

# Changes to the Upper Namoi and Lower Namoi regulated water sharing plan

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## A summary of the changes made to the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016*

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The NSW Government replaced or amended all water sharing plans for groundwater and unregulated river water sources within the Murray–Darling Basin on 1 July 2020. The NSW Department of Climate Change, Energy, the Environment and Water (the department) is now completing a similar process for water sharing plans for regulated river sources within the Basin, including the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016*.

The department initially submitted the Namoi Surface Water Resource Plan to the Murray–Darling Basin Authority (MDBA) in June 2020 and resubmitted a revised water resource plan in November 2022, which was subsequently withdrawn in May 2023. A draft amended *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016* was part of this Namoi Surface Water Resource Plan.

In response to the MDBA’s initial assessment of the water resource plan, the department has now amended the *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016*. This will be re-submitted to the MDBA as part of the final water resource plan package for further assessment and accreditation under the Commonwealth *Water Act 2007*.

The plan has been amended to improve sequencing and readability, and to clarify the intent of some clauses. Plan parts have been re-ordered. These changes have no material impact on the intent or operation of the plan. However, some other changes have been made, for example to align with the requirements of the *Basin Plan 2012* and to enable the licensing and management of floodplain harvesting. These other water sharing plan amendments are outlined in Table 1 below.

The NSW Government is submitting NSW’s water resource plans to the MDBA for accreditation. The changes to water sharing plans are part of this accreditation process. To learn more, refer to the section ‘Why we have made these changes’.

Table 1. Summary of changes to the *Upper Namoi and Lower Namoi Regulated River Water Sharing Plan 2016*

Part/Division	Plan as amended 2024	Basis for change
<b>Introduction</b>	<ul style="list-style-type: none"> <li>a) We added a note to clause 4 to make clear that water extracted under a floodplain harvesting (regulated river) access licence is part of the water source</li> <li>b) We added a new paragraph (5A) to include management zones that apply to the management of floodplain harvesting (regulated river) access licences</li> </ul>	Licensing of floodplain harvesting take.
<b>Part 2 – vision, objective, strategies and performance indicators</b>	<p>General revision of objectives, strategies and performance indicators</p> <p>Additional provisions regarding monitoring, evaluation and reporting</p>	<p>In response to the Natural Resources Commission’s review recommendations to better align objectives and strategies, and to improve the ability to measure and evaluate plan outcomes</p> <p>In response to the Minister for Environment’s request for increased transparency of processes.</p>
<b>Part 5 – Requirements for water (previously Part 6)</b>	We added a provision (cl.23A) to allow for the specification of floodplain harvesting access licence share components	Licensing of floodplain harvesting take.
<b>Part 6 – Limits to the availability of water (previously Part 8)</b>	<p>We inserted provisions to:</p> <ul style="list-style-type: none"> <li>(a) recognise and adopt the provisions in Chapter 6 of the Basin Plan relating to the long term sustainable diversion limit (SDL) for the Namoi surface water resources as it pertains to the Upper and Lower Namoi water sources (cl.30), to calculate annual permitted take and annual actual take (cl.31), to assess compliance with the SDL (cl.32), and to take action following non-compliance with the SDL (cl.33)</li> </ul>	Brings the part in line with Basin Plan requirements.
<b>As above</b>	<ul style="list-style-type: none"> <li>(b) provide for available water allocations for floodplain harvesting and reductions in these if required to comply with SDL and long-term average annual extraction limit (cl.33 and cl.38A)</li> </ul>	Licensing and management of floodplain harvesting take within the plan limits.

Part/Division	Plan as amended 2024	Basis for change
As above	(c) require consultation with the NSW Environmental Water Manager, water user representatives and WaterNSW in relation to the data used to calculate the long-term average annual extraction limit, the long term average annual extraction, the annual permitted take and the annual actual take, and before taking any SDL or long term average annual extraction limit compliance action	This allows key stakeholders to give input before the department acts to address non-compliance with either the long-term average annual extraction limit or the long-term average sustainable diversion limit.
As above	(d) include a number to describe the LTAAEL	In response to the Minister for the Environments request for increased transparency in processes.
As above	(e) Include review and potential amendment of the LTAAEL based on new information	In response to the Minister for the Environments request for increased transparency in processes.
<b>Part 7- Rules for granting access licences and water supply work approvals</b>	(a) We amended a clause (cl.40) to allow for commercial benefit from the taking or use of water under an Aboriginal cultural licence if that commercial benefit is ancillary or incidental to the cultural purpose for which the water was taken	Responds to concerns expressed by Aboriginal communities that they may inadvertently break the law if they use an Aboriginal cultural licence primarily for cultural purposes, but the communities gain a secondary, ancillary or incidental commercial benefit.
As above	(b) We included provisions (cl.40A) to manage the location of new or amended floodplain harvesting works to protect high value floodplain environmental assets, values and functions, and to deliver the intent of the floodplain management plans that apply in the plan area.	Licensing and management of floodplain harvesting take.
<b>Part 8 - Operation of water allocation accounts and managing access licences (previously Part 9)</b>	(a) We included provisions to manage the water allocation accounts of floodplain harvesting (regulated river) access licences (cl.41 and cl.42).	Licensing and management of floodplain harvesting take.

