Summary of changes to the Water Sharing Plan for the Belubula Regulated River Water Source

A summary of changes made to the *Water Sharing Plan for the Belubula Regulated River Water Source.*

The Minister for Water, with the agreement of the Minister for the Environment, made a replacement Water Sharing Plan for the Belubula Regulated River Water Source, which replaced the previous 2012 plan. The table below outlines the substantive changes from the previous 2012 plan. In drafting the replacement plan, the plan was also updated to simplify and modernise its drafting, make the intent of its provisions clear, and improve its legal robustness.

Table 1. Summary of changes to the *Water Sharing Plan for the Belubula Regulated River Water Source*

Clause in 2012 plan	Change in 2025 plan	Basis for change
Part 1 **Introduction**	The commencement date has been replaced with upon publication on the NSW legislation website.	The commencement date is changed to 2025 to reflect that the Plan has been remade rather than amended. This means that the 2012 plan has been repealed, and in line with the *Water Management Act 2000*, Section 43, the new plan is in place for 10 years from the date of 1 July 2025, or until the end of June 2036 if the new plan commences after 1 July 2025. It should be noted that the plan can be amended, if necessary, within the 10-year term.
Part 2 **Vision, objectives, strategies and performance indicators**	Updated the vision, objectives, strategies and performance indicators to reflect changes to the water sharing plan templates.	The Natural Resources Commission (NRC) recommended review of the plan objectives to strengthen monitoring, evaluation and reporting (MER) of the plan outcomes.

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		Parliamentary Counsels Office advised that the plan can only contain high level statements. .
Part 2 Vision, objectives, strategies and performance indicators	Additional requirement for monitoring and evaluation of performance indicators included	These changes arose from concurrence approval of the 2024 inland unregulated water sharing plans. A monitoring, evaluation and reporting (MER) plan for the plan is to be published by December 2026. The implementation of the plan, including progress against the MER plan will be publicly reported on each year. In year 9 of the plan the Minister will publicly report on the results of the monitoring and evaluation undertaken.
Part 3 Bulk Access regime	This section removed as it did not provide additional information than that which already exists in the *Water Management Act 2000* or elsewhere in the plan.	Parliamentary Counsel's Office have simplified the drafting of water sharing plans.
Part 4 Planned environmental water provisions	The Environmental Water Provisions remain in the plan but not in their own part. They have been distributed throughout the plan into Part 4 – Limits to the availability of water, Part 6 – Operation of water allocation accounts and managing access licences and Part 7 – Rules for major utility and other storages. The planned environmental water provisions are identified by clauses at the commencement of the relevant section.	Parliamentary Counsel's Office have simplified the drafting of water sharing plans.

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Part 5 Requirements for water Division 1 General	This division removed as it did not provide additional information than that which already exists in the *Water Management Act 2000* or elsewhere in the plan.	Parliamentary Counsel's Office have simplified the drafting of water sharing plans.
Part 5 Requirements for water	This part is now set out in Part 3. Update to licensed water requirements including estimates for basic landholder domestic and stock rights.	The new basic landholder rights estimates are expressed in megalitres per year instead of megalitres per day and reflect updated land use since the 2012 plan commenced. Estimates for licenced water entitlements have been updated based on Water Licensing System data and reflect changes to licensed water entitlements since the 2012 plan commenced.
Part 6 System operation rules	This part is now set out in Part 7. Change to when the end of system flow rule is not required to be met to account for water extracted from Cadia mine above the Beneree gauge on Flyers Creek if the average flow over 120 days has been less than 10 ML/d. Change the grouping of orders rules to require a protocol to be established before grouping of orders can be done.	The NRC recommended that the Department should assess extractions upstream of the Beneree gauge (Flyers Creek) and determine whether extractions in Flyers Creek risk triggering the relaxation of the end of system flow rule more frequently. The Department reviewed the potential for an upstream weir and water extraction to impact on the downstream flow regime and amended the end of system flow rule to take into account the upstream extractions. The intent of the change is to ensure the end of system flow rule is being delivered regardless of take by Cadia Mine in the unregulated Flyers Creek.

Clause in 2012 plan	Change in 2025 plan	Basis for change
		Grouping of orders during dry times can result in periods of very low/no flows in the river. A protocol is near completion and will be agreed to by all relevant agencies and representatives of water access licence holders.
Part 7 **Division 2** **Long-term average annual extraction limits**	Provisions have been included to: - provides a numerical estimate for the Long-Term Average Extraction Limit (LTAAEL) based on conditions described in this division. - review the LTAAEL by year 3 of the plan having regard to a sustainable level of take. This work will be undertaken with advice from NRC and consider the outcomes of the Basin Plan review (if completed). - review the LTAAEL by year 3 of the plan to consider and adapt to climate change. - allow the plan to be amended to give effect to changes to rules as a result of the reviews. This is now set out in Part 4, Division 2.	The development of a numerical LTAAEL implements a recommendation of the NRC and will enable better assessment of compliance with the LTAAEL. The changes specify a review of LTAAEL having regard to a sustainable level of take, and to consider climate change to protect the water source and their dependent ecosystems. The review will also consider cultural, social and economic implications of any extraction limit change. The Department has commenced a major program of integrating climate change and climate variability considerations into the plans. The work has commenced with a review of the minimum inflows to inform maintenance of water supply in inland regulated river systems. This is a key piece of work in relation to climate considerations within plans.
Part 7 **Limits to the availability of water** **Division 3**	We updated drafting of the long-term average sustainable diversion limit (SDL) provisions.	We have simplified the drafting of SDL provisions, removed unnecessary detail and included references to appropriate sections of the *Basin Plan 2012* and the *Water Act 2007* (Commonwealth).

