

Compliance with water management principles - Amending the Water Sharing Plan for the Namoi and Peel Unregulated Rivers Water Sources 2012

The NSW Government has amended the *Water Sharing Plan for the Namoi and Peel Unregulated Rivers Water Source 2012* to include provisions to manage floodplain harvesting. This document explains how the amendments comply with the water management principles outlined in the *Water Management Act 2000*.

Requirements for amending a water sharing plan

As well as the approval of the Minister for Water, amending a plan requires the agreement of the NSW Minister for the Environment (this is known as ‘concurrence’). 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 Water obtained the concurrence of the Minister for the Environment to amend the *Water Sharing Plan for the Namoi and Peel Unregulated Rivers Water Sources 2012*. In changing the plan, the ministers ensured the water management principles were promoted and the water sharing principles were appropriately prioritised.

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

In the plan for the Namoi unregulated river water sources, long term average annual limits on water take are the key mechanisms for protecting the water sources and its dependent ecosystems. These limits include the:

- long-term average annual extraction limit for the water sources

- 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 extractions and ensure water users comply with the limits. On a long-term average annual basis, all water above these limits is protected for environmental benefit.

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.

How we have promoted water management principles

The NSW Government has changed the *Water Sharing Plan for the Namoi and Peel Unregulated River Water Sources 2012* to include provisions for managing floodplain harvesting. To manage floodplain harvesting and comply with the water management principles under the WM Act, licences must be issued. Licensing floodplain harvesting is critical to ensure take of this important resource is measured and managed within appropriate rules and limits. The licensing framework established within the Plan provides the mechanism to limit extraction and ensure take of overland flow water occurs within sustainable limits, contributing to an overall improvement in the management of water resources within NSW.

In developing the rules for floodplain harvesting, the NSW Government has taken all reasonable steps to promote the water management principles set out in the WM Act and to make the Namoi and Peel unregulated 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(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 (legal conditions)
The plan changes incorporate provisions for the management of floodplain harvesting into existing provisions that:	Part 4
• establish both a long-term average annual extraction limit and a long-term sustainable diversion limit and manage extraction within these to protect the water source and its dependent ecosystem	Part 6
• protect areas of high ecological, cultural or hydrological value when granting or amending water supply works. The amendments ensure floodplain environmental assets and values are protected and the comprehensive assessment criteria contained in a relevant floodplain management plan to protect floodplain environmental values when new or amended water supply work approvals are sought	Part 9
• protect areas of high ecological, cultural or hydrological value when assessing trade applications, including nomination of works by floodplain harvesting access licences	Part 10

How we have promoted the principle in Section 5(3) (a)	Relevant plan provisions (legal conditions)
allow for the addition, modification or removal of provisions relating to floodplain harvesting (unregulated river) access licences in response to the need to protect overbank flow for environmental purposes	Part 12
The existing and amended provisions above complement other existing provisions that protect the water source and its dependent ecosystems, including those that:	See below
provide a physical presence of water in the water source by setting flow rates or flow levels below which the taking of water is not permitted (with some limited exemptions)	Part 8
enable the effective evaluation of the plan's strategy in meeting its environmental objectives	Part 2

Table 2. 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
The plan's existing and amended plan provisions:	See below
maintain compliance with the long-term average annual extraction limit and long-term sustainable diversion limit. Compliance action applies to unregulated river access licences and floodplain harvesting (unregulated river) access 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 unregulated river and floodplain harvesting (unregulated river) access licences.	Part 6
recognise and provide for native title rights in accordance with the Native Title Act 1993 of the Commonwealth, including under any determination of native title and any indigenous land use agreement.	Part 5

Table 3. 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 that we uphold the principles for the protection of planned environmental water and basic landholder rights.	All above

Table 4. 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
The plan and its amendments aim to protect and restore the water sources and dependent ecosystems by providing and protecting water for the environment and protecting areas of high ecological, cultural or hydrological value	See Table 1 above

