

Compliance with water management principles – Water Sharing Plan for the Lower North Coast Unregulated and Alluvial Water Sources 2022

This document details how the department has complied with the water management principles outlined in the *Water Management Act 2000* in the development of the *Water Sharing Plan for the Lower North Coast Unregulated and Alluvial Water Sources 2022*.

When making or concurring to the making of the *Water Sharing Plan for the Lower North Coast Unregulated and Alluvial Water Sources 2022* (the plan), Ministers have a duty under section 9(1) of the *Water Management Act 2000* (the WM Act):

- (a) to take all reasonable steps to do so in accordance with, and so as to promote, the water management principles of the WM Act, and
- (b) to give priority to the principles for water sharing set out in section 5(3) of the WM Act, in the order in which they are set out in that subsection.

The water management principles that are set out in section 5(3) provide that in relation to water sharing:

- (a) sharing of water from a water source must protect the water source and its dependent ecosystems, and
- (b) sharing of water from a water source must protect basic landholder rights, and
- (c) sharing or extraction of water under any other right must not prejudice the principles set out in paragraphs (a) and (b).

In the plan there are two key mechanisms for protecting water sources and dependent ecosystems:

- The long term average annual extraction limit (LTAAEL) on water taken for each water source. All water in excess of these limits is water protected for environmental benefit.
- Specific plan rules of an operational nature that aim to protect explicit ecosystem functions and /or environmental assets in the water sources. Rules relevant to the plan are detailed in the table below.

Basic landholder rights are also protected under the plan. The plan gives priority to current and future basic landholder rights by ensuring any action to ensure compliance with extraction limits does not apply to these rights.

All reasonable steps have been taken to promote the water management principles set out in the WM Act and to reflect these principles in the plan, as detailed in **Error! Reference source not found.** below.

Table 1. 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
<p>The plan ensures water is committed and identified as planned environmental water by establishing:</p> <ul style="list-style-type: none"> • provisions that provide a physical presence of water in the water source, and • a long-term average annual extraction limit to create a long-term average annual commitment of water as planned environmental water. 	Part 4
<p>In particular, the plan:</p> <ul style="list-style-type: none"> • includes objectives, strategies and performance indicators which measure the effectiveness of plan rules 	Part 2
<ul style="list-style-type: none"> • establishes the rules and arrangements for preserving planned environmental water that is in excess of the long-term average annual extraction limits 	Part 4
<ul style="list-style-type: none"> • establishes rules for making of an Available Water Determination in accordance with the priorities in the WM Act and ensuring extraction is managed within the long term average annual extraction limit 	Part 4
<ul style="list-style-type: none"> • establishes daily cease to take rules that protect very low flows for environmental purposes 	Part 6
<ul style="list-style-type: none"> • prohibits in-river dams in third order or higher streams and above wetlands 	Part 7
<ul style="list-style-type: none"> • establishes the rules for managing the construction and use of supply works to prevent unacceptable impacts on groundwater dependent ecosystems (GDEs) at a local scale. These rules are based on published Australian guidelines for water bore construction and technical assessment of pumping impacts on GDEs 	Part 7
<ul style="list-style-type: none"> • prohibits or conditions the construction of works near sources of contamination as informed by the Australian guidelines for water bore construction 	Part 7
<ul style="list-style-type: none"> • provisions prohibiting groundwater supply works within specified distances of where acid sulphate soils are likely to occur. 	Part 7
<p>The amendments of May 2024 further promote the protection of water sources and dependent ecosystems by:</p>	See below
<ul style="list-style-type: none"> • establishing rules for taking water from different categories of natural and artificial pools that recognise the differing environments, needs, impacts and operations of the various categories of pools, including natural off-river pools, natural in-river pools and artificial pools formed by in-river dams 	Part 6
<ul style="list-style-type: none"> • establishing cease to take rules to protect off-river pools from being drawn-down below full capacity 	Part 6

How we have promoted the principle in Section 5(3)(a)	Relevant plan provisions
<ul style="list-style-type: none"> applying daily cease-to-take rules that protect very low flows from licensed users taking water from pools formed by in-river dams, unless they hold a licence or approval that references the dam 	Part 7
<ul style="list-style-type: none"> maintaining current prohibition of new in-river dams in third order or higher streams except for the purpose of town water supply. 	Part 7

Table 2. How the plan changes promote the water management principles of Section 5(3)(b) - sharing of water from a water source must protect basic landholder rights