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Long-term average sustainable diversion limit		
Part 7 **Division 5** **Available water determinations (AWDs)**	The 2012 plan required the Minister to make certain AWDs at a certain time. The plan has been changed to require the Minister to consider making AWDs as set out in this Part. This is now set out in Part 4, Division 1.	A provision of a water sharing plan cannot require the Minister to make AWDs at a certain time, as that is fettering the Minister's broad power in section 59 of the WM Act.
Part 8 **Rules for granting access licences**	This part is now set out in Part 5. Drafting has been updated but no material changes have occurred to this Part. We have made changes to the Aboriginal cultural specific purpose access licence provisions.	Parliamentary Counsel's Office have simplified the drafting of water sharing plans. The changes clarify that any secondary or incidental benefit gained from take under an Aboriginal cultural access licence is permitted.
Part 9 **Operation of water allocation accounts and managing access licences**	This part is now set out in Part 6.	Parliamentary Counsel's Office have simplified the drafting of water sharing plans.
Part 10 **Access licence dealing rules**	This part is now set out in Part 8	Parliamentary Counsel's Office have simplified the drafting of water sharing plans.

Clause in 2012 plan	Change in 2025 plan	Basis for change
Part 11 **Mandatory conditions**	This part is now set out in Part 9. We have specified that conditions on water supply work approvals held by WaterNSW must refer to conditions in Parts 6 and 7 of the plan.	The work approval conditions have been updated to align with the water sharing plan template drafted by Parliamentary Counsel's Office.
Part 12 **Amendment provisions**	Simplifies amendment provisions. This part is now set out in Part 10. Additional amendment provision to review and amend the end of system flow rules in 5 years to ensure they are delivering the intended environmental benefits without overly impacting users or storage volumes in Carcoar Dam.	Amendment rules have been limited to those that are possible under the WM Act, where there is a policy being developed that is well advanced that will require a change to the water sharing plan, or where an administrative change is required. This does not prohibit amendment of the plan if it is in the public interest to do so in accordance with section 45 of the WM Act. The new amendment provision is time based and dependent on further investigation.
Schedule 1 **Access licences prohibited from taking uncontrolled flows**	Updated *Water Act 1912* licence numbers with WM Act licence numbers. Removed Domestic and Stock licences.	Domestic and Stock licences do not need to be included in the schedule because they do not have access to uncontrolled flows.
Schedule 2 **Offices**	List of office locations removed.	The list of offices to send notifications to is no longer relevant or required.
Dictionary	This is now set out in Schedule 2 with updated terminology.	Add new terms consistent with the water sharing plan template and remove unnecessary terms.

Clause in 2012 plan	Change in 2025 plan	Basis for change
Appendix 1 **Overview of the Belubula Regulated River Water Source**	This has been removed.	The Belubula Regulated River water source is described in the *Regulated River Order for the Belubula Regulated River 2012*.

Why we have made these changes

The *Water Sharing Plan for the Belubula Regulated River Water Source 2025* was due to expire on 30 June 2023. The plan was extended for a period of up to 2 years to give the Department time to replace it. This was in line with the recommendation of the Natural Resources Commission's review of the 2012 plan.

The process for changing water sharing plans

As well as the approval of the Minister for Water, replacing a plan requires the agreement of the NSW Minister for Environment (this is known as 'concurrence'). Consistent with section 9 of the *Water Management Act 2000* (the WM Act), when replacing a water sharing plan the ministers must:

- take all reasonable steps to promote the water management principles of the WM Act and
- give priority to the principles relating to water sharing according to the order they are set out in under section 5 (3) of the WM Act.

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

A draft replacement plan was placed on public exhibition from 11 November 2024 to 10 January 2025. During public exhibition one face-to- face public information session and a webinar were held. There were 21 submissions received on the draft plan.

The Department's Water Group worked with colleagues in the Department's Conservation Programs, Heritage, and Regulation Group to develop the replacement plan before submitting the plan for the agreement and approval of the ministers.

More information

To read the *Water Sharing Plan for the Belubula Regulated River Water Sources 2025* and supporting information, visit the Department's water sharing plans status website.