

DCCEEW Waters response to the Natural Resources Commission recommendations for the Water Sharing Plan for Namoi and Peel Unregulated Rivers Water Sources

This document outlines how the NSW Department of Climate Change, Energy, the Environment and Water (department) is responding to the independent review of the *Water Sharing Plan for the Namoi and Peel Unregulated Rivers Water Sources 2012* under S43A of the *Water Management Act 2000*. The department is currently publicly exhibiting a draft replacement plan.

Water sharing plans (plans) are statutory instruments under the *Water Management Act 2000* (the WM Act). They prescribe how water is managed to support sustainable environmental, social, cultural and economic outcomes. They intend to provide certainty regarding rules for water sharing for water users over the life of the plan, which is typically 10 years unless they are extended.

The *Water Sharing Plan for the Namoi and Peel Unregulated Rivers Water Sources 2012* (the 2012 plan) is due to expire on 30 June 2025. The Department of Climate Change, Energy, the Environment and Water – Water Group (the department) is publicly exhibiting the draft *Water Sharing Plan for the Namoi and Peel Unregulated Rivers Water Sources 2025* (the draft plan).

The Natural Resources Commission (NRC) has a role under Section 43A of the WM Act to review plans within five years of expiry and report to the minister on:

- the extent that the plan's water sharing provisions have materially contributed to the achievement of, or failure to achieve, environmental, social and economic outcomes
- if changes to plan provisions are warranted.

The final review [report](#) is available on the NRC's website.

Recommendations and suggested actions arising from the NRC review and how the department has responded in drafting the replacement plan are outlined below. Please note that since the NRC

finalised their report, the department has changed its name. References to DPE Water refer to the Department of Climate Change, Energy Environment, and Water - Water Group (the department).

NRC Recommendations

Recommendation 1

The Plan should be:

- a) extended for up to two years until 30 June 2025, to allow time to complete data collection and analysis
- b) replaced by 1 July 2025, supported by the completion of these recommendations.

Department Response

The department welcomes the recommendation to extend the plan for a period of two years to provide for a draft plan based on best available information.

The department accepts this recommendation.

Action taken to address NRC recommendation

Actions during the plan replacement process

The current plan was extended for two years and is due to expire in June 2025.

Recommendation 2

To ensure that water sharing plans are adequately accounting for water usage DPE-Water should:

- a) ensure that water sharing plan provisions account for water at the location it is extracted, at the time it is extracted
- b) review the cross-plan accounting rules to ensure the priorities of the Act are maintained across all plans.

Department response

- a) The plan provisions are relevant to how water is managed in this system.
- b) This relates to the rules that manage usage of Tamworth Regional Council from Chaffey and Dungowan Dams and growth in use, 95 percent of which is accounted for in *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016* (Namoi

Regulated River plan). The growth in the use of Tamworth is spread over the entire Namoi Valley because Tamworth is the Namoi region's major urban and service centre; hence, its growth should also spread throughout the region. The relevant water accounting rules were reviewed and no changes were made.

The department accepts recommendations a) – b).

Action taken to address NRC recommendation

Actions during the plan replacement process

The relevant water accounting rules were reviewed along with discussions with WaterNSW and found fit for the purpose. No changes were required to the draft plan.

Recommendation 3

As part of the replacement Plan, to improve the management of cumulative impact from floodplain harvesting (FPH), DPE-Water should:

- a) quantify total extraction in water sources and management zones, and develop access rules to manage the cumulative risks
- b) assess the cumulative impacts of all unregulated FPH extraction across the Namoi catchment and revise accounts to manage the cumulative risk
- c) review the impact of the Plan's carryover provision on the risk of exceeding Long-term Annual Average Extraction Limits (LTAAELs) and risk to outcomes.

Department response

- a) A future work program would be required to quantify total extraction in water sources and management zones as it is not feasible before the replacement because data is not available within the department or WaterNSW. As the metering program is implemented, this data will be available in the future. Similarly, no data for the extraction under floodplain harvesting (FPH) is available, but it will be measured when the program commences. It will take several years to understand if the cumulative risk has changed.

The department accepts this recommendation in principle.

- b) FPH access licences are just one category of licence. The cumulative impact is managed through a number of plan mechanisms including LTAAEL assessment, access and trade rules.

This recommendation is subject to further consideration

- c) Removing carryover provisions would reduce the value of licences and unnecessarily impact current water users. Without usage information to provide evidence that extraction is exceeding the plan limit, it would be difficult to justify this action.

The department notes this recommendation.

