity on the operations of the Available Water Determination rules
- ensure rules in floodplain management plans designed to protect floodplain ecosystems and life and property are applied in water sharing plans
- provide greater clarity and protection for Aboriginal people and communities, and specifically allow for a secondary or consequential economic benefit from the use of an Aboriginal cultural access licence
- provide greater flexibility in measurement options to floodplain harvesting access licence holders by allowing for an administrative amendment of a water supply work approval, and
- correct errors in the *Water Sharing Plan for the Border Rivers Regulated River Water Source 2021* and the *Water Sharing Plan for the Lachlan Regulated River Water Source 2016*.

The process for changing water sharing plans

As well as the approval of the Minister for Water, amending a plan requires the agreement of the NSW Minister for Environment (this is known as ‘concurrence’). Consistent with section 9 of the WM Act, when amending a water sharing plan the ministers must:

- take all reasonable steps to promote the water management principles of the WM Act and
- give priority to the principles relating to water sharing according to the order they are set out in under section 5 (3) of the WM Act.

The water sharing management principles under s5(3) of the WM Act are (in their 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 Water group of the NSW Department of Climate Change, Energy, the Environment and Water worked with colleagues in the department’s Biodiversity, Conservation and Science group to develop the amendments before submitting the plans for the agreement and approval of the ministers.

More information

To read the amended water sharing plans and supporting fact sheet, visit the department’s [website](#).

To read the water sharing plans amendment protocol, visit

https://water.dpie.nsw.gov.au/data/assets/pdf_file/0004/509863/water-sharing-plan-amendment-protocol.pdf.