

# Compliance with water management principles – Amending the Water Sharing Plan for the Macquarie and Cudgegong Regulated Rivers Water Source 2016

The NSW Government has amended the *Water Sharing Plan for the Macquarie and Cudgegong Regulated River Water Source 2016*. This document explains how the amendments comply with the water management principles of the *Water Management Act 2000*.

## Requirements for amending a water sharing plan

As well as the approval of the Minister for Lands and Water, amending a plan requires the agreement of the NSW Minister for Environment and Heritage (this is known as ‘concurrence’). When amending a plan, Section 9 of the *Water Management Act 2000* (the Act) requires the ministers to:

- take all reasonable steps to promote the water management principles and
- give priority to the water management principles relating to water sharing in the order they are set out under s5(3) of the Act.

The water sharing management principles under s5(3) of the 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.

The Minister for Lands and Water obtained the concurrence of the Minister for Environment and Heritage to amend the *Water Sharing Plan for the Macquarie and Cudgegong Regulated River Water Source 2016*. In amending the plan, the ministers ensured the water management principles were promoted and the water sharing principles were appropriately prioritised, as detailed below.

## How water sharing in the plan protects water sources and dependent ecosystems

In the plan for the Macquarie and Cudgegong regulated river water source, there are 2 key mechanisms for protecting water sources and dependent ecosystems:

- **Long term average annual limits on water take**, which includes the

- NSW long-term average annual extraction limit for each water source
  - sustainable diversion limit for each water resource plan area, established under the Murray Darling Basin Plan through extensive, peer reviewed scientific analysis.
- We have included both limits in the water sharing plan, which also contains provisions (legal conditions) to assess and ensure water users comply with limits. On a long-term average annual basis, all water above these limits is protected for environmental benefit.
- **Specific, operational plan rules** that aim to protect explicit ecosystem functions and/or environmental assets in the water sources. Rules relevant to the Macquarie and Cudgegong Regulated Rivers water sharing plan are detailed in the tables below.

## How water sharing in the plan protects basic landholder rights

The plan also protects basic landholder rights. It allows for the exercise of basic landholder rights, in keeping with Part 1 of Chapter 3 of the WM Act. The plan gives priority to current and future basic landholder rights by ensuring any action to ensure compliance with extraction and diversion limits does not apply to these rights.

### A case that may affect the Macquarie and Cudgegong plan

The NSW Government acknowledges that there is currently a court case against the making of the *Water Sharing Plan for the Border Rivers Regulated Water Source 2021*, which could affect the Macquarie and Cudgegong water sharing plan. While there is a risk that the government may need to change the Macquarie and Cudgegong plan based on the outcome of the court case, we must remake or amend the plan to meet Basin Plan 2012 requirements. The due date for resubmitting NSW’s water resource plans and associated water sharing plans to the Murray–Darling Basin Authority falls before the court will announce its decision. Because of this, we are amending the plan now.

## How we have promoted water management principles

The NSW Government has taken all reasonable steps to promote the water management principles set out in the WM Act and to make the Macquarie and Cudgegong plan reflect these principles. Refer to the tables below for details.

Table 1. How the plan amendments promote the water management principle 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 (legal conditions)
The plan aims to protect and restore dependent ecosystems through the provision of water for the environment and contains provisions to:	Refer to provisions below.

How we have promoted the principle in Section 5(2)(a)	Relevant plan provisions (legal conditions)
<ul style="list-style-type: none"> <li>Establish a long-term average annual extraction limit which protects water above that limit for environmental purposes (that is, we are setting a limit on how much water users can take and setting aside the remaining water for the environment)</li> </ul>	Part 6, Division 2
<ul style="list-style-type: none"> <li>reserve a portion of high and medium natural flows and provide for hydrological connectivity</li> </ul>	Part 8, Division 3 Part 10 Division 3
<ul style="list-style-type: none"> <li>transition from translucent flow rules for Windamere Dam to an environmental water allowance for the Cudgegong River of up to 11,400 ML/year between Windemere Dam and Burrendong Dam, from 1 July 2023</li> </ul>	Part 10, Division 2
<ul style="list-style-type: none"> <li>provide an environmental water allowance for the Macquarie River of up to 160,000 ML/year between Burrendong Dam and the Macquarie Marshes</li> </ul>	Part 10, Division 3
<ul style="list-style-type: none"> <li>regulate supplementary access (a period during which the taking of water under supplementary water access licences is permitted in all or part of the water source) to provide hydrological connectivity with adjacent riparian areas and water sources</li> </ul>	Part 8, Division 3
<ul style="list-style-type: none"> <li>establish rules for making available water determinations in accordance with the priorities in the WM Act</li> </ul>	Part 6, Division 5
<ul style="list-style-type: none"> <li>include clauses which aim to minimise environmental impacts, damage to river banks and other damage caused by floods when operating water storages</li> </ul>	Clauses 87 & 89
<ul style="list-style-type: none"> <li>specify objectives, strategies and performance indicators which measure the effectiveness of Plan rules</li> </ul>	Part 2

