

Summary of changes

A summary of changes made to the Border Rivers Unregulated River water sharing plan

The Minister for Water, with the agreement of the Minister for the Environment, made a replacement water sharing plan for the Border Rivers Unregulated River Water Sources, which commenced on 1 July 2024 and replaced the previous 2012 plan. The table below outlines the substantive changes from the previous 2012 plan. In drafting the replacement plan, the plan was also updated to simplify and modernise its drafting, make the intent of its provisions clear, and improve its legal robustness.

Table 1. Summary of changes to the Water Sharing Plan for the NSW Border Rivers Unregulated River Water Sources

Part in 2012 plan	Change in 2024 plan	Basis for change
Part 1 Introduction	The commencement date has been replaced with the new date of 1 July 2024.	The commencement date has been changed to 2024 to reflect that the plan has been remade rather than amended. This means that the 2012 plan was repealed. In line with the <i>Water Management Act 2000</i> (WM Act), Section 43, the new plan will be in place for 10 years from the date of 1 July 2024, or until the end of June 2035 if the new plan commences after 1 July 2024. It should be noted that the plan can be amended, if necessary, within the 10-year term.

Part in 2012 plan	Change in 2024 plan	Basis for change
<p>Part 1 Introduction</p>	<p>We established new management zones in the Mole River and Inverell Water Sources.</p> <p>The Mole River Water Source has been subdivided into:</p> <ul style="list-style-type: none"> • Mole River Management Zone 1 • Mole River Management Zone 2. <p>The Inverell Water Source has been subdivided into:</p> <ul style="list-style-type: none"> • Upstream Dintonvale Road Crossing Management Zone • Downstream Dintonvale Road Management Zone. 	<p>This change allows the zones within these water source to be managed under different access rules.</p>
<p>Part 1 Introduction</p>	<p>New trading zones have been established in the Inverell Water Source.</p> <p>The new trading zones in the Inverell Water Source are:</p> <ul style="list-style-type: none"> • Upstream Macintyre River trading zone • Downstream Macintyre River trading zone • Upstream Macintyre River tributaries trading zone • Downstream Macintyre River tributaries trading zone 	<p>New trading zones have been established in the Inverell Water Source allow dealings (trade) rules to align with the newly established management zones.</p>

Part in 2012 plan	Change in 2024 plan	Basis for change
<p>Part 2</p> <p>Vision, objectives, strategies and performance indicators</p>	<p>We revised the vision, objectives, strategies and performance indicators.</p> <p>We made minor changes to reflect that not all strategies may apply to the plan.</p> <p>We added a requirement for the Minister to prepare a monitoring, evaluation and reporting (MER) plan. The MER plan is to be published by 30 June 2025 and each year the Minister is to publicly report on the implementation of the water sharing plan, including progress against the MER plan.</p> <p>Additionally, evaluation reporting is to be undertaken by year nine of the water sharing plan.</p>	<p>The Natural Resources Commission (NRC) recommended review of the plan objectives to strengthen Monitoring, Evaluation and Reporting (MER) of the plan outcomes. The proposed vision, objectives, strategies and performance indicators deal with similar matters to the previous water sharing plan but are changed to more clearly distinguish between the environmental, economic, social and Aboriginal objectives.</p> <p>More detail about the logical connections between plan vision, objectives, strategies, performance indicators and intended plan outcomes will be included in the MER plan. The MER plan will provide details on monitoring, evaluation and reporting activities designed to meet the requirements of Part 2 of the water sharing plan within available resourcing.</p> <p>The annual reporting will provide transparency on the implementation of the MER activities, while the reporting in year 9 of the Plan will provide transparency on how the plan’s vision, objectives, strategies and performance indicators are being met.</p>
<p>Part 3</p> <p>Bulk access regime</p>	<p>We removed this section of the plan.</p>	<p>This provided no additional information than already exists in the WM Act or elsewhere in the water sharing plan. This simplifies the plan.</p>

