

Compliance with the Ministers' duty under section 9 of the Water Management Act 2000 and climate change considerations – Water Sharing Plan for the Belubula Regulated River Water Source 2025

This document details how the ministers have given effect to the water management principles of the *Water Management Act 2000* and considered climate change in the making of the *Water Sharing Plan for the Belubula Regulated River Water Source 2025*.

Compliance with section 9 duty

Making a water sharing plan (WSP) requires the approval of the NSW Minister for Water and the concurrence of the NSW Minister for the Environment. When making 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 order of priority):

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

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

When considering whether to approve or give concurrence to this plan, 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

consideration of the principles in s 5(2) and the prioritisation of the water sharing principles contained in s 5(3) in accordance with s 9(1)(b), in making the *Water Sharing Plan for the Belubula Regulated River Water Source 2025* (the plan).

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 source and its dependent ecosystems, along with the principles contained in s 5(2) which contribute to this principle. The second highest priority has been given to the principle contained in s 5(3)(b), which requires that the sharing of water must protect basic landholder rights.

The remaining principles contained in s 5(2) have been given varying levels of priority that correlate with the intent of a particular provision in the plan. For example, a higher priority has been given to the principle contained in s 5(2)(g) when finalising the rules for the granting of access licences under Part 5 of the plan. Conversely, this principle has been given the lowest priority when finalising the environmental release rules in Part 7 of the plan.

Principles in section 5(3) of the WM Act

Of the water management principles under the WM Act, those in section 5(3) specifically relate to the sharing of water – a primary role of water sharing plans in the NSW water management framework. In making a water sharing plan, the principles set out in s 5(3) of the WM Act must be weighted in the priority order required under s 9(1)(b) of the WM Act.

How water sharing provisions in the plan protects the water source and dependent ecosystems - s 5(3)(a)

Greatest weight should be given to the protection of water sources and dependent ecosystems in development of a water sharing plan.

In the plan, there are 2 key mechanisms for protecting the water source and its dependent ecosystems:

- **Long-term average annual extraction limit (LTAAEL)** for the water source. The long-term average annual extraction is the average annual extraction calculated over a defined period. On a long-term average annual basis, all water above this limit is protected for environmental benefit.
- **Specific, operational plan rules** that aim to protect explicit ecosystem functions and /or environmental assets in the water source. The tables below give details of the rules for the plan.

How water sharing provisions in the plan protect basic landholder rights – s 5(3)(b)

Significant weight has been accorded to the protection of landholders' ability to exercise basic landholder rights as the second highest priority in accordance with section 9(1)(b). This has been done by identifying the current and future requirements for water to satisfy basic landholder rights and including rules to ensure the sharing or extraction of water under licences does not prejudice the exercise of basic landholder rights.

How sharing and extraction of water under other rights does not prejudice the above principles – s 5(3)(c)

Section 5(3)(c) provides that in relation to sharing water, the sharing or extraction of water under any other right must not prejudice the principles set out in paragraphs 5(3)(a) and (b).

Tables setting out considerations of water management principles

The tables below appear in order of the relative weighting given to the principles during the development of the plan.

Table 1. How the plan promotes the water management principle of section 5(3)(a) –

How we have promoted the principle in Section 5(3)(a)	Relevant plan provisions
The plan protects the water source and its dependent ecosystems by the provisions set out in Table 3.	Parts 4, 6 and 7
Identifying planned environmental water by specifying an LTAAEL and limiting total extraction. The LTAAEL and long-term sustainable diversion limit (SDL) established in the plan, together with the associated compliance provisions, protect water within the water source for environmental purposes. Providing plan amendment to be made in response to a review of the plan's long term average annual extraction limit to determine whether it represents a sustainable level of take.	Part 4
Establishing rules and arrangements for preserving planned environmental water by reference to the water that is not committed for extraction and by reference to the physical presence of water in the water source.	Part 6 and 7
Establishing rules for access to uncontrolled and supplementary flows.	Part 6
Specifying that sufficient volumes must be held and then released to satisfy end of system environmental flow requirements.	Part 7

Table 2. How the plan promotes the water management principle of section 5(3)(b) –

How we have promoted the principle in Section 5(3)(b)	Relevant plan provisions
The plan gives priority to current and future basic landholder rights by applying actions to licensed users preferentially to ensure compliance with extraction limits. This protects basic landholder rights even when extraction needs to be reduced.	Part 3 and Part 4 Division 4
The plan provides for the recognition of Native Title determinations as they are made. It can be amended to recognise a Native Title determination and any Indigenous land use agreement.	Part 3, Division 1 Part 10
The plan requires that minimum volumes to be held and releases from Carcoar Dam to satisfy BLR and environmental flow requirements	Part 7

Principles overlapping with section 5(3)(a)

There are principles in section 5(2) that partially overlap with the principle in section 5(3)(a). These include principles:

s 5(2)(a) – Water source, floodplains, and dependent ecosystems (including groundwater and wetlands) should be protected and restored and, where possible, land should not be degraded

s 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

s 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.