Table 2. How the plan amendments promote the water management principle 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:</p> <ul style="list-style-type: none"> <li>the provision of water for the environment</li> <li>the same provisions set out above in relation to section 5(2)(a)</li> </ul>	See Table 1 above

Table 3. How the plan amendments promote the water management principle 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
The plan aims to protect and enhance water quality by providing environmental water for flushing flows. In particular:	See below
<ul style="list-style-type: none"> <li>the environmental water allowances could be used to respond to specific water quality issues, should they arise</li> </ul>	Part 10, Division 2 & 3
<ul style="list-style-type: none"> <li>the protection of supplementary flows can contribute to the management of water quality events in downstream connected water sources</li> </ul>	Part 8, Division 3
The operation of all environmental water rules, and the delivery of water for regulated river licences, can provide water quality benefits within the river.	See above

Table 4. How the plan amendments promote the water management principle 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
We manage the cumulative impacts of licences through rules limiting total extraction. The long-term average annual extraction limit and long-term average sustainable diversion limit established by the plan protects water within the water source for environmental purposes.	Part 6, Division 2
Water available for extraction is reduced if these limits are exceeded.	Part 6, Division 4
Access licence dealing rules that allow for a variety of dealings (trade) within specified environmental constraints.	Part 9

Table 5. How the plan amendments promote the water management principle of section 5(2)(e) – Geographical and other features of Aboriginal significance should be protected

How we have promoted the principle in Section 5(2)(e)	Relevant plan provisions
The plan makes water available for Aboriginal cultural purposes through a specific-purpose licence category, which could be used to ensure water is provided to these features.	Clause 42
The plan allows for the recognition of native title determinations as they are made. We can amend the plan to reference the decisions resulting in a determination of native title.	Clauses 20 & 99(4)
While environmental flow rules may not explicitly target Aboriginal outcomes, they may help to assist or fully achieve Aboriginal cultural outcomes.	Part 10, Division 1, 2 & 3

How we have promoted the principle in Section 5(2)(e)	Relevant plan provisions
<p>The plan gives priority to current and future basic landholder rights by targeting extraction limit compliance actions at supplementary water and general security licences only. This allows basic landholder rights extractions to increase. Basic landholder rights include native title rights.</p>	Part 6
<p>The Plan also requires the operator to:</p> <ul style="list-style-type: none"> <li>• operate the water supply system to meet the annual water requirements of domestic and stock rights and native title rights through a repeat of the period of lowest accumulated inflows to the water source that occurred prior to 1 July 2004</li> </ul>	Clause 83
<ul style="list-style-type: none"> <li>• set aside sufficient volumes of water in Burrendong Dam so that:                             <ul style="list-style-type: none"> <li>○ up to 15,000 ML per year can be provided to Marra Creek and the Lower Bogan River downstream of its junction with Gunningbar Creek</li> <li>○ at least twice a year a flow of up to 50 ML per day can be provided below the Macquarie Marshes</li> </ul> </li> </ul>	Clause 84
<ul style="list-style-type: none"> <li>• provide flows to various rivers and effluent creeks when available and required.</li> </ul>	Clause 84

Table 6. How the plan amendments promote the water management principle of 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 Section 5(2)(f)	Relevant plan provisions
<p>The plan makes water available for Aboriginal cultural purposes via a specific-purpose licence category which could be used to ensure water is provided for cultural, heritage or spiritual significance purposes.</p>	Clause 42

Table 7. How the plan amendments promote the water management principle of section 5(2)(g) – The social and economic benefits to the community should be maximised

How we have promoted the principle in Section 5(2)(g)	Relevant plan provisions
<p>The Plan maximises the social and economic benefits to the community and contains provisions to:</p>	See below
<ul style="list-style-type: none"> <li>• define a long-term average annual extraction limit and a long-term sustainable diversion limit which provides water for community and economic benefit</li> </ul>	Part 6, Division 2

How we have promoted the principle in Section 5(2)(g)	Relevant plan provisions
<ul style="list-style-type: none"> <li>trade licensed entitlement and account water to allow the market to drive strong economic outcomes and water dependent business to manage their own supply requirements and risks</li> </ul>	Part 9
<ul style="list-style-type: none"> <li>maintain supply and replenishment flows for basic human needs, town water supply and domestic and stock requirements</li> </ul>	Clause 84
<ul style="list-style-type: none"> <li>provide environmental flows that also have positive social and community outcomes</li> </ul>	Part 10, Divisions 1, 2 & 3
<ul style="list-style-type: none"> <li>require environmental water rules that contribute to the mitigation of poor water quality events</li> </ul>	Part 10, Divisions 1, 2 & 3
<ul style="list-style-type: none"> <li>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</li> </ul>	Part 6, Division 5 & Clause 83