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Part in 2012 plan	Change in 2024 plan	Basis for change
Part 4 Planned environmental water provisions	<p>We have distributed the planned environmental water provisions throughout the plan into Part 4 – Limits to the availability of water and Part 6 – Operation of water allocation accounts and managing access licences.</p> <p>The planned environmental water provisions are identified by clauses at the commencement of the relevant section.</p>	<p>We have simplified the drafting of water sharing plans and have distributed the environmental water provisions throughout the plan rather than in a specific part for planned environmental water.</p> <p>The legal effectiveness of the provisions is unchanged.</p>
Part 5 Requirements for water	<p>Now Part 3.</p> <p>We updated the estimates of water required under basic landholder (domestic and stock) rights.</p> <p>We updated licensed water requirements.</p>	<p>The new basic landholder rights estimates are expressed in megalitres per year instead of megalitres per day and reflect updated land use since the 2012 plan commenced. In some water sources the estimates have increased and in other they have decreased.</p> <p>Changes to licensed water entitlements since the 2012 plan commenced are reflected.</p>
Part 6 Division 2 Long-term average annual extraction limits	<p>Now Part 4, Division 2</p> <p>We updated drafting of the long-term average annual extraction limit (LTAAEL) provisions, but no material changes have occurred to these.</p>	<p>We have simplified the drafting of LTAAEL provisions and removed unnecessary detail.</p>
Part 6 Division 3 Long-term average sustainable diversion limit	<p>Now Part 4, Division 2</p> <p>We updated drafting of the long-term average Sustainable Diversion Limit (SDL) provisions, but no material changes have occurred to these.</p>	<p>We have simplified the drafting of SDL provisions, removed unnecessary detail and included references to appropriate sections of the Basin Plan 2012 and the <i>Water Act 2007</i> (Commonwealth).</p>

Part in 2012 plan	Change in 2024 plan	Basis for change
<p>Part 6</p> <p>Division 4</p> <p>Compliance with extraction and diversion limits</p>	<p>Now Part 4, Division 2</p> <p>We updated drafting of the LTAAEL and SDL compliance provisions, but no material changes have occurred to this Part.</p>	<p>We have simplified the drafting of the compliance provisions and removed unnecessary detail.</p>
<p>Part 6</p> <p>Division 5</p> <p>Available water determinations</p>	<p>Now Part 4, Division 1</p> <p>We made changes so that the plan requires the minister to consider making available water determinations (AWDs) as set out in these provisions rather than requiring the minister to make AWDs at a certain time.</p>	<p>A provision cannot require the minister to make AWDs at a certain time, as that is fettering the minister’s broad power in section 59 of the WM Act.</p>
<p>Part 7</p> <p>Rules for granting access licences</p>	<p>Now Part 5</p> <p>We have made changes to the Aboriginal cultural specific purpose access licence provisions.</p>	<p>The changes clarify that any secondary or incidental benefit gained from take under an Aboriginal cultural access licence is permitted.</p>
<p>Part 8</p> <p>Division 2</p> <p>Access rules</p>	<p>Now Part 6</p> <p>We added provisions to protect replenishment flows in the Boomi River. The new provisions:</p> <ul style="list-style-type: none"> • prohibit share components in the Croppa Creek and Whalan Creek Water Sources from accessing those flows • reflect that WaterNSW will notify water access licence holders when replenishment flows are being released. 	<p>These provisions protect replenishment flows from licenced extraction once they enter the Boomi River.</p> <p>They ensure affected licence holders are notified when access is being restricted due to replenishment flows.</p>

Part in 2012 plan	Change in 2024 plan	Basis for change
<p>Part 8 Division 2 Access rules</p>	<p>Now Part 6</p> <p>We added a Very Low Flow Class for the Mole River, Inverell and Glen Innes Water Sources.</p> <p>We added a Division to establish these flow classes and a schedule (Schedule 1) tabling the flow classes.</p>	<p>These water sources have been managed based on a cease to pump (CtP) when there is no visible flow. The changes introduce cease to pump rules based on flow rates at specified gauges for the Glen Innes Water Source and the upstream management zones of the Inverell and Mole River water sources.</p> <p>For the Mole River Management Zone 1, a 1ML/day CtP rule has been applied at the Deepwater at Bolivia gauge (416023).</p> <p>For the Upstream Dintonvale Road Crossing Management Zone, a 1 ML/day CtP rule has been applied of at the Macintyre at Inverell gauge (416016).</p> <p>For the Glen Innes Water Source, a 1ML/day CtP rule has been applied at the Severn at Fladbury gauge (416023).</p>
<p>Part 8 Division 2 Daily access rules</p>	<p>We removed provisions for total daily extraction limits (TDELs) and individual daily extraction limits (IDELs).</p>	<p>TDELs and IDELs have not been established in this plan so the relevant provisions have been removed. However, an amendment provision to introduce individual daily extraction components (if required) has been retained.</p> <p>CtP rules are the primary tool for protecting low flows and the review of these rules will be the focus when replacing plans.</p>