The department has committed to developing a method to determine to identify where there is a risk that extractions have grown and there is a potential LTAAEL compliance issue. The method will be reviewed as metering data becomes available.

Action taken to address NRC recommendation

Actions during the plan replacement process

No further action taken at this time

Changes to the plan

FPH rules have been included in the draft plan with a note explaining these changes will or have been made as an amendment to the current plan by the *Water Sharing Plan for the Namoi and Peel Unregulated Rivers Water Sources Amendment Order 2024*.

Access rules for high-risk water sources and trade rules have been reviewed and updated to reduce the risk to the water source. See Recommendation 12.

Recommendation 4

To inform the replacement Plans by 1 July 2024, DPE-Water should develop a comprehensive water balance, using an overarching modelling framework for the entire Namoi catchment. The modelling framework should inform revised provisions and assess their ability to achieve outcomes and requires functionality to differentiate the extraction and water accounts for each major water source and all sub-catchments. The model needs to link where the risks are generated to where the risks are experienced.

Department response

The recommendation represents a considerable body of work, and resourcing as determined efficient by IPART funding does not enable the department to undertake such a commitment. This recommendation will be considered in the future.

This recommendation is subject to further consideration.

Action taken to address NRC recommendation

Action taken during plan replacement process

No further action taken.

Recommendation 5

To ensure that extraction is managed at the appropriate scale, DPE-Water should:

- a) remake the trading zones as management zones, making the extraction volumes transparent and allowing for access conditions to be set at an appropriate scale.
- b) separate out Pian Creek and Lake Goran as additional sub-catchments.
- c) establish the proposed sub-catchments as extraction management units and develop LTAAELs for each extraction management unit.
- d) ensure provisions such as access rules and carryover rules are appropriately tailored to each sub-catchment and consistent with the priorities of the Act.

Department response

The extractions from unregulated water sources cannot currently be managed due to a lack of extraction data. These recommendations will be considered when extraction data becomes available through the implementation of a metering program. The department is committed to developing a method to determine where there is a risk that extractions have grown and there is a potential LTAAEL compliance issue. The method will be reviewed as metering data becomes available.

This recommendation is subject to further consideration.

Action taken to address NRC recommendation

Actions during plan replacement process

This will be considered in the future when extraction data is available. No further action is required during the replacement process.

Recommendation 6

As a matter of priority, to support sustainable extraction and improve transparency DPE-Water should:

- a) establish accurate numeric LTAAELs to provide clarity around the amount of water that can be extracted or diverted under the water sharing plans and enable compliance assessment.
- b) undertake LTAAEL compliance assessment based on the best available information beginning with extraction management units at high risk for LTAAEL exceedance. This assessment should not be delayed until better information is available, rather it should be done immediately based on information available and continually improved over time.
- c) include a provision in the Plan requiring DPE-Water to determine the sustainable level of extraction by Year 5 based on best available ecological requirements, hydrological and climate information and that these levels are used to define and amend the Plan's LTAAELs for each extraction management unit.

Department response

- a) Actioned, in a longer timeframe than recommended by the NRC. The department is committed to determining numeric values for LTAAELs by December 2026. A provision is included in the draft plan to allow for this amendment. Any changes will have to be considered within the context of the Basin Plan sustainable diversion limits.
- b) There is currently a pilot project investigating using remote sensing to assess the LTAAEL in inland unregulated plan areas, and priority coastal areas. The method has been piloted in the Lachlan and Richmond valleys, and then will be rolled out in the Northern inland and Clarence valleys. The results of the project will inform the extent to valleys are likely to have exceeded / not exceeded their LTAAEL, and whether compliance action is required. The Lachlan pilot will be completed by the end of December 2024, and subject to approval, the results may then be used to consider growth in use actions.
- c) A provision is included in the draft plan to review the LTAAEL by year 5 of the plan term to ensure a sustainable level of take. Any review of extraction limits would need to be undertaken within the framework of the Basin Plan and would likely coincide with a review of sustainable diversion limits for the Namoi Water Resource Plan. The department will seek the advice of the NRC in this review and also consider the outcomes of a current work program informing maintenance of water supply and minimum inflows in regulated river systems. This is a key piece of work in relation to climate considerations within plans.

The department accepts recommendations a)– c).

Action taken to address NRC recommendation

Actions during the plan replacement process

a) Provision is included in the draft plan to allow for LTAAEL amendment. Basic landholder rights estimates have been updated to more accurately reflect current basic landholder rights take.