Table 8. How the plan amendments promote the water management principle 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 Section 5(2)(h)	Relevant plan provisions
The plan is audited and reviewed at 10-year intervals by the Natural Resources Commission, to inform whether 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
Mandatory metering and reporting requirements will inform how we apply the plan rules and make water available for the environment.	Part 11

Table 9. How the plan amendments promote the water management principle 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
The plan ensures water is committed and identified as planned environmental water by establishing:	See below
<ul style="list-style-type: none"> <li>environmental flow provisions that provide a physical presence of water in the water source</li> </ul>	Part 4

How we have promoted the principle in Section 5(3)(a)	Relevant plan provisions
<ul style="list-style-type: none"> <li>both a long-term average annual extraction limit and a long-term sustainable diversion limit to create a long-term average annual commitment of water as planned environmental water.</li> </ul>	Part 6
In particular, the plan:	See below
<ul style="list-style-type: none"> <li>establishes a long-term average annual extraction limit which protects water within the water source above that limit for environmental purposes (that is, we are setting a limit on how much water users can take and setting aside the remaining water for the environment)</li> </ul>	Part 6, Division 2
<ul style="list-style-type: none"> <li>has environmental water requirements, including environmental flow targets and environmental water allowances, to protect the water source and dependent ecosystems</li> </ul>	Part 10, Divisions 1, 2 & 3
<ul style="list-style-type: none"> <li>includes objectives, strategies and performance indicators which measure the effectiveness of the plan rules in delivering environmental outcomes.</li> </ul>	Part 2

Table 10. How the plan amendments promote the water management principle 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
<p>The plan includes provisions for maintaining compliance with the long-term average annual extraction limit and long-term sustainable diversion limit which target general security licences. These provisions give priority to current and future basic landholder rights by allowing their extractions to increase at the expense of future access for general security licences.</p>	Part 6, Division 4
The plan allows for the inclusion of native title determinations.	Clause 20 and clause 100
<p>The plan also requires the operator to:</p> <ul style="list-style-type: none"> <li>operate the water supply system so it can meet the annual water requirements of domestic and stock rights and native title rights through a repeat of the period of lowest accumulated inflows to the water source that happened before 1 July 2004</li> </ul>	Clause 83
<ul style="list-style-type: none"> <li>set aside enough water in Burrendong Dam so that:                             <ul style="list-style-type: none"> <li>up to 15,000 ML per year can be provided to Marra Creek and the Lower Bogan River downstream of its junction with Gunningbar Creek</li> <li>at least twice a year a flow of up to 50 ML per day can be provided below the Macquarie Marshes</li> </ul> </li> </ul>	Clause 84

How we have promoted the principle in Section 5(3)(b)	Relevant plan provisions
<ul style="list-style-type: none"> <li>provide flows to various rivers and effluent creeks when is available and required.</li> </ul>	Clause 84

Table 11. How the plan amendments promote the water management principle 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 we uphold the principles for the protection of planned environmental water and basic landholder rights.	All above

## Floodplain harvesting

To manage floodplain harvesting and comply with the water management principles under the WM Act, licences must be issued.

The NSW Government has changed the plan to include provisions for managing floodplain harvesting. In developing the rules for floodplain harvesting, we have taken all reasonable steps to promote the water management principles as follows:

Table 12. How the floodplain harvesting related amendments promote the water management principle 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 protects and restores floodplains by including provisions to help us roll out licences to bring floodplain harvesting within the licensing and approval provisions of the WM Act. The rollout of floodplain harvesting licences will make against the long-term average annual extraction limit and long-term sustainable diversion limit more accurate.</p> <p>The plan aims to protect and restore dependent ecosystems through water for the environment and contains provisions to:</p>	Refer to provisions below.
<ul style="list-style-type: none"> <li>establish a long-term average annual extraction limit and long-term sustainable diversion limit which protect a percentage of flows within the water source for environmental purposes</li> </ul>	Part 6, Division 2
<ul style="list-style-type: none"> <li>include objectives, strategies and performance indicators which measure the effectiveness of plan rules in identifying and prioritising flood-dependent ecological assets and values on the floodplain. We have used this information to inform the trade rules for floodplain harvesting licences and manage the granting and amending of water supply work approvals</li> </ul>	Part 2 Part 9 Part 7
<ul style="list-style-type: none"> <li>establish a volume trigger in Menindee Lakes Storage which protects a portion of flows after a dry period for downstream environmental purposes.</li> </ul>	Part 8 Division 4