The greatest weighting has been applied to these 3 principles in accordance with s 9(1)(b) of the WM Act to the extent that they overlap with s 5(3)(a) and to the extent that they do not overlap, it is open to the Minister to weight them at their discretion.

Table 3. How the plan promotes the water management principle of section 5(2)(a)

How we have promoted the principle in Section 5(2)(a)	Relevant plan provisions
The plan aims to protect and restore the water source, floodplains and dependent ecosystems through the provision of water for the environment and contains rules:	See below

How we have promoted the principle in Section 5(2)(a)	Relevant plan provisions
Specifying the objectives, strategies and performance indicators that measure the effectiveness of plan rules	Part 2
- Identifying planned environmental water by specifying the LTAAEL and limiting total extraction. The LTAAEL and long-term average sustainable diversion limit (SDL) established by the plan, together with the associated compliance provisions, protect water within the water source for environmental purposes - Providing plan amendments to be made in response to a review of the plan's LTAAEL to determine whether it represents a sustainable level of take	Part 4
Establishing rules and arrangements for preserving planned environmental water by reference to the water that is not committed for extraction and by reference to the physical presence of water in the water source	Parts 6 and 7
Establishing rules for access to uncontrolled and supplementary flows	Part 6
Specifying that sufficient volumes must be held and then released from Carcoar Dam to provide end of system environmental flow requirements.	Part 7

Table 4. How the plan promotes the water management principle of section 5(2)(b)

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 provisions set out above in Table 3.	Parts 4, 6 and 7

Table 5. How the plan promotes the water management principle of section 5(2)(d) –

How we have promoted the principle in Section 5(2)(d)	Relevant plan provisions
The plan manages the cumulative impact of licences through:	

How we have promoted the principle in Section 5(2)(d)	Relevant plan provisions
Rules limiting total extraction. The LTAAEL and SDL established by the plan protect water within the water source for environmental purposes	Part 4
LTAAEL compliance provisions that reduce water availability where the extraction limits have been exceeded	Part 4, Division 2
Limiting the volume of water that can be taken from the water source by limiting the volume of water that can be debited from each account.	Part 6, Division 2

Remainder of water management principles under s 5(2)

Principles relating to social, economic and cultural outcomes

Table 6. How the plan promotes the water management principles of section 5(2)(e) and (f) –

How we have promoted the principles in Section 5(2)(e) and (f)	Relevant plan provisions
The plan specifies social, cultural, and Aboriginal objectives, strategies and performance indicators which will provide measurable evidence of whether outcomes have been achieved. The collection of information to evaluate the performance indicators will be undertaken through the monitoring, Evaluation and Review (MER) program.	Part 2
The plan provides for the recognition of Native Title determinations as they are made. It can be amended to recognise a Native Title determination and any Indigenous land use agreement.	Part 3, Division 1
The plan gives priority to current and future basic landholder rights by targeting extraction limit compliance actions to supplementary and regulated (general security) access licences. This protects basic landholder rights (including Native Title rights) even when extraction needs to be reduced.	Part 4, Division 2
The plan provides for applications for regulated river (high security) Aboriginal cultural access licences	Part 5

How we have promoted the principles in Section 5(2)(e) and (f)	Relevant plan provisions
The plan includes rules on limiting the take of uncontrolled and supplementary flows to provide for the environment and can help achieve Aboriginal cultural outcomes.	Part 6, Division 3
Rules that require sufficient volumes of water must be held and then released from Carcoar Dam to satisfy native title rights.	Part 7

Note. The *Access Licence Dealing Principles Order 2004* also applies to assessment of dealings (trade) of entitlements and allocations. Dealings are only approved if they do not adversely affect geographical and other features of indigenous significance, or major cultural, heritage or spiritual significance.

