

## Summary of changes

### A summary of changes made to the Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source

The Minister for Water, with the agreement of the Minister for the Environment, made a replacement Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source in July 2024 (the plan). The table below outlines the substantive changes from the previous 2011 plan. In drafting the replacement plan, the NSW Department of Climate Change, Energy, the Environment and Water (the department) also updated the plan 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 Lower Murray-Darling Unregulated River Water Source

Part in 2011 plan	Change in 2024 plan	Basis for change
Part 1 Introduction	The commencement date will be replaced with the new date of 1 July 2024.	<p>The commencement date will be changed to 2024 to reflect that the plan has been remade rather than amended.</p> <p>This means that the 2011 plan will be repealed, and in line with the <i>Water Management Act 2000</i> (WM Act), Section 43, the new plan will go 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.</p> <p>It should be noted that the plan can be amended, if necessary, within the 10-year term.</p>
Part 1 Introduction	We created a section to identify maps that form part of the plan.	To improve clarity and align with the current template.
Part 1 Introduction	We have included reference to the Western Water Management Area.	Most of the plan area is in the Lower Murray-Darling Water Management Area but some is in the Western Water Management Area. The replacement plan refers to both water management areas.

Part in 2011 plan	Change in 2024 plan	Basis for change
<p><b>Part 2</b> <b>Vision, objectives, strategies and performance indicators</b></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 a review to strengthen monitoring, evaluation and reporting (MER) of the plan’s outcomes.</p> <p>More detail about the logical connections between plan vision, objectives, strategies, performance indicators and intended plan outcomes will be included in the monitoring, evaluation and reporting (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. Objectives, strategies and performance indicators are consistent with other water sharing plans being remade.</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><b>Part 3</b> <b>Bulk access regime</b></p>	<p>We removed this section of the plan.</p>	<p>This provides no additional information than that already existing in the WM Act or elsewhere in the water sharing plan.</p>
<p><b>Part 4</b> <b>Planned environmental water provisions</b></p>	<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 sections.</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>
<p><b>Part 5</b> <b>Requirements for water</b></p>	<p>We updated the estimate of water required under basic landholder (domestic and stock) rights.</p>	<p>The new basic landholder rights are expressed in megalitres per year instead of megalitres per</p>

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		day and reflect updated land use since the 2011 plan commenced.
<p><b>Part 5</b> <b>Requirements for water</b></p>	<p>We updated licensed water requirements, including removing references to salinity and water table management access licences.</p>	<p>This reflects changes to licensed water entitlements since the 2011 plan commenced, including Local Water Utility entitlement. Salinity and water table management licences are for groundwater and do not belong in this surface water plan.</p>
<p><b>Part 6</b> <b>Division 2</b> <b>Long-term average annual extraction limit</b></p>	<p>We updated drafting of the Long Term Average Annual Extraction Limit (LTAAEL) provisions, and included a requirement to develop a numerical LTAAEL (an LTAAEL expressed as a specific volume of water).</p> <p>We added a requirement for the Minister to review the numerical LTAAEL, including seeking the advice of the NRC.</p> <p>We also added a requirement for the Minister to consider the “minimum inflow” review and enabled amendments to be made to the plan based on that review.</p>	<p>We have simplified the drafting of LTAAEL provisions and removed unnecessary detail.</p> <p>The development of a numerical LTAAEL implements a recommendation of the NRC and will enable better assessment of compliance with the LTAAEL. The review requirements will help ensure that the LTAAEL reflects a sustainable level of take.</p> <p>The requirement to consider the “minimum inflow” review will ensure that the findings of the review can be used to inform the rules in this plan.</p>
<p><b>Part 6</b> <b>Division 3</b> <b>Long-term average sustainable diversion limit</b></p>	<p>We updated drafting of the sustainable diversion limit (SDL) provisions, but no material changes have occurred to this part.</p>	<p>We have simplified the drafting of SDL provisions, removed unnecessary detail and included references to appropriate sections of the <i>Basin Plan 2012</i> and the <i>Water Act 2007</i> (Commonwealth).</p>
<p><b>Part 6</b> <b>Division 4</b> <b>Compliance with extraction and diversion limits</b></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>

Fact sheet

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<p><b>Part 7</b> <b>Rules for granting access licences</b></p>	<p>We made changes to the Aboriginal cultural specific purpose access licence provision.</p>	<p>This clarifies that any secondary or incidental commercial benefit gained from take under an Aboriginal cultural access licences is permitted.</p>
<p><b>Part 8</b> <b>Division 2</b> <b>Daily access rules</b></p>	<p>The access rule for natural in-river and off-river pools now refers to ‘full capacity’.</p>	<p>The 2011 plan stated that extraction from natural in-river pools could not occur if water in the pool was below “full containment volume”. This was defined as “the volume of water that is impounded.... when the level of the water in the pool...is at the high water mark.” Similarly, the 2011 plan stated that extraction from natural off-river pools could not occur if water in the pool was below full containment volume, except if extraction was from one of the 4 identified lagoons of the plan area. Extraction from these 4 lagoons may occur down to a level at which the pool is 50% full.</p> <p>This term and definition have been removed and are replaced with the standard term ‘full capacity’, which is defined as “the volume of water that is impounded....when the pool....is at the level when a visible flow out of the pool....would cease.”</p>
<p><b>Part 8</b> <b>Division 2</b> <b>Daily access rules</b></p>	<p>We have included provisions that provide for the department to make a notification when environmental water is delivered from the regulated NSW Murray system into Thegoa Lagoon.</p>	<p>The 2011 plan required deliveries of environmental water into Thegoa Lagoon to be protected from extraction but was silent on notice being made of those deliveries. The new plan makes explicit reference to the giving of notice, with the intent of informing relevant licensees of these environmental deliveries and any possible restrictions on pumping.</p>
<p><b>Part 8</b> <b>Division 2</b> <b>Daily access rules</b></p>	<p>We removed 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 TDELs and individual daily extraction components (IDECs), if required, has been included. Cease to pump rules are the primary tool for protecting low flows and review of these rules will be the focus of any future replacement plans.</p>