Table 5. 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
The plan and its amendments protect habitats, animals and plants and restore habitats by providing and protecting water for the environment and protecting areas of high ecological, cultural or hydrological value	See Table 1 above

Table 6. 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 amendment provisions provide for the management of floodplain harvesting and associated works. These, collectively, provide for protection of environmental values, including the water quality benefits derived from protecting critical flood flows across the floodplains.	Parts 6, 9 and 10
The plan amendment provisions allow for access rules to be amended or introduced when appropriate information becomes available. The future inclusion of access rules for floodplain harvesting will complement: - existing rules in this plan and the Upper and Lower Namoi Regulated River water sharing plan that contribute to the management of water quality events in downstream connected water sources, - ongoing work by the Department of Planning and Environment to develop and implement Basin wide connectivity rules related to the Interim Unregulated Flow Management Plan for the North West.	Part 12

Table 7. 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
The existing and amended plan provision manage cumulative impacts through:	See below

How we have promoted the principle in Section 5(2)(d)	Relevant plan provisions
rules limiting total extraction and managing extraction within these limits. The plan establishes, and manages extraction to, 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.	Part 6
access licence dealing rules that allow for a variety of dealings (trade) within specified environmental constraints	Part 10
rules for the granting or amending of water supply work approvals that protect water sources and their dependent ecosystems. For floodplain harvesting this includes new rules for water supply work approvals that are both a water supply work and flood work that ensure the comprehensive and cumulative assessment criteria contained in a relevant floodplain management plan will apply	Part 9
amended rules for an administrative subdivision of a water supply work approval nominated by a floodplain harvesting access licence prohibiting the addition of any new works to the subdivided approvals	Part 9

Table 8. 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 amendments contribute to the protection of cultural assets and values, including Aboriginal cultural values on the floodplain, by:	See below
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	Part 10 Part 9
rules for granting specific purpose access licences (Aboriginal cultural) to ensure greater certainty to Aboriginal people and communities when applying for this category of licence	Part 9
rules for water supply work approvals that are both a water supply work and flood work that ensure the comprehensive rules and assessment criteria contained in a relevant floodplain management plan will apply, including rules relating to Aboriginal cultural assets and values	Part 9

Table 9. 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
The plan amendments contribute to the protection of cultural assets and values, including Aboriginal cultural values and heritage sites	See Table 8

Table 10. 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
The plan and its amendments maximise the environmentally sustainable social and economic benefits to the community by:	See below
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	Part 6
creating certainty of access for licence holders for the duration of the plan through establishment of flow classes and access rules	Part 8
establishing rules for trade of licensed entitlement and account water to allow the market to drive strong economic outcomes	Part 10
facilitating the granting or amending of water supply work approvals	Part 9
improving the social and economic benefits to Aboriginal communities through changes to the rules for Aboriginal cultural access licences, which allow for an ancillary or incidental commercial benefit to be obtained from the taking or use of the water for cultural purposes	Part 7
provide potential social and economic benefits through the amended rules for an administrative subdivision of a water supply work approval nominated by a floodplain harvesting access licence to improve flexibility in measurement options	Part 9

Table 11. 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 principle has been promoted 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

How principle has been promoted in Section 5(2)(h)	Relevant plan provisions
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
The amendments provide for the addition, modification or removal of provisions relating to floodplain harvesting (unregulated river) access licences in response to any of the following— (i) the need to protect overbank flow for environmental purposes, (ii) monitoring, evaluation and reporting outcomes, (iii) an improved understanding of the influence of floodplain harvesting on downstream flows, (iv) a review that assesses the potential benefits and impacts of new access provisions for floodplain harvesting (unregulated river) access licences, (v) a review of the access licence dealing rules, (vi) other circumstances as determined by the Minister	Part 12

More information

To read the water sharing plan and supporting fact sheets, visit <https://water.dpie.nsw.gov.au/plans-and-programs/water-sharing-plans/status/namoi-region>.

To read the water sharing plan amendment protocol, visit https://water.dpie.nsw.gov.au/data/assets/pdf_file/0004/509863/water-sharing-plan-amendment-protocol.pdf.