Table 7. How the plan promotes the water management principle of section 5(2)(g) –

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:	See below
Specifying economic and social strategies and performance indicators which will provide measurable evidence of whether outcomes have been achieved	Part 2
Allowing a person to apply for a specific purpose access licence for Aboriginal cultural purposes	Part 5
Supporting social and community requirements by reserving water for BLR (including native title rights), domestic and stock needs, and urban water needs, before making water available for lower priority uses	Part 6
Providing rules for trade of account water to allow the market to drive improved economic outcomes and water dependent businesses to manage their own supply requirements and risks.	Part 8

Table 8. How the plan promotes the water management principle of section 5(2)(c) –

How we have promoted the principle in Section 5(2)(c)	Relevant plan provisions
The plan aims to protect and enhance water quality by:	See below
Establishing the rules and arrangements for committing water as planned environmental water	Part 4, Division 2
Setting limits on the take of uncontrolled and supplemental flows that can help manage water quality	Part 4, Division 3
Releasing minimum end of system flows from Carcoar Dam that can help manage water quality in the downstream connected water source	Part 7

Planning improvement principles

Table 9. How the plan promotes the water management principles of section 5(2)(h)

How we have promoted the principle in Section 5(2)(h)	Relevant plan provisions
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
The plan includes provisions to review the numeric LTAAEL to determine whether it ensures a sustainable level of take.	Part 4
Mandatory metering and reporting requirements will inform the implementation of the plan rules and provision of water for the environment.	Part 9
The plan includes amendment provisions allowing the plan to be changed under particular circumstances that could be in response to monitoring or improvements in understanding of ecological water requirements.	Part 10

Note: As required under sections 43A and 44 of the WM Act, 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. Under section 45 of the WM Act, the Minister may amend a plan if satisfied it is in the public interest to do so.

Climate change

How climate change has been considered in replacing the plan

Water sharing plans (WSPs) are made for a period of 10 years, with plan review and remake providing an opportunity to apply an adaptive process to respond to climate change. Current climate change modelling does not provide a clear view on the likelihood or extent of change in the Belubula River area within the 10-year period of the plan. The Department has commenced a major program of integrating climate change and climate variability considerations into WSPs. This work has initially focused on a review of minimum inflows to storages in the inland regulated river WSPs and the development of sustainable diversion limits in the coastal unregulated and alluvial systems. However, this has now extended to work that will guide planners including climate data guidance, outcomes definition, impact assessment and decision support tools. This work may lead to plan amendments and the Minister can amend the plan at any time with the concurrence of the Minister for the Environment, if it is in the public interest to do so, which enables the plan to respond to climate change impacts to the water source.

The plan also expressly provides for a number of circumstances and matters in relation to which the plan may be amended. These include amendments in response to a review of the plan's LTAAEL to determine whether it represents a sustainable level of take. In undertaking the review, the Minister for Water is to consider future climate projections, including likely bounds of climate change impact within the terms of this plan, and the review of the *Basin Plan 2012*.

There are also actions within the NSW Water Strategy and the Lachlan Regional Water Strategy that will further integrate climate change considerations into the WSP framework. Some of these include:

- Priority 4 in the NSW Water Strategy to increase resilience to changes in water availability due to climate variability and change. This includes the development of regional drought resilience plans, as well as the recognition of the need to develop a set of methodologies to incorporate climate risk into water sharing plan and water management decision making.
- Priority 1 in the Lachlan Regional Water Strategy to build resilience to climate extremes. Future changes in climate are predicted to bring more extreme events, warmer temperatures and higher evaporation rates, which will stress the system and give it less time to recover. Droughts in the region often limit the ability to deliver water to town off-take points and nationally significant wetlands. They can also result in low or zero water allocations to general security licence holders over multiple years, which mostly affects industry and environmental water managers. Towns and communities that rely on unregulated water

sources could also experience greater risk of limited water supplies due to more frequent low-flow or cease-to flow periods. This may result in changes to the plan at some stage in the future. The Department has commenced a major program of integrating climate change and climate variability considerations into WSPs. This work has initially focused on a review of minimum inflows to storages in the inland regulated river WSPs and the development of sustainable diversion limits in the coastal unregulated and alluvial systems. However, this has now extended to work that will guide planners including climate data guidance, outcomes definition, impact assessment and decision support tools.

As the climate change work progresses, future water sharing plan reviews provide a structured and regular regulatory opportunity to assess and build in further mechanisms in response to these broader actions.

More information

To read the water sharing plan and supporting fact sheets, visit the Department's [water sharing plan status](#) page.

To read the manual for making water sharing plans, refer to the [Replacement Water Sharing Plan Manual](#) published on the Department's website.