Part in 2012 plan	Change in 2024 plan	Basis for change
<p>Part 9</p> <p>Rules for water supply work approvals</p>	<p>Now Part 7</p> <p>We have retained prohibition of in-river dams in third order or higher streams in the Beardy River, Bonshaw, Camp Creek, Campbells Creek, Croppa Creek and Whalan Creek, Glen Innes, Mole River, Ottleys Creek, Reedy Creek and Tenterfield Creek Water Sources.</p> <p>An exemption for town water supply purposes only has been added.</p>	<p>The exemption will enable towns the flexibility to improve their water supply security and reliability if required and recognises the priority actions in the NSW Water Strategy relating to town water supply.</p>
<p>Part 9</p> <p>Rules for water supply work approvals</p>	<p>Now Part 7</p> <p>We have included a new rule that prohibits new surface water works within or within 3 km upstream of a Ramsar listed wetland and within significant wetlands identified in the Significant Wetlands map unless, in the minister’s opinion, there will be no more than minimal harm to the wetland.</p> <p>We have more clearly defined the term ‘replacement water supply work’.</p>	<p>Prohibiting new surface water works within or upstream of significant wetlands aims to protect these wetlands from the impacts of water extraction. These rules will not apply to replacement works (as defined in the plan) that are within these distances.</p>
<p>Part 10</p> <p>Access licence dealing rules</p>	<p>Now Part 8</p> <p>We removed 71U and 71V rules that permit interstate trade where there are agreements in place with other states.</p>	<p>These rules are not required in the water sharing plans. Interstate trade is governed by sections 71U and 71V of the WM Act.</p>

Part in 2012 plan	Change in 2024 plan	Basis for change
<p>Part 10</p> <p>Access licence dealing rules</p>	<p>Now Part 8</p> <p>We are permitting limited trade <u>into</u> the following six water sources:</p> <ul style="list-style-type: none"> • Bonshaw (10 ML) • Camp Creek (65 ML) • Campbells Creek (19 ML) • Ottleys Creek (670 ML) • Reedy Creek (15 ML) • Yetman (19 ML). 	<p>These water sources are considered as having medium or low environmental value and hydrological stress. Permitting limited trade into these water sources is consistent with the Access Licence Dealing Principles and will provide some flexibility for licence holders.</p>
<p>Part 10</p> <p>Access licence dealing rules</p>	<p>Now Part 8</p> <p>We have prohibited trades into areas within or within 3 km upstream of a Ramsar listed wetland and into regionally significant wetlands.</p>	<p>This rule aims to protect significant wetlands from the impacts of water extraction by restricting new development and extraction.</p>
<p>Part 10</p> <p>Access licence dealing rules</p>	<p>Now Part 8</p> <p>We have changed trade rules between trading zones in the Inverell Water Source.</p> <p>71Q, 71S(1)(b) and 71T dealing rules between trading zones for the Inverell Water Source have been made to recognise the new trading zones established in the water source.</p>	<p>The change retains the rule of no trade into the Macintyre River tributaries from the Macintyre River but ensures trade between the Upstream and Downstream Management zones are restricted. The boundary of the zones is at the Dintonvale Road Crossing.</p>
<p>Part 11</p> <p>Mandatory conditions</p>	<p>Now Part 9</p> <p>We have simplified provisions relating to mandatory conditions for access licences and water supply work approvals.</p>	<p>To align with the Non-urban Water Metering Framework. The non-urban metering policy was rolled out in the inland northern region on 1 December 2021.</p>

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<p>Part 12</p> <p>Amendment of this plan</p>	<p>Now Part 10</p> <p>We have simplified amendment provisions.</p>	<p>Amendment rules have been limited to those that are possible under the WM Act, where there is a policy being developed that is well advanced that will require a change to the water sharing plan, or where an administrative change is required.</p> <p>Amendment provisions reflect potential changes including those resulting from climate change.</p> <p>The WM Act section 45(1) provides for amendment if:</p> <ul style="list-style-type: none"> • in the public interest • the water sharing plan provides for amendment to be made • required to give effect to a NSW Land and Environment Court decision, or • required under the <i>Commonwealth Water Act 2007</i>
<p>Part 12</p> <p>Amendment of this plan</p>	<p>Now Part 10</p> <p>We have included an amendment provision to review access rules in Mole River Management Zone 2.</p>	<p>The new amendment provision allows for an access rule of up to 1 ML/day (or other appropriate flow rate or level) at a gauge site to be implemented after year 1 of the plan to manage the take of water in the Mole River Management Zone 2, of the Mole River Water Source, if a suitable gauge becomes available. It alternatively allows for another method to be used to manage very low flow access provided that the minister considers it suitable.</p>
<p>Dictionary</p>	<p>Now Schedule 4</p> <p>We have clarified existing definitions and added new ones.</p>	<p>New terms were added, and unnecessary terms were removed.</p>
<p>Schedule 1 (Repealed)</p>	<p>We have added a new Schedule 1 that outlines the flow classes established in the plan.</p>	<p>This aligns with other water sharing plans being remade at the same time.</p>