Table 13. How the floodplain harvesting related amendments promote the water management principle 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
The plan protects and restores animals and habitats through water for the environment and the same provisions set out in the above table in relation to section 5(2)(a).	See above

Table 14. How the floodplain harvesting related amendments promote the water management principle 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
The plan includes amendment provisions that allow us to introduce access rules when appropriate information becomes available.	Part 12
Including access rules for floodplain harvesting complements existing rules for supplementary water access licences that contribute to the management of water quality events in downstream connected water sources.	Part 8 Division 4

Table 15. How the floodplain harvesting related amendments promote the water management principle 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
The plan manages cumulative impacts through:	See below
<ul style="list-style-type: none"> <li>rules limiting total extraction. The plan establishes both a long-term average annual extraction limit and long-term sustainable diversion limit which protect water within the water source above those limits for environmental purposes.</li> </ul>	Part 6 Division 2
<ul style="list-style-type: none"> <li>compliance provisions for the long-term average annual extraction limit and long-term average sustainable diversion limit that reduce water availability where the extraction limits have been exceeded.</li> </ul>	Part 6 Division 4
<ul style="list-style-type: none"> <li>access licence dealing rules that allow for a variety of dealings (trade) within specified environmental constraints</li> </ul>	Part 9
<ul style="list-style-type: none"> <li>rules for the granting or amending of water supply work approvals</li> </ul>	Part 7

\*Note Division 2 of Part 4 of Chapter 6 of the Basin Plan 2012 specifies the requirements for complying with the SDL

Table 16. How the floodplain harvesting related amendments promote the water management principle of section 5(2)(e) – Geographical and other features of Aboriginal significance should be protected

How we have promoted the principle in Section 5(2)(e)	Relevant plan provisions
The plan contributes to the protection of cultural assets and values, including Aboriginal cultural values on the floodplain, by:	See below
<ul style="list-style-type: none"> <li>identifying and prioritising flood-dependent Aboriginal values on the floodplain. We used this information to inform the trade rules for floodplain harvesting licences and manage the granting and amending of water supply work approvals</li> </ul>	Part 9 Part 7

Table 17. How the floodplain harvesting related amendments promote the water management principle of 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 Section 5(2)(f)	Relevant plan provisions
The plan contributes to the protection of cultural assets and values, including Aboriginal cultural values and heritage sites on the floodplain, by:	See below
<ul style="list-style-type: none"> <li>identifying and prioritising flood-dependent cultural assets on the floodplain. We used this information to inform the trade rules for floodplain harvesting licences and manage the granting and amending of water supply work approvals</li> </ul>	Part 9 Part 7

Table 18. How the floodplain harvesting related amendments promote the water management principle of section 5(2)(g) – The social and economic benefits to the community should be maximised

How we have promoted the principle in Section 5(2)(g)	Relevant plan provisions
The plan maximises the social and economic benefits to the community by:	See below
<ul style="list-style-type: none"> <li>setting a defined long-term average annual extraction limit and long-term sustainable diversion limit, which provides an amount of water available for community and economic benefit</li> </ul>	Part 6, Division 2
<ul style="list-style-type: none"> <li>creating certainty of access for licence holders for the duration of the plan</li> </ul>	Part 8, Division 1
<ul style="list-style-type: none"> <li>giving rules for trade of licensed entitlement and account water to allow the market to drive strong economic outcomes</li> </ul>	Part 9
<ul style="list-style-type: none"> <li>facilitating the granting or amending of water supply work approvals</li> </ul>	Part 7
<ul style="list-style-type: none"> <li>establishing a volume trigger in Menindee Lakes Storage which protects a portion of flows after a dry period for downstream environmental purposes.</li> </ul>	Part 8 Division 4

Table 19. How the floodplain harvesting related amendments promote the water management principle 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 Section 5(2)(h)	Relevant plan provisions
The plan is reviewed at 10-year intervals by the Natural Resources Commission, to inform whether the plan rules remain fit for purpose.	S43A of the WM Act
The plan includes a set of objectives, strategies, and performance indicators. An earlier review of the plan could be triggered if required, based on monitoring of these indicators.	Part 2
Mandatory measurement requirements will inform how we apply the plan rules and provision of water for the environment.	Part 11

## More information

To read the water sharing plan and supporting fact sheets, visit [www.industry.nsw.gov.au/water/plans-programs/water-sharing-plans/status/macquarie-castlereagh-region/](http://www.industry.nsw.gov.au/water/plans-programs/water-sharing-plans/status/macquarie-castlereagh-region/).

To read the water sharing plan amendment protocol, visit [https://www.industry.nsw.gov.au/\\_data/assets/pdf\\_file/0004/509863/water-sharing-plan-amendment-protocol.pdf](https://www.industry.nsw.gov.au/_data/assets/pdf_file/0004/509863/water-sharing-plan-amendment-protocol.pdf).