Changes to the plan

Provisions have been included to:

- determine and publish a numeric LTAAEL by December 2026.
- review the LTAAEL (by year 5) to ensure a sustainable level of take. This work will be undertaken with advice from NRC and take into account the outcomes of the Basin Plan review.
- review the LTAAEL (by year 5) to consider and adapt to climate change.
- allow the plan to be amended to give effect to changes to rules as a result of the reviews.

Other actions

The department is undertaking two pilot unregulated LTAAEL compliance assessments in the Lachlan and Richmond catchments. The method uses the best available information, including remote sensing data, and will be reviewed to include metering data when available. Pending the outcomes of the pilots, the method will be applied to other unregulated water sources. The department has consulted with the NRC on the project plan and intends to consult further on the pilot results, when complete.

Recommendation 7

As part of the replacement Plan, DPE-Water should:

- a) review the Plan's entitlement and estimated basic landholder rights volume and update these figures
- b) continue to update these figures whenever the Plan is being reviewed or amended
- c) undertake a risk assessment if the entitlement and basic landholder rights estimate changes by more than 5 percent in any water source to determine whether Plan provisions remain adequate to protect the water source, the environment and basic landholder rights.

Department response

- a) Updating share components in the plan is a standard part of the replacement process. The data is taken from the access licence register which is the source of licencing information.

The department accepts this recommendation.

- b) The method for estimating Basic Landholder Rights (BLR) is greatly influenced by the number of dwellings located on waterfront land. The estimate is based on the best available information and the department is confident reviewing and updating these numbers at the time of plan replacement remains appropriate.

The department accept this recommendation in principle.

- c) The department's priority will be to undertake LTAAEL compliance assessments for the unregulated plan area. An assessment of actual take (not entitlement) is the most appropriate information to use to determine if Available Water Determinations (AWDs) should be reduced.

The department notes this recommendation.

Action taken to address NRC recommendation

Actions during plan replacement process

BLR estimates and share components have been updated.

Recommendation 8

DPE-Water should ensure the replacement Plan includes requirements for:

- a) AWDs to be set to conservatively if DPE-Water does not annually make and publish a reasonable estimate of extraction and assess compliance with the LTAAEL(s)
- b) proactive AWDs to support sustainable numeric LTAAEL(s) and revision to account management rules (carryover and account limits) to support any AWD changes. These proactive AWDs should be developed in consultation with stakeholders by Year 5 of the replacement Plan.

Department response

It would be inappropriate to include provisions that fetter the minister's discretion in setting AWDs. The 2012 plan specifies what compliance action is to occur when extraction exceeds the plan limit,

which is reducing AWDs for lower priority users (ie. unregulated and/or high flow licence categories). However, the amount of the reduction is not specified in the plan as it varies depending on the amount of exceedance, the licence category driving the growth, and results from hydrologic analysis which are peer reviewed. On this basis alone it would be inappropriate to specify set figures for AWD reductions in the draft plan. It should also be noted that setting AWDs based on the LTAAEL to entitlement ratio would impact more active users, potentially forcing them to immediately enter the market to secure additional water. This would cause unnecessary financial impacts to some licences holders without any evidence to suggest the plan limit has been exceeded. The department's priority will be to undertake LTAAEL compliance assessments.

The department notes this recommendation.

Action taken to address NRC recommendation

Actions during the plan replacement process

No further action taken.

Recommendation 9

To better protect and prioritise town water supplies, DPE-Water should in the next two years:

- a) for transparency include all access rules for town water supplies in the Plan
- b) review additional town water demands from industry and population pressures and the adequacy of existing rules
- c) review the risks to town water supplies (including the latest climate change data) within the Plan and the regulated river, and ensure provisions provide adequate protections for towns
- d) provide a mechanism within the Plan for towns to increase their water security within sustainable limits and review whether there is a need to split industrial usage from domestic water supply to ensure appropriate prioritisation
- e) review and consolidate existing access licence conditions and water supply work approval conditions including Appendix 4 to ensure they protect town water supplies and basic rights
- f) consider whether specific access rules are required in Pian Creek in order to protect replenishment flows and potential water quality benefits of Pian Creek flows for Walgett's water supply water.

Department response

- a) The plans generally do not include detailed access rules for towns. These are licence requirements and are not required to be replicated in the draft plan. As part of the replacement process, the department has reviewed access and trading rules where risks have been identified.
- b) The department notes this recommendation. Town Water Supply (TWS) entitlement is not reviewed for the draft plan. The Safe and Secure Water Program is the government's key infrastructure program targeted at addressing priority town water security, water quality and environment (sewerage) risks in regional NSW. Where augmentations are required to address water security issues, that program is available to assist with funding to meet community and regulator requirements, which can include new or enhanced environmental flow conditions where appropriate. The department's Urban Water team work closely with Local Water Utilities (LWUs) and other organisations to assist with these discussions and negotiations. The outcomes may include ensuring work is undertaken to upgrade infrastructure or reviewing conditions on the licence.