How we have promoted the principle in Section 5(3)(b)	Relevant plan provisions
The plan protects basic landholder rights by:	See below
<ul style="list-style-type: none"> exempting basic landholder rights from daily access rules 	Part 6
<ul style="list-style-type: none"> establishing rules for making of Available Water Determinations in accordance with the priorities in the WM Act. 	Part 4
Extraction is managed to the LTAAELs by first setting aside water for basic landholder rights and then applying an available water determination to ensure the sum of basic landholder’s rights and licensed extraction do not exceed the long-term average annual extraction.	Part 4
The plan protects basic landholder rights by establishing the rules for managing the construction and use of water supply works to prevent unacceptable impacts on take from basic landholder rights bores at a local scale. This is informed by the Australian guidelines for water bore construction and the imposition of bore extraction limits to meet the published impact criteria.	Part 7
The amendments of May 2024 further protect basic landholder rights by restricting licensed access to off-river pools during dry periods, therefore reducing demand during critical periods.	Part 6

Table 3. How the plan changes promote the water management principles of Section 5(3)(c) - sharing or extraction of water under any other right must not prejudice the principles set out in paragraphs (a) and (b)

How we have promoted the principle in Section 5(3)(c)	Relevant plan provisions
The rules previously discussed ensure the principles for the protection of planned environmental water and basic landholder rights are upheld.	As above

How we have promoted the principle in Section 5(3)(c)	Relevant plan provisions
<p>Planned environmental water is that volume of water that is in excess of the long-term average annual extraction limits (LTAAELs). Extraction is managed to the LTAAELs by first setting aside water for basic landholder rights and then applying an available water determination to ensure the sum of basic landholder’s rights and licensed extraction do not exceed the long-term average annual extraction.</p>	<p>Part 4</p>

Table 4. 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
<p>The plan aims to protect and restore dependent ecosystems through the provision of water for the environment and contains provisions that:</p>	<p>See below</p>
<ul style="list-style-type: none"> specify the objectives, strategies and performance indicators which will provide measurable evidence of whether outcomes have been achieved 	<p>Part 2</p>
<ul style="list-style-type: none"> identify planned environmental water including by specifying Long Term Average Annual Extraction Limits 	<p>Part 4 and Part 6</p>
<ul style="list-style-type: none"> establish the rules and arrangements for preserving planned environmental water that is in excess of the long-term average annual extraction limits 	<p>Part 4</p>
<ul style="list-style-type: none"> establish the rules for managing the construction and use of supply works to prevent unacceptable impacts on groundwater dependent ecosystems (GDEs) at a local scale. These rules are based on published Australian guidelines for water bore construction and technical assessment of pumping impacts on GDEs 	<p>Part 7</p>
<ul style="list-style-type: none"> establish daily cease to take rules that protect very low flows for environmental purposes. 	<p>Part 6</p>
<p>The May 2024 amendments improve the plan in this respect by establishing cease to take rules for licensed users that protect off-river pools from being drawn-down below full capacity for environmental purposes.</p>	<p>Part 6</p>

Table 5. 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
<p>The plan protects and restores animals, and habitats through water for the environment and the same provisions set out above in respect of section 5(2)(a).</p> <p>The May 2024 amendments further improve this by establishing cease to take rules for licensed users that protect off-river pools from being drawn-down below full capacity for environmental purposes.</p>	<p>Parts 2, 4, 6, 7 and 8</p>

Table 6. How the plan changes promote the water management principles of Section 5(2)(c) - The water quality of all water sources should be protected and, wherever possible, enhanced

How we have promoted the principle in Section 5(2)(c)	Relevant plan provisions
<p>The plan aims to protect and enhance water quality by:</p> <ul style="list-style-type: none"> prohibiting ground water supply works where acid sulphate soils are likely to occur 	<p>Part 7</p>
<ul style="list-style-type: none"> prohibiting or conditioning the construction of works near sources of contamination as informed by the Australian guidelines for water bore construction and the NSW contaminated sites register 	<p>Part 7</p>
<ul style="list-style-type: none"> applying standards to water bore construction to prevent contamination of and between aquifers and prevent flow of saline water between aquifers. This is informed by the Australian guidelines for water bore construction. 	<p>Part 9</p>
<ul style="list-style-type: none"> establishing daily cease to take rules that protect very low flows for environmental purposes including water quality. 	<p>Part 6</p>
<p>The May 2024 amendments further improve this by establishing cease to take rules for licensed users that protect off-river pools from being drawn-down below full capacity for environmental purposes.</p>	<p>Part 6</p>

