

Compliance with water management principles - Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Sources 2016

The NSW Government has amended the Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Sources 2016. This document explains how the changes comply with the water management principles of the *Water Management Act 2000*.

Requirements for amending a water sharing plan

Amending a water sharing plan requires the approval of the NSW Minister for Lands and Water and the agreement of the NSW Minister for Environment and Heritage. When amending a plan, Section 9 of the *Water Management Act 2000* (the WM 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 WM Act.

The water sharing management principles under s5(3) of the WM Act are (in their order of priority):

1. Sharing water from a water source must protect the water source and its dependent ecosystems.
2. Sharing water from a water source must protect basic landholder rights.
3. Sharing or extraction of water under any other right must not prejudice the principles set out in points 1 and 2.

The Minister for Lands and Water gained the agreement of the Minister for Environment and Heritage to amend the *Water Sharing Plan for the NSW Murray and Lower Darling River Water Sources 2016*. In changing the plan, the ministers ensured that they promote the water management principles of the WM Act and prioritise its water sharing principles appropriately.

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

In the NSW Murray and Lower Darling regulated rivers water sources, there are 2 key mechanisms for protecting water sources and dependent ecosystems:

- **Long term average annual limits on water take**, which include 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 2012 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** in the regulated river plan that aim to protect explicit ecosystem functions and /or environmental assets in the water sources. The tables below give details of the rules for the NSW Murray and Lower Darling Regulated Rivers water sharing plan.

How water sharing in the plan protects basic landholder rights

The plan also protects basic landholder rights, allowing landholders to exercise these under part 1 of Chapter 3 of the WM Act. The plan gives priority to current and future basic landholder rights by ensuring any compliance actions for extraction and diversion limits does not apply to these rights.

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 regulated water sharing plan reflect these principles. Refer to the tables below for details.

Table 1. 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
The plan aims to protect and restore dependent ecosystems through the provision of water for the environment and contains rules to:	See below
<ul style="list-style-type: none"> • establish long-term average annual extraction limits which protect water above those limits 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) 	Part 6, Divisions 2 and 3
<ul style="list-style-type: none"> • allow for three environmental water allowances with maximum account limits of approximately 356,000 ML in the Murray Water Source. 	Part 10, Division 1
<ul style="list-style-type: none"> • allow for an environmental water allowance of up to 30,000 ML to manage for water quality in the Lower Darling water source 	Part 10, Division 2
<ul style="list-style-type: none"> • allow for an environmental water account to increase environmental flows in the Murray Water Source 	Part 10, Division 1

How we have promoted the principle in Section 5(2)(a)	Relevant plan provisions
<ul style="list-style-type: none"> ensure a portion of natural flows are protected by regulating access to supplementary flows to provide for beneficial flooding of riverine ecosystems, fish passage, waterbird breeding and other benefits under the Murray-Darling Basin Agreement 	Part 8, Division 2
<ul style="list-style-type: none"> help minimise environmental impacts, damage to river banks and other damage caused by floods when operating water storages 	Clause 69
<ul style="list-style-type: none"> specify objectives, strategies and performance indicators that measure the effectiveness of plan rules. 	Part 2

Table 2. How the plan changes promote the water 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:</p> <ul style="list-style-type: none"> the provision of water for the environment the same provisions set out above in respect of section 5(2)(a). 	As above

Table 3. 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 providing environmental water for flushing flows. In particular:</p>	See below
<ul style="list-style-type: none"> the environmental water allowances can be used to respond to specific water quality issues, should they arise 	Part 10, Divisions 1 and 2
<ul style="list-style-type: none"> the protection of supplementary flows can help manage water quality events in downstream connected water sources. 	Part 8, Division 2
<p>The operation of all environmental water rules, and the delivery of water for regulated river licences can provide water quality benefits within the river.</p>	As above

Table 4. 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
We manage the cumulative impact of licences through rules limiting total usage. The long-term average annual extraction limit and long-term average sustainable diversion limit established by the plan protect water within the water source for environmental purposes.	Part 6, Divisions 2 and 3
Water available for extraction is reduced if these limits are exceeded.	Part 6, Division 4
Access licence dealing rules allow for a variety of dealings within specified environmental constraints.	Part 9

Table 5. How the plan changes promote the water management principles 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 via a specific purpose licence category, which can be utilised to ensure water is provided to these features.	Clause 41
The plan provides 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.	Clause 19 and 85
While, planned environmental water rules may not target Aboriginal outcomes specifically, they provide flows which may also help to achieve Aboriginal cultural outcomes.	Part 10, Divisions 1 and 2
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.	Part 6 Division 4
The plan also requires the operator to 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.	Clause 66

Table 6. How the plan changes promote the water management principles 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 makes water available for Aboriginal cultural purposes through a specific purpose licence category which could be utilised to ensure water is provided for cultural, heritage or spiritual significance purposes.	Clause 41

Table 7. 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 Section 5(2)(g)	Relevant plan provisions
The plan maximises the social and economic benefits to the community and contains provisions to:	See below
<ul style="list-style-type: none"> define a long-term average annual extraction limit and a long-term sustainable diversion limit which provides water for community and economic benefit 	Part 6, Divisions 2 and 3
<ul style="list-style-type: none"> 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 	Part 9
<ul style="list-style-type: none"> provide environmental flows that also have positive social and community outcomes 	Part 10, Divisions 1 and 2
<ul style="list-style-type: none"> provide for supplementary water access to a portion of uncontrolled flows 	Clause 45
<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. 	Clause 66 and Part 6, Division 5

Table 8. How the plan changes 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 Section 5(2)(h)	Relevant plan provisions
The Natural Resources Commission audits and reviews the plan at 10-year intervals to inform whether the plan rules are being applied and remain fit for purpose.	WM Act Sections 43A and 44
The plan includes a set of objectives, strategies, and performance indicators. Monitoring of these indicators could trigger an earlier review of the plan, if necessary.	Part 2
Mandatory metering and reporting requirements will inform the implementation of the plan rules.	Part 11

Table 9. 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
The plan ensures water is committed and identified as planned environmental water by establishing:	See below
<ul style="list-style-type: none"> environmental flow provisions that provide a physical presence of water in the water sources 	Part 10, Divisions 1 and 2
<ul style="list-style-type: none"> 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. 	Part 6
In particular, the plan:	See below
<ul style="list-style-type: none"> establishes a long-term average annual extraction limit which protects water within the water source above that limit for environmental purposes 	Part 6, Divisions 2 and 3
<ul style="list-style-type: none"> establishes rules for making available water determinations in accordance with the priorities in the WM Act 	Part 6, Division 5
<ul style="list-style-type: none"> has environmental water requirements, including environmental water accounts and environmental water allowances to protect the water source and dependent ecosystems 	Part 10
<ul style="list-style-type: none"> includes objectives, strategies and performance indicators that measure the effectiveness of plan rules. 	Part 2

Table 10. 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 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.	Part 6, Division 4

How we have promoted the principle in Section 5(3)(b)	Relevant plan provisions
The plan allows for the inclusion of any future native title determinations.	Clause 19 and 85
The plan also requires the operator to operate the water supply system to be able to meet the annual water requirements of domestic and stock rights and native title rights during a repeat of the period of lowest accumulated inflows to the water source that occurred prior to 1 July 2004.	Clause 66

Table 11. 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 basic landholder rights are upheld and we uphold the principles for the protection of planned environmental water.	As above

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/murray-region

To read the protocol for changing water sharing plans, refer to the fact sheet

www.industry.nsw.gov.au/___data/assets/pdf_file/0004/509863/water-sharing-plan-amendment-protocol.pdf