The department accepts this recommendation in principle.

- c) It is important to protect the water supply security. Where unregulated extraction impacts town water security access rules have been reviewed. The department recognises the importance of assessing risks to town water supply and will continue to engage and work collaboratively with local water utilities in the development of strategic plans to address water security requirements.

The department accepts this recommendation.

- d) Limited water trading is available within the plan for water users. The department does not see the need for extra water trading rules for TWUs. It is noted that when section 49(A) of the WM Act is in force, the town water supply licenses have the highest priority among all licensed water users. See answer to b).

The department notes this recommendation.

- e) Review of the schedules and appendices of a plan is a standard part of the replacement plan process.
- f) The department accepts this recommendation. Protection for replenishment flows was considered as part of the replacement process.

The department accepts this recommendation.

Action taken to address NRC recommendation

Actions during plan replacement process

Risks to town water supplies were reviewed, and a request from Walcha Council for carry-over provisions was considered.

Changes to the plan

- a) The carryover provisions for Namoi Unregulated water sources for LWU and Domestic and Stock licences was changed to allow carryover. This will allow efficient use of off-river storage managed by Walcha Council and improve Walcha township's water supply.
- e) Schedules and appendices have been reviewed and updated where appropriate. Where implementation issues are identified with individual access conditions changes to these conditions may be required.
- f) The draft plan includes a provision to protect replenishment flows entering Pian Ck. This will help improve water quality for Walgett Township.

Recommendation 10

To improve the management of connectivity in the replacement Plan, DPE-Water should:

- a) strengthen the definition of connectivity including clarifying that ephemeral streams are highly connected
- b) further assess risks to highly connected water sources
- c) improve Plan objectives by recognising that the Plan should contribute to maintaining and where possible enhancing surface water - groundwater connectivity and the recovery of water levels through groundwater recharge
- d) investigate ephemeral streams in the Plan area and their connected groundwater sources and ensure that water sharing rules mitigate the impacts of surface water extraction on groundwater recharge during periods of low/no flow
- e) use hotspot maps of groundwater decline and observed changes in stream flows to target connected water sources that require linked access rules and ensure surface water access rules protect base flows.
- f) Use the results of the above to revise the Plan rules to ensure connectivity is adequately addressed in the Plan and consider what changes may be necessary to the alluvial plan.

Department response

a) - e) The NSW Groundwater Strategy, NSW has committed to better integrating groundwater management with other land and water management processes. Specifically, Action 1.5.1 of the strategy outlines commitments to manage groundwater and surface water together to:

- improve our understanding of surface water and groundwater connectivity processes.
- including the role of baseflows in supporting riverine environments and stream discharges to groundwater sources, flooding and groundwater recharge.
- achieve better integration of our river system models and groundwater models by improving the underlying assumptions about the physical surface water and groundwater interactions.
- develop a robust approach to manage surface water-groundwater connectivity and access in water sharing plans.
- ensure that surface water and groundwater management plans complement and integrate with each other where feasible.

We will be reviewing our approach and scoping opportunities to improve how we manage groundwater-surface water connectivity and access in plans. This work will be undertaken at a state-wide level in the first instance which will then guide further work. Until that work is complete, we will not commit to specific changes in individual plans.

The department accepts this recommendation in principle.

Action taken to address NRC recommendation

Actions during plan replacement process

The recommendations will be considered during the replacement of *the Water Sharing Plan for Namoi Alluvial Groundwater Sources (2020)*.

Recommendation 11

As part of Plan replacement, to improve connectivity with the Barwon-Darling River: determine the contribution of flows from the unregulated river water sources of the Namoi valley to Barwon-Darling flow targets; include relevant targets in the replacement Plan; and clarify how Plan rules would be implemented to support these targets.

Department response

The department will consider this recommendation in the context of the Connectivity Expert Panel final report. Noting, there is an extensive suite of work underway across the department towards better understanding water flow, access and connectivity including in the Barwon Darling. It should be noted that achieving flow targets in the Barwon Darling is best achieved by restricting access to supplementary water in upstream regulated systems. Access to supplementary announcements is at the minister's discretion and a number of factors are considered before an announcement is made (including the triggers in the WSP).

The department accept this recommendation.

Action taken to address NRC recommendation

Actions during plan replacement process

The department is reviewing the panel's final findings and recommendations and consider next steps. This will include detailed hydrologic and economic modelling of all the panel's proposed changes to fully understand their potential benefits and impacts.