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Part in 2012 plan	Change in 2024 plan	Basis for change
Schedule 1A and Schedule 3	<p>Now Schedule 3, Table A.</p> <p>We updated <i>Water Act 1912</i> licence numbers with <i>Water Management Act 2000</i> water access licence numbers.</p> <p>We removed access licences within the Glen Innes Water Source, Mole River Management Zone 1 in the Mole River Water Source and in the Upstream Dintonvale Road Crossing Management Zone in the Inverell Water Source.</p>	<p>This aligns with other water sharing plans being remade at the same time.</p> <p>All licences have now been converted to <i>Water Management Act 2000</i>.</p> <p>Removal of access licence in the specific water source and management zones reflects the changes made to access rules in these areas.</p>
Schedule 2	<p>Now Schedule 3, Table B.</p> <p>We updated <i>Water Act 1912</i> licence numbers with <i>Water Management Act 2000</i> water access licence numbers.</p>	<p>This aligns with other water sharing plans being remade at the same time.</p> <p>All licences have now been converted to <i>Water Management Act 2000</i>.</p>
Schedule 4	<p>Now Schedule 2.</p> <p>We updated <i>Water Act 1912</i> licence numbers with <i>Water Management Act 2000</i> water access licence numbers.</p> <p>Management zones have been included where applicable.</p>	<p>This aligns with other water sharing plans being remade at the same time.</p> <p>All licences have now been converted to <i>Water Management Act 2000</i>.</p>
Schedule 5 and Schedule 6	<p>We removed the schedules and the lagoons and wetlands listed in the table are shown on a new wetlands map.</p>	<p>Significant wetlands are being defined by reference to a significant wetlands map.</p>
Schedule 7 Office	<p>Removed</p>	<p>This aligns with other water sharing plans being remade at the same time.</p>
Plan map	<p>We updated the plan map to show some additional features.</p> <p>We removed trading zones – see below.</p>	<p>The plan map shows new features including newly established management zones and an inset overview map of trading zones.</p> <p>The removal of trading zones simplifies the plan map and improves clarity of remaining features.</p>

Part in 2012 plan	Change in 2024 plan	Basis for change
New trading zone maps	We have identified trading zones on a new trading zone map for each water source with trading zones.	This simplifies the plan map and provides greater clarity of trading zone boundaries by providing a map at a more user-friendly scale.
New wetland map	We have identified significant wetlands in a new Significant Wetlands Map.	All wetlands identified in the Significant Wetlands Map will be protected by the rules in the plan which aim to protect Ramsar and other significant wetlands from the impacts of water extraction by restricting new development and extraction in or upstream of these key assets. The map includes lagoons and wetlands previously listed in Schedules 5 and 6 of the 2012 plan.

Why we have made these changes

The *Water Sharing Plan for the NSW Border Rivers Unregulated River Water Sources 2012* was due to expire on 30 June 2022. The plan was extended for a period of up to 2 years to give the department time to replace it. This was in line with the recommendation of the Natural Resources Commission’s review of the 2012 plan.

The process for changing water sharing plans

As well as the approval of the Minister for Water, replacing a plan requires the agreement of the NSW Minister for Environment (this is known as ‘concurrence’). Consistent with Section 9 of the *Water Management Act 2000* (the WM Act), when replacing a water sharing plan the ministers must:

- a. take all reasonable steps to promote the water management principles of the WM Act and
- b. 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):

- 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 draft replacement plan was placed on exhibition from 6 November to 17 December 2023. During public exhibition 3 face-to-face public information sessions and a webinar were held. Seven submissions on the draft plan were received during the public exhibition period. A further 7 submissions were received following targeted consultation with landholders affected by newly proposed rules to protect significant wetlands.

The department's Water group worked with colleagues in the department's Biodiversity, Conservation and Science group (previously Environment and Heritage group) to finalise the replacement plan before submitting the plan for the agreement and approval of the ministers.

More information

To read the *Water Sharing Plan for the NSW Border Rivers Unregulated River Water Sources 2024* and supporting information, visit the department's [water sharing plan status](#) website.