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<p><b>Part 9</b> <b>Division 1</b> <b>Rules applying to water supply works</b></p>	<p>We have included a new rule that prohibits new surface water supply works within, or within 3 km upstream of, a Ramsar-listed wetland and within other significant wetlands identified in the plan’s 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 areas from the impacts of surface water extraction. These rules will not apply to replacement works (as defined in the plan) that are within these locations.</p>
<p><b>Part 10</b> <b>Access licence dealing rules</b></p>	<p>We have prohibited trades into areas within 3 km upstream of, or within, a Ramsar-listed wetland and into significant wetlands.</p>	<p>These rules aim to protect significant wetlands from the impacts of surface water extraction by restricting new development and extraction.</p> <p>These rules for significant wetlands already applied to the 3 identified lagoons of the plan and Thegoa lagoon. There can be no trade into or between these lagoons.</p> <p>Trade within the same significant wetland is permitted.</p> <p>The 2011 plan and the new plan both allow trade into Great Darling Anabranch, but only if it is for an environmental purpose.</p>
<p><b>Part 11</b> <b>Mandatory conditions</b></p>	<p>We have updated mandatory conditions.</p>	<p>The work approval conditions have been updated to align with the Non-Urban Water Metering Framework 2018 and the water sharing plan template. The non-urban metering policy commenced in the inland southern region on 1 June 2023.</p>

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<p><b>Part 12</b></p> <p><b>Amendment of this plan</b></p>	<p>We have simplified amendment provisions.</p>	<p>Amendment provisions 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 provides for amendment if:</p> <ul style="list-style-type: none"> <li>• in the public interest</li> <li>• required under the <i>Water Act 2007</i> (Commonwealth)</li> <li>• required to give effect to a NSW Land and Environment Court decision, or</li> <li>• the water sharing plan allows amendment to those rules.</li> </ul>
<p><b>Schedule 1</b></p>	<p>We have re-ordered the plan’s schedules. The dictionary is now Schedule 5.</p> <p>Schedule 1 now lists the flow classes.</p>	<p>For improved readability of the plan and to align with other water sharing plans being remade at the same time.</p> <p>In this plan, no flow classes have been established.</p>
<p><b>Schedule 2</b></p>	<p>Schedule 2 now lists access licences exempt from specified access rules. There are no licences of this kind in the plan.</p>	<p>To align with other water sharing plans being remade at the same time.</p> <p>There is no change to the contents of the schedule, which previously appeared as Schedule 4 in the 2011 plan.</p>
<p><b>Schedule 3</b></p>	<p>We relocated the contents of Schedule 3 of the 2011 plan to Schedule 4.</p> <p>This schedule now lists access licences and approvals subject to cease-to-take condition of a former entitlement.</p> <p>There are no licences of this kind in the plan.</p>	<p>To align with other water sharing plans being remade at the same time.</p>

Part in 2011 plan	Change in 2024 plan	Basis for change
<b>Schedule 4</b>	<p>We relocated the contents of Schedule 4 of the 2011 plan to Schedule 2.</p> <p>This schedule now lists the plan’s 3 identified lagoons of Boeill Lagoon, Neilpo Lagoon and Peacock Creek.</p>	<p>To align with other water sharing plans being remade at the same time.</p> <p>Except for these 3 significant wetlands (named as Lagoons or Creeks), we do not use this schedule and instead we define significant wetlands by reference to a significant wetlands map.</p>
<b>Schedule 5</b>	<p>We have removed the list of office locations and replaced this schedule with the dictionary.</p>	<p>To align with other water sharing plans being remade at the same time.</p> <p>We have clarified existing definitions and added new terms and removed unnecessary terms.</p>
<b>Appendices</b>	<p>We have re-ordered the plan’s schedules and removed appendices.</p>	<p>We have simplified the drafting of water sharing plans.</p>
<b>Plan map</b>	<p>We have updated the map and its legend to more clearly show regulated water bodies that do not belong to the plan.</p>	<p>The Plan Map has been revised to clearly show water bodies that belong to the New South Wales Murray and Lower Darling regulated rivers water sharing plan.</p> <p>Some towns and other features have been added or removed to make the map more informative.</p>
<b>Significant wetlands map</b>	<p>We have created and included a new Significant Wetlands Map of internationally, nationally and regionally significant wetlands.</p>	<p>All wetlands identified in the Significant Wetlands Map will be protected by the rules in the plan. This aims to protect Ramsar and other significant wetlands from the impacts of surface water extraction by restricting new development and extraction in or upstream of these key assets.</p>

## Why we have made these changes

The *Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2011* 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 a recommendation of the Natural Resources Commission’s review of the 2011 plan.

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## 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 the 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:

- 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.

A draft replacement plan was placed on public exhibition from 3 October 2023 to 11 November 2023. During public exhibition a webinar and a face-to-face public information session were held. Five submissions on the draft plan were received.

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

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## More information

To read the *Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 2024* and supporting information, visit the department’s [water sharing plan status](#) webpage.