Changes to the plan

An amendment provision has been added to enable rules to be reviewed for water sources identified to support connectivity in the northern basin to protect water sources and their dependent ecosystems across a range of conditions. The review is to be done for Baradine Creek, Brigalow Creek, Bundock Creek, Coghill Creek, Etoo and Talluba Creeks, Lower Namoi and Pian Creek water sources by 2026.

Recommendation 12

As part of Plan replacement, to address the inadequacy of the environmental protection provided by current access rules, DPE-Water should:

- a) review the current hydrometric network to identify where the Plan can reference operational gauges for establishing flow classes and flow-based access rules for water sources that currently have a 'no visible' flow rule
- b) ensure all high environmental value water sources at medium to high risk from extraction have flow-based access rules that support connectivity and adequately protect water sources and their dependent ecosystems

- c) review if conditions attached to current water access licences and works approvals are appropriate to protect high priority needs and ensure any changes to access rules from (a) and (b) are reflected in water access licence/works approval conditions.

Department response

- a) The department recently completed a review of our hydrometric networks in the Murray-Darling Basin, in collaboration with WaterNSW. The review assesses our hydrometric networks within the joint agencies area of operation and responsibility, as well as considering the interests of water stakeholders. This work fulfils requirements under the Murray-Darling Basin Compliance Compact, 2018. A hydrometric Improvement Plan was developed and together with the Commonwealth, we have secured funding to install new equipment and sites. This will update our extensive hydrometric network and make it more robust. Gauges where available, will be considered when reviewing access rules.

The department accept this recommendation.

- b) Access rules for the water sources in the draft plan have been reviewed as part of the replacement process and where there are suitable gauges, rules changes were investigated.

The department accepts this recommendation in principle.

- c) Access rules established by the plan are included as mandatory conditions on relevant unregulated water access licenses. As part of the draft plan water access licence/works approval conditions identified in schedules in the plans were updated to ensure they are appropriate.

The department accepts this recommendation. Action taken to address NRC recommendation

Actions during the plan replacement process

a) & b) Potential gauges were investigated to determine if they were suitable to manage extraction based on gauge reliability, location and hydrological data. Conditions on water access licences as identified in schedules and appendices have been reviewed for currency and functionality. Where implementation issues are identified with individual access conditions changes to these conditions may be required.

Changes to the Plan

Mid Macdonald River Water Source

Macdonald River Downstream Woolbrook Management Zone - increase access rule from 10 ML/day to 15 ML/day as measured at Macdonald River at Retreat Gauge (419028).

Upper Namoi Water Source

Halls Creek Management Zone – increase access rule from 1 ML/day to 2 ML/day as measured at Halls Creek at Ukolan Gauge (419029). Note this change will also apply to alluvial aquifer access licences in the Halls Creek Alluvial Management Zone who are managed by the same access rule (with a 14 day lag) as surface water licence holders.

Macdonald and Namoi Rivers Management Zone – include an additional access of 1 ML/day as measured at Namoi River at North Cuerindi Gauge (419005) and retain the existing access rule based on no visible flow at Manilla Weir.

Upper Peel River Tributaries Water Source

Dungowan Creek Management Zone – increase access rule from no visible to 2 ML/day as measured at Dungowan Creek at Dungowan (419103) for those licences nominating works downstream of Thorntons Rd Road Bridge.

Schedules and Appendices have been reviewed and updated.

Recommendation 13

To improve the provision of replenishment flows and associated environmental and social outcomes in unregulated river water sources, DPE-Water should review the definition of replenishment flows and ensure Plan rules provide protection from access to replenishment flows, except for domestic and stock purposes.

Department response

Replenishment flows are managed via the Namoi Regulated River plan which specifies if and when replenishment flows are provided. The factors that WaterNSW considers when making this decision are not appropriate for inclusion in the plan. The department has suggested that WaterNSW develop and publish operating protocols detailing this information to improve transparency and accountability. This would be similar to protocols for managing supplementary water events. The department agrees to protect access to replenishment flows from being extracted by unregulated river access licences.

The department accepts this recommendation in principle.

Action taken to address NRC recommendation

Changes to the plan

The plan includes rules that provide protection for replenishment flows from extraction by unregulated river access licences.

Recommendation 14

To inform Plan replacement, DPE-Water should investigate the adequacy of current Plan provisions for protecting the environmental values associated with Lake Goran, the impacts of climate change on the lake and its ability to support irrigation, and update Plan provisions to better protect these values where necessary.