Table 7. 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
<p>Cumulative impacts are managed through rules limiting total extraction. The plan establishes long-term average annual extraction limits which protect water within the water sources in excess of those limits for environmental purposes.</p>	<p>Part 4</p>

How we have promoted the principle in Section 5(2)(d)	Relevant plan provisions
The plan includes long-term average annual extraction limit compliance provisions that reduce water availability where the extraction limits have been exceeded.	Part 4
The plan provides setback rules to limit construction of new bores within defined distances from identified GDEs.	Part 7
The plan includes access licence dealing rules that allow for a variety of dealings within specified environmental constraints. For example, prohibiting or restricting trade of licences into waters sources assessed as having high risks to instream values.	Part 8
The plan prohibits in-river dams in water sources with assessed high instream values.	Part 7
<p>The May 2024 amendments further consider cumulative impact. The cumulative impacts of amending water access rules for the different categories of pools have been considered and minimised.</p> <p>This has been done by balancing the considerable environmental benefits of establishing new cease to take rules for licensed users that protect off-river pools from being drawn-down below full capacity, with the minor relaxation of rules for some in-river dam users in recognition of their existing operating arrangements. A significant net environmental benefit is anticipated.</p>	Part 6

Table 8. How the plan changes promote the water management principles of Section 5(2)(e) – geographical and other features of Aboriginal significance should be protected – and Section 5(2)(f) – geographical and other features of major cultural, heritage or spiritual significance should be protected.

How we have promoted the principle in Sections 5(2)(e) and 5(2)(f)	Relevant plan provisions
The plan specifies social, cultural, and Indigenous objectives, strategies and performance indicators which will provide measurable evidence of whether outcomes have been achieved.	Part 2
<p>The plan provides for applications for surface and groundwater Aboriginal cultural licences.</p> <p>The plan provides for applications for groundwater Aboriginal community development licences in certain water sources.</p>	Part 5
The plan recognises requirements for water consistent with the exercise of native title rights.	Part 3
The plan gives priority to current and future basic landholder rights by targeting extraction limit compliance actions at unregulated river and aquifer access licences only. This allows BLR extractions to increase. BLR includes native title rights.	Part 4

How we have promoted the principle in Sections 5(2)(e) and 5(2)(f)	Relevant plan provisions
The plan provides setback rules to limit construction of new bores within defined distances from identified groundwater dependent culturally significant areas.	Part 7
The <i>Access Licence Dealing Principles Order 2004</i> also applies to assessment of dealings (trade) of groundwater entitlements and allocations. Dealings are only approved if they do not adversely affect geographical and other features of indigenous significance, or major cultural, heritage or spiritual significance.	<i>Access Licence Dealing Principles Order 2004</i>
The plan provides for amendment if there is a determination of native title in future.	Part 10

Table 9. 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 Sections 5(2)(g)	Relevant plan provisions
The plan maximises the social and economic benefits to the community and contains provisions which:	See below
<ul style="list-style-type: none"> specify economic and social strategies and performance indicators which will provide measurable evidence of whether outcomes have been achieved 	Part 2
<ul style="list-style-type: none"> establish defined long-term average annual extraction limits which provide an amount of water for community and economic benefit 	Part 4
<ul style="list-style-type: none"> establish the percentage of licence shares for each category of licence that may be allocated to water accounts and subsequently taken under licence in any one water year 	Part 4
<ul style="list-style-type: none"> enable applications for licences including Aboriginal cultural and Aboriginal community development licences 	Part 5
<ul style="list-style-type: none"> provide rules for trade of licensed entitlement and account water to allow the market to drive improved economic outcomes 	Part 8
<ul style="list-style-type: none"> 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. 	Part 4
The May 2024 amendments further enhance these by recognising the existing operations of in-river dam water users and allowing licensed users with licences or approvals that reference the dam to continue to operate under their existing conditions.	Part 6

Table 10. How the plan amendments promote the water management principles of Section 5(2)(h) - the principles of adaptive management should be applied, which should be responsive to monitoring and improvements in understanding of ecological water requirements

How we have promoted the principle in Sections 5(2)(h)	Relevant plan provisions
The plan is audited and reviewed at ten-year intervals by the Natural Resources Commission, to indicate if the plan rules remain fit for purpose.	WM Act sections 43A and 44
The plan includes a set of objectives, strategies, and performance indicators. If required, an earlier review of the plan could be triggered based on monitoring of these indicators.	Part 2