

Compliance with the Minister's duty under section 9 of the Water Management Act 2000 – amendment of multiple water sharing plans

This document details how the ministers have given effect to the water management principles of the *Water Management Act 2000* in approving the administrative omnibus amendment order.

Compliance with section 9 duty

Amending a water sharing plan requires the approval of the NSW Minister for Water and the concurrence of the NSW Minister for the Environment. 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 section 5(3) of the WM Act.

The water sharing management principles under section 5(3) of the WM Act are (in order of priority):

- a. sharing water from a water source must protect the water source and its dependent ecosystems, and
- b. sharing 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 points (a) and (b).

The Minister for Water obtained concurrence of the Minister for the Environment to amend the relevant water sharing plans. In doing so, the ministers have fulfilled the requirements of section 9 of the WM Act as outlined below.

How the water management principles have been promoted and given effect to

When considering whether to approve or give concurrence to amend the plans, the Minister for Water and the Minister for the Environment respectively can be satisfied that all reasonable steps

have been taken to promote and give effect to the water management principles of the WM Act, including the prioritisation of the water sharing principles under section 5(3) in accordance with section 9(1)(b). In all instances, the highest priority has been given to the principle contained in s 5(3)(a), which requires that the sharing of water must protect the water sources and its dependent ecosystems, along with the principles contained in s 5(2) which contribute to this principle.

The second highest priority is given to the principle in section 5 (3)(b), which requires that the sharing of water must protect basic landholder rights.

This amendment order does not include any changes to the intent of water sharing rules and does not affect water users’ access to water or change the environmental provision in the plans. The approved changes simplify and improve the drafting of plans to make the intent of provisions in the plans clear and improve legal robustness. These amendments are important to ensure the proper interpretation and application of the rules in the plan and contribute to the Ministers’ duty under section 9 by ensuring that the rules in the plan (which themselves adhere to the principles) operate effectively.

Table 1. How the plan promotes 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 amendment protects the water source and its dependant ecosystems by</p>	<p>See below</p>
<ul style="list-style-type: none"> maintaining and clarifying existing plan provisions that contribute to the protection of water sources and their dependent ecosystems. 	<p>Various</p>
<ul style="list-style-type: none"> adding a 0 ML/day limit for the very low flow class (in addition to the existing 0 ML/day limit for the A Class) for take under a local water utility licence in the Ourimbah Creek Water Source, to clarify that this licence has been prohibited from taking water until flows are in the B class. 	<p>section 42(4) of the Central Coast Unregulated and Alluvial Water Sources plan</p>

<ul style="list-style-type: none"> clarifying that licences listed in Schedules 3 of the Coffs Harbour and Towamba plans are subject to specific cease to take rules outlined in these schedules 	<p>section 36 of the Coffs Harbour Area Unregulated and Alluvial Water Sources plan</p>
	<p>section 36 of the Towamba River Unregulated and Alluvial Water Sources plan</p>

Table 2. How the plan promotes the water management principles of section 5(3)(b) – Sharing of water from a water source must protect basic landholder rights (BLR)

How we have promoted the principle in section 5(3)(b)	Relevant plan provisions
<p>The plan protects basic landholder rights by:</p> <ul style="list-style-type: none"> maintaining and clarifying existing plan provisions that ensure that licensed water extraction does not prejudice the exercise of basic landholder rights. 	<p>Various</p>

More information

To read the amended water sharing plans and supporting fact sheets, visit the department’s [water sharing plan status](#) webpage.

To read the water sharing plan amendment protocol, visit the departments [water sharing plan amendment protocol](#) webpage.