Department response

Key considerations for this matter include:

- The department's current assessment is that the Lake Goran is low risk water source.
- The department is currently undertaking a review of the protections in place for priority wetlands. Lake Goran is likely to be included as part of this work.
- Use of satellite imagery has also been investigated as a surrogate to height on a staff

The department accepts this recommendation in principle.

Action taken to address NRC recommendation

Actions during plan replacement process

The staff gauge has been calibrated to satellite imagery.

Lake Goran is included in the WSP prescribed wetlands and will have increased protection in comparison to 2012 plan.

Changes to the plan

A clause protecting WSP prescribed wetlands is included in the draft plan.

Lake Goran is included in WSP Prescribed Wetland Map.

Recommendation 15

To ensure that regionally significant wetlands are protected in the replacement Plan, DPE-Water should:

- a) determine if drawdown provisions for Wee Waa and Gulligal lagoons are adequately protective of environmental and cultural values
- b) remove schedule 1A of the Plan, update drawdown provisions based on the outcomes of the investigations
- c) install hydrometric equipment to monitor water.

Department response

- a) New provisions are included to remove drawdown provisions for Wee Waa and Gulligal lagoons. Existing water users will be provided an opportunity to retain their current access rules which will be included in a Schedule in the plan.

The department will continue to work with Department of Climate Change, Energy, the Environment and Water-Biodiversity Conservation and Science Group (BCS) and the Department of Primary Industries Fisheries and Regional Development to identify wetlands to improve environmental outcomes.

- b) Schedules have been updated in the draft plan. Existing licence holders with approval to drawdown will be added to a schedule. Any new licence holders into the lagoons would not be permitted drawdown. It is very unlikely any additional entitlement would be permitted as trade rules will be tightened to prohibit new access licences and works being granted.
- c) The department periodically identifies high-priority areas for infrastructure improvements, including for its hydrometric network. The department agrees it is important that water-sharing rules are able to be implemented and enforced. The department will continue to work with NRAR to improve compliance costs, and other resource considerations.

The department accepts recommendation a) to c) in principle

Action taken to address NRC recommendation

Actions during plan replacement process

- a) The drawdown provisions for the Wee Waa and Gulligal Lagoons have been removed. Additional wetlands have been identified and new rules to improve protection have been recommended.

Changes to the plan

- New provisions are included to replace the current mandatory drawdown provisions. Existing water users will be provided an opportunity to retain their existing access condition. If retained the licence will be added to Schedule 3. Additionally, the exemption for new works in Gulligal Lagoon will be removed.
- Approximately 273 additional wetlands have been identified as WSP-prescribed wetlands, for additional protections. New rules have been included that prohibit new surface water works and trades into and 3 km upstream of internationally significant (Ramsar) wetlands and into identified wetlands. Trade within these wetlands will be allowed between licences/works within the same significant wetland.
- A map of the WSP prescribed wetlands is included in the draft plan.

Recommendation 16

As part of Plan replacement, include appropriate mechanisms to protect held environmental water that may be used for watering environmental assets in unregulated river water sources.

Department response

The department considered whether additional protection of held environmental water (HEW) in unregulated plans is warranted and which mechanisms would be most appropriate. This was guided by a risk based approach focussing on areas where there is a high risk that HEW will be extracted in unregulated areas. No environmental assets within plan area are supplied with HEW.

The department accepts this recommendation. Action taken to address NRC recommendation in drafting replacement plan

Actions during plan replacement process

No environmental assets in the plan area are supplied with HEW. No further action required.

Recommendation 17

As part of the replacement Plan, to ensure access is equitable within the Plan area and downstream of the Plan, DPE-Water should:

- a) include appropriate minimum cease to pump (CTP) thresholds in the Plan for application to all licences in that water source or management zone, and specify that daily access conditions are mandatory conditions on access licences
- b) implement AWD provisions which require reduction for the licence category which causes LTAAEL exceedance, except for Local Water Utilities and Domestic and Stock licences consistent with the rules in the Namoi Regulated Water Sharing
- c) ensure the Plan recognises FPH can occur on properties that cover multiple water sources and ensure water extraction is accounted for at the location it is extracted.
- d) prioritise and equally protect all town domestic supplies
- e) include explicit equity objectives, strategies and performance indicators.

