

Changes to the NSW Murray Lower Darling regulated water sharing plan

A summary of the changes made to the *Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Sources 2016*

The NSW Government replaced or amended all water sharing plans for groundwater and unregulated river water sources within the Murray–Darling Basin on 1 July 2020. The NSW Department of Planning and Environment is now completing a similar process for regulated river sources within the Basin, including the *Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2016*.

The department initially submitted draft updates to the *Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2016* to the Murray-Darling Basin Authority (MDBA) in June 2020 as part of the NSW Murray and Lower Darling Surface Water Resource Plan. We added further changes in 2022 to meet the requirements for the *Basin Plan 2012* (the Basin Plan) accreditation process. Table 1 details the changes made in 2020 and 2022.

The NSW Government is submitting NSW’s water resource plans to the MDBA for accreditation. The changes to water sharing plans are part of this accreditation process. To learn more, refer to the section ‘Why we have made these changes’.

Table 1. Summary of changes to the *NSW Murray and Lower Darling Regulated Rivers Water Sharing Plan 2016*.

Clause	Plan as submitted to the MDBA in June 2020	Plan as amended in 2022	Basis for change
30 - Long-term average sustainable diversion limits	Only included subclause in reference to 6.05 of the Basin Plan in relation to shared reduction.	We inserted a new subclause to also recognise adjustment of the sustainable diversion limits under section 6.05A of the Basin Plan.	Brings clause 30 in line with Basin Plan requirements.
33 - Action following non-compliance	No change at the time.	We have added that the department must consult the NSW Environmental Water Manager (EHG) before acting.	This allows EHG as well as water user representatives and the operator (WaterNSW) to give input before the department acts to address non-compliance with either the long-term average annual extraction limit or the long-

			term average sustainable diversion limit.
Part 10 – Environmental water allowances	We changed the release rules for the environmental water allowances (EWAs) to remove operator discretion.	No further change.	This change will help make sure that the operator delivers EWA water in line with procedures established by the Minister.
Part 10, Division 1 – Barmah-Millewa EWA	We have expanded provisions requiring the operator to maintain a Barmah-Millewa EWA in the Murray Water Source – without any changes to the existing separate operating rules.	No further change.	This change further details operating rules for the EWA consistent with those established through the <i>New South Wales and Victorian Operating Rules for the Barmah-Millewa Forest Environmental Watering Allocation (2021)</i> . The management of the Barmah-Millewa Allowance is a shared NSW and Victorian responsibility.
63 – River Murray Increased Flows Account	We added provisions to recognise River Murray Increased Flows (RMIF) as a new planned environmental water account, to be operated consistently with current temporary rules. The Plan also allows for the Minister to consider creating a new licensed entitlement for RMIF water in lieu of the planned environmental water provisions at a future date.	No further change.	The RMIF volume was recovered prior to commencement of the Basin Plan in 2012 and has been operating under temporary rules since that time. The changes establish permanent operating rules for the account.
64 – Lower Darling EWA	We have added provisions to broaden the permissible uses of the Lower Darling EWA.	No further change.	This change will allow the EWA to be used to address any water quality issue in this water source.
66 – Maintenance of water supply	No review provision included.	Allows for a review of the specified period of lowest accumulated inflows to the water sources for system operation.	Requires a review to consider concerns about the drought sequence underpinning water sharing plan allocations and operations. Provides for a possible future change if necessary to

			protect the critical needs of basic landholder rights, domestic and stock access licence holders and local water utility access licence holders.
71 – Prerequisite policy measures	We have added provisions that enable the implementation of the Prerequisite Policy Measures (PPMs), including the reuse of environmental flows, and ‘piggybacking’ of environmental water on natural (uncontrolled) flows.	No further change.	Prerequisite policy measures are legislative and operational rule changes that seek to maximise the beneficial outcome of water recovered for the environment under the Basin Plan.
72 – Lower Darling River Flow Restart Allowance	We have added provisions requiring the operator to maintain a Lower Darling restart allowance whenever the total volume stored in Menindee Lakes falls below 480,000 ML and the Lower Darling River has ceased to flow at Weir 32 (425012) for at least ten consecutive days.	No further change.	This allowance will help to manage re-commencement of flows following a period of no flow, to minimise risks to water quality and aquatic species.
73 – Inter-valley trade rules	We have added a provision to enable the Minister to establish inter-valley trade procedures.	No further change.	If established, inter-valley trade procedures would formally set out the operational rules for managing the water supply system to facilitate access licence dealings between the water sources and other water sources.

Why we have made these changes

The accreditation process for water resource plans

The NSW Government is working with the Australian Government to progress accreditation of NSW water resource plans. All state legislative instruments that form part of an accredited water resource plan, such as water sharing plans, must start before the water resource plan is accredited. NSW has been progressing the amendment of NSW water sharing plans submitted as part of the water resource plans. All groundwater and unregulated river water sharing plans within the Murray Darling Basin were replaced or amended on 1 July 2020.

The NSW Government originally drafted and publicly exhibited updates to the *Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2016* as part of the NSW Murray and Lower Darling Surface Water Resource Plan in 2019. We addressed issues raised relating to the water sharing plan and sought further feedback from the stakeholder advisory panel in March 2020. We then submitted a final draft of the amended water sharing plan to the MDBA in June 2020 for accreditation assessment as part of the water resource plan. For information on this process and documentation, visit the NSW Department of Planning and Environment's website at [NSW Murray and Lower Darling Surface Water Resource Plan - Water in New South Wales](#). This includes the June 2020 drafted water sharing plan and a summary of changes to the plan to that point.

As part of the accreditation process for water resource plans, the MDBA wrote to the NSW Minister for Lands and Water to advise on the outcomes of its assessment. The MDBA did not identify any issues that would result in further changes to the draft amended *Water Sharing Plan for the New South Wales Murray and Lower Darling Regulated Rivers Water Sources 2016* as submitted for accreditation. However, there were changes needed to other aspects of the water resource plan.

The process for changing water sharing plans

Amending a water sharing plan requires the approval of the NSW Minister for Lands and Water and the agreement of the Minister for the Environment and Heritage. Consistent with section 9 of the *Water Management Act 2000* (the WM Act), when amending a water sharing plan the ministers must:

- take all reasonable steps to promote the water management principles of the 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 order of their priority):

1. Sharing of water from a water source must protect the water source and its dependent ecosystems.
2. Sharing of 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 paragraphs (a) and (b).

The NSW Department of Planning and Environment's Water group worked with colleagues in the department's Environment and Heritage group to develop the changes before submitting the plans for the agreement and approval of the ministers.

The amendments made to the water sharing plan:

- meet the requirements for the Basin Plan accreditation process
- simplify and modernise its drafting
- make the intent of some provisions clearer
- provide a legally robust plan.

More information

To read the water sharing plan and supporting fact sheets, visit

www.industry.nsw.gov.au/water/plans-programs/water-sharing-plans/status/murray-region/.

To read the water sharing plan amendment protocol, refer to the fact sheet

www.industry.nsw.gov.au/_data/assets/pdf_file/0004/509863/water-sharing-plan-amendment-protocol.pdf.