

# Compliance with the ministers' duty under section 9 of the Water Management Act 2000 - amendment of multiple water sharing plans

The NSW Government has amended multiple water sharing plans. This document explains how the ministers have promoted and given effect to 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 the 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 obtained the agreement of the Minister for the Environment to amend multiple water sharing plans (the plans). 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 the water source and dependent ecosystems

In the plans, there are 2 key mechanisms for protecting water sources and dependent ecosystems:

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

## How water sharing in the plan protects basic landholder rights

The plans protect landholders' ability to exercise basic landholder rights by identifying the current and future 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 the water management principles have been promoted and given effect to

The NSW Government has changed multiple 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 apply to an application to amend a water supply work approval for a work that is located within a declared floodplain and is both a water supply work and flood work.
3. Ensure rules that apply to the granting of Aboriginal Cultural access licences provide greater certainty for Aboriginal people and communities and clarify that 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.
4. Allow for an administrative subdivision of a water supply work approval nominated by a floodplain harvesting access licence.

Additionally, amendments are proposed 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*.

Refer to the summary of changes fact sheet for more details.

In undertaking these amendments, the NSW Government has taken all reasonable steps to promote the water management principles set out in the WM Act and to make the multiple water sharing plan reflect these principles. Refer to the tables below for details. Principles that are not affected by this amendment are not included below. Where amendments are purely to correct administrative drafting errors these are not addressed below.

Table 1. How the plan changes promote 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 (note Part numbers may vary dependent on individual plans)
The amendments aim to protect and restore dependent ecosystems through the provision of water for the environment and contains rules to:	See below

How we have promoted the principle in Section 5(2)(a)	Relevant plan provisions (note Part numbers may vary dependent on individual plans)
<ul style="list-style-type: none"> <li>Maintain plan limits (that is, a limit on how much water users can take and setting aside the remaining water for the environment) using available water determinations. The amendments make these rules more consistent across plans and ensure the Ministers discretion is not fettered</li> </ul>	Part 6
<ul style="list-style-type: none"> <li>Protect flood-dependent ecosystems within declared floodplains by applying the relevant rules contained in the floodplain management plans to works that are both a flood work and water supply work</li> </ul>	Part 7 (regulated river plan) or Part 9 (unregulated river plan)

Table 2. How the plan changes promote the 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 amendments protect and restore animals, and habitats.	See Table 1 above for principle 5(2)(a)

Table 3: How the plan changes promote 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 (note plan parts may differ for individual plans)
Rules for making available water determinations in accordance with the priorities in the WM Act. Water available for extraction is reduced if plan limits are exceeded. Amendments of these rules make these more consistent across plans and ensure the Ministers discretion is not fettered.	Part 6
<p>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.</p> <p>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.</p>	Part 7 or 9

Table 4. How the plan changes promote the water management principles 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 (note plan parts may differ for individual plans)
<p>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.</p> <p>Rules for granting specific purpose access licences (Aboriginal cultural). Amendment to these rules to ensure greater certainty to Aboriginal people and communities when applying for this category of licence.</p>	Part 7 or 9

Table 5. How the plan changes promote 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 (note plan parts may differ for individual plans)
<p>The amendments maximise the social and economic benefits to the community and contain provisions to:</p> <ul style="list-style-type: none"> <li>Clarify the Minister's unfettered discretion to 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.</li> <li>Improve social and economic benefits to Aboriginal communities through changes to the rules for Aboriginal cultural access licences.</li> <li>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.</li> </ul>	<p>See below</p> <p>Part 6, 7 or 9</p>

Table 6. How the plan changes promote 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 (note plan parts may differ for individual plans)
<p>The amendments ensure water is committed and identified as planned environmental water by establishing:</p> <ul style="list-style-type: none"> <li>Rules for making available water determinations in accordance with the priorities in the WM Act. The amendments make these rules more consistent across plans and ensure the Ministers discretion is not fettered</li> </ul>	<p>See below</p> <p>Part 4, 6</p>

How we have promoted the principle in Section 5(3)(a)	Relevant plan provisions (note plan parts may differ for individual plans)
<ul style="list-style-type: none"><li>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.</li></ul>	Part 7 or 9

## More information

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

To read the protocol for changing 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](https://water.dpie.nsw.gov.au/_data/assets/pdf_file/0004/509863/water-sharing-plan-amendment-protocol.pdf).