Department response

- a) Access rules for the water sources in the draft plan have been reviewed as part of the replacement process.
- b) The plan allows reduction for the licence category which causes LTAAEL exceedance.
- c) FPH licences are yet to be issued. However, they will have a share component that specifies a water source and management zone. Water taken under a licence is accounted for through measurement, which is consistent with other licence categories. The department is aware of equity issues associated with FPH in unregulated systems and is currently undertaking work to address those issues. These may not be resolved in time for remake but will be addressed.
- d) When section 49(A) of the WM Act is in force, town water supply licenses have the highest priority among all licensed water users.

The department accepts recommendation a) – d) in principle.

- e) The WM Act is not clear about how to share water equitably and refers broadly about sharing water. The economic objectives and strategies in the plans have interpreted the objects by identifying the need to provide a stable and predictable framework for water sharing among water users, provide flexibility of access to water and by managing to the LTAAEL. Whilst CTP rules are applied to all licences of the same licence category in a water source, equitable share of water in unregulated systems is not really achieved. Unlike regulated systems where water is ordered and deliver, as access is dependent when you are located in the system, infrastructure and pump size or individual conditions on licences/works approvals.

The department notes this recommendation.

Action taken to address NRC recommendation

Actions during plan replacement process

- a) Some access rules have been reviewed and changed. See changes to the draft plan under recommendation 12. Other access rules will be reviewed after year 5.
- b) Rules to manage FPH licences are included in the draft plan.

Changes to the plan

Access rules for high-risk water sources have been reviewed considering new gauges where suitable. Existing flow-based access rules were investigated and amended where appropriate.

Conditions on water access licences as identified in schedules and appendices have been reviewed for currency and functionality.

Recommendation 18

As part of the replacement Plan, to deliver better outcomes for Aboriginal peoples through water management, DPE-Water should:

- a) undertake culturally appropriate engagement with Traditional Owners and knowledge holders
- b) include registered Native Title claims and identify and include water dependent cultural values and uses in the Plan
- c) co-design Plan objectives and rules to protect and support Aboriginal values and uses of water
- d) ensure that the Plan's definition of 'cultural practice' includes trade activities and does not restrict cultural access licences to 10 ML per application
- e) ensure Plan objectives and corresponding provisions are consistent with Priority 2 in the NSW Water Strategy and Closing the Gap targets
- f) when making controlled allocations ensure Aboriginal rights and access including Native Title are prioritised
- g) improve reporting on key performance indicators that increase Aboriginal benefit including external influences (including regulatory action outcomes).

Department response

- a) The department will ensure ongoing engagement with Traditional Owners, communities and relevant stakeholders for the best possible outcomes on Country.
- b) The Department through the Aboriginal Water Program (AWP) intends to work more closely with NTSCORP (the Native Title representative body for NSW) and Native Title holders.
- c) The department is working with Aboriginal groups to co-design and deliver an Aboriginal Water Strategy. The design of the strategy will consider the matters raised by the NRC, including access to water. The department will ensure ongoing engagement with Traditional Owners, communities and relevant stakeholders for the best possible outcomes on Country.
- d) The department's Aboriginal Water Program is investigating measures through legislative and policy reforms to reform the 10ML cultural access licence. This is a state-wide project and will not form part of the Namoi unregulated river plan replacement process.
- e) The Aboriginal Water Strategy engagement commenced in early 2024 and will conclude late in 2024. The final strategy will include an implementation plan and state-wide actions.

The department accepts recommendation a) – e).

- f) The department is currently developing a risk based framework for assessing how unassigned water is managed. The framework would inform how surrendered licences are managed, and if and when controlled allocations orders should be made. Aboriginal access to water rights for cultural and economic needs will be a key factor when assessing how these licences are managed in the future. The NSW Government has in principle agreed to the Inland Water target 15c in Closing the Gap which states that 'by 2031, 3% of national water access entitlement allocated to Aboriginal and Torres Strait Islander Corporations'.

This recommendation is subject to further consideration

- g) Further work is being undertaken by the department to development a cultural Monitoring Evaluation and Reporting (MER) framework.

The department accepts this recommendation.

Action taken to address NRC recommendation

Changes to the plan

The plan can be amended to reflect the outcome of any pending Native Title claims, once determined.

Other actions

To inform these reviews of policy and licensing frameworks, a pilot Cultural Watering Plan program is underway. The program enables the department to gain better understanding the Cultural (and other) watering needs of Aboriginal communities and highlights opportunities and barriers to achieving the desired outcome. Insights from this program will be used to better inform policy and planning decisions to make water more accessible for Aboriginal people. The department's Regional Aboriginal Engagement team is dedicated to improving consultation with Aboriginal stakeholders on water management and planning. The team have established 12 Regional Aboriginal Water Committees across NSW. The purpose of the committees is to give greater recognition to Aboriginal water rights and interests, ensuring Aboriginal people can contribute to water management. There are two committees in the far west of the state. The department has committed to improving information provided to First Nations people about water management and access. Improved information and communication materials fosters informed participation in engagement processes and builds greater awareness for water access mechanisms. This is in line with the principles of free, prior and informed consent (FPIC) as outlined in the dept's Indigenous Cultural and Intellectual Property (ICIP) Protocol.

The Aboriginal Water Strategy is set to provide the strategic direction to the commitments made by the department. It is proposed to be guided by 4 key priorities:

- Strengthen the role of Aboriginal people in water planning and management.
- Provide Aboriginal ownership of and access to water for cultural and economic purposes.
- Work with Aboriginal people to maintain and preserve water-related cultural sites and landscapes.
- Work with Aboriginal people to improve shared water knowledge and build capacity.

The co-design of the strategy commenced in early 2024 with Regional Aboriginal Water Committees and Peak Aboriginal Organisations with an opportunity for the public to provide input mid-year. The strategy is intended to be finalised by the end of 2024

Recommendation 19

In order to improve monitoring, evaluation and reporting DPE-Water should:

- a) ensure the replacement Plan specifies timely reporting requirements of the results of MER activities to support transparency and adaptive management. This should include but is not limited to reporting on:
 - outcomes for key environmental assets
 - water management during extreme events that occur in the Plan areas

- benefits for Aboriginal people arising from the Plan provisions
- b) work with other agencies to:
- identify and address critical knowledge gaps
 - specify what MER activities will be undertaken to address critical knowledge gaps, support transparency and adaptive management of the Plan in line with the NSW Water Sharing Plan Evaluation Framework and Prioritisation Tool (prioritise MER activities based on value and risk).
 - strengthen stakeholder engagement in the lead up to and during the Plan replacement process.
- c) undertake a study or commence ongoing monitoring to better understand the impact of unregulated flows and unregulated access in Pian Creek on the quantity and quality of water supply of Walgett via the regulated river
- d) undertake a study of Lake Goran, its hydrological regime, values, extraction risks from entitlement levels and carryover, and the impacts of climate change, and consider the implications of the results for access rules in accordance with the water management principles.

Department response

The department acknowledges there has been a lack of coordinated and plan specific MER programs as identified in Section 9 of the NRC's review report. To address this issue the department is developing and implementing the NSW Water Sharing Plan Evaluation Framework. Methods to evaluate social, economic, environmental and water quality outcomes for all water sharing plans have been developed and are being applied to evaluate water sharing plans that commenced in 2016. The department continues to engage with the NRC and BCS during the development and implementation of the Framework.

- a) Provisions included in the plan clarify the minister's public reporting on the implementation of the draft plan, including progress against the MER plan, and that evaluation reporting will be undertaken by year nine of the plan's term.

The department accepts this recommendation.

- b) It is not feasible for the department to identify and address all plan knowledge gaps by June 2025 with current resourcing. No additional resources are available in 2023-25 to expedite the development of this Framework. Any future work to address knowledge gaps will be prioritised based on risk and resources available across all NSW water sharing plans. The department will engage with relevant agencies and consider the knowledge gap areas

identified in this report when undertaking future planning. The department is using the MER Prioritisation Tool to guide decision making on evaluation effort. Noting the scale of MER the department is able to implement is wholly dependent on funding received from IPART determinations to assess plan performance

The department notes these recommendations.

c) Refer to recommendation 9f

d) Refer to recommendation 14

Action taken to address NRC recommendation

Actions during plan replacement process

During the replacement period new methods for the evaluation of plan social, economic, environmental and water quality have been developed and trialled. These methods will be used to guide development of MER plans when the plan is replaced.

Changes proposed in the draft plan partially address the NRC recommendations and reflect improvements to the department's approach under the plan Evaluation Framework.

Changes to the plan

An additional sub section has been included to require monitoring and evaluation of performance indicators. A MER plan for this draft plan will be published by December 2026. The implementation of the plan, including progress against the MER plan will be publicly reported. In year 9 of the plan the minister will publicly report on the results of the monitoring and evaluation undertaken.

Other actions

Implementation of the MER program will commence in 2024. This will clarify the roles and responsibilities, reporting requirements, governance arrangements and timeframes associated with the program. Social, economic and environmental outcome evaluation methods have been developed and applied to pilot surface water plans and reviewed by the NRC. Work has now commenced on expanding method statements to include groundwater specific components. NSW also undertook the first Benchmarking survey to collect primary data that informs evaluation of social outcomes of plans. Data was collected from communities and water users across all plan areas.