Part/Division	Plan as amended 2024	Basis for change
As above	(b) We included provisions for floodplain harvesting take, subject to an announcement by the Minister that such take can occur (cl.47A).	Management of floodplain harvesting take to meet in-system and downstream flow targets.
As above	(c) Include review and potential amendment of the trigger volumes based on new information	In response to the Minister for the Environments request for increased transparency in processes.
<b>Part 9 – Access licence dealing rules (previously Part 10)</b>	(a) We included provisions for limited dealings (trade) of floodplain harvesting access licences, subject to restrictions prohibiting such into areas on the floodplain of high environmental value (cl.49, cl.51, cl.53)	Management of floodplain harvesting take. Assignment of water allocations (temporary trades) are prohibited between floodplain harvesting access licences.
As above	(b) We have limited trade of access licence share components that can be traded from the Lower Namoi water source to the Upper Namoi water source. Such trades cannot result in the sum of the share components of all access licences in the Upper Namoi Regulated River Water Source exceeding 12,760 (cl.49 and cl.50).	This reduces the potential for adverse impacts of trades on Upper Namoi water users.
As above	(c) We have permitted trade of access licence share components from the Peel Regulated River water source into the Lower Namoi water source (cl.49 and cl.50)	This reduces the pressure on the Chaffey Dam storage.
<b>Part 10 – System operation rules (previously Part 12)</b>	(a) We revised the end of system minimum flow rule to specify flows at the gauging station at on the Namoi instead of Walgett (cl.54). Goangra is about 30km upstream of Walgett. Note that this can be amended (cl.72) if required to better represent 75% of the computer model generated natural daily flow that is exceeded in 95% of days for each month.	The change was necessary as Walgett gauging station has been discontinued because of the construction of the new Walgett weir.
As above	(b) We included provisions mandating a review by 30 June 2026 of the period of flow record used to define the ‘lowest accumulated inflows to the water source’ upon which reserves held in the dams and system operation rules are based (cl.55). The provisions provides for a possible future change if necessary to protect the critical needs of basic landholder rights, domestic and stock access licence holders and local water utility access licence holders.	This will inform concerns about the drought sequence underpinning water sharing plan allocations and operations.

Part/Division	Plan as amended 2024	Basis for change
<b>Part 11 – Mandatory conditions</b>	We included a provisions that apply mandatory conditions to floodplain harvesting licences and water supply work approvals (cl.64 and cl.65).	Licensing and management of floodplain harvesting take.
<b>Part 12 - Amendment of this plan (previously Part 14)</b>	(a) We included provisions that allow for future amendments to plan rules relating to the management of floodplain harvesting licences (cl.71), including, for example, in response to monitoring, the need to protect overland flow for environmental purposes, and improved understanding of the influence of floodplain harvesting on downstream flows	Licensing and management of floodplain harvesting take.
<b>As above</b>	(b) We allowed for the amendment of the plan performance indicators following a review of the monitoring, evaluation and reporting plan (cl.68)	Allows for alternative performance indicators to better evaluate the achievement of the environmental, economic, Aboriginal cultural, and social and cultural objectives of this plan.
<b>As above</b>	(c) We allowed for amendment of the plan to give effect to, or in connection with, a determination of native title under the <i>Native Title Act 1993</i> of the Commonwealth, and to protect water-dependent Aboriginal cultural assets (cl.74)	Better recognises and protects Aboriginal values and uses of the water sources and dependent ecosystems.
<b>As above</b>	(d) We allowed for amendment of the plan to include provisions for the interception of water before it reaches a stream or aquifer by plantations or other means (cl.74)	To meet the requirements of the Basin Plan.
<b>As above</b>	(e) We allowed for amendment of the plan to include provisions for water return flows, as referred to in Division 5 of Part 2 of Chapter 3 of the Act (cl.74),	As provided for under the WM Act.
<b>As above</b>	(f) We allowed for amendment of the plan to include provisions for the conversion of regulated river (high security) access licences with share components that specify the water sources to access licences with share components that specify connected upstream unregulated water sources (cl.74)	To allow for development in upstream unregulated rivers where there is insufficient entitlement to support this (subject to environmental constraints).
<b>As above</b>	(g) We allowed for amendment of the plan to include provisions to facilitate total extractions reaching the long-term average annual extraction limit or long-term average sustainable diversion limit	If there is systemic under use in the water sources and amendments would not reduce the protection of planned environmental.

Part/Division	Plan as amended 2024	Basis for change
As above	(h) We allowed for amendment of the plan to establish a long-term average sustainable diversion limit that combines the long-term average sustainable diversion limit for the water sources, the Peel Regulated River Water Source, and the Namoi Unregulated Rivers Water Sources	To implement the intent of the Basin Plan SDL provisions.
As above	(i) We allowed for amendment of the plan to enable all or part of this Plan to be accredited as part of a water resource plan under the <i>Water Act 2007</i> of the Commonwealth	To allow for water resource plan accreditation.
As above	(j) We allowed for amendment of the plan to protect held environmental water that flows out of the Peel Regulated River Water Source from being extracted in the Lower Namoi Regulated River Water Source	Environmental water protection.
As above	(k) We removed amendments relating to planned environmental water	Previous amendment clause for changes to supplementary flow have been removed as there will be no further change under in plan provisions to the supplementary sharing arrangements.
Schedule 2	We added a new schedule with a map of the Gywdir Floodplain and management zones.	Licensing and management of floodplain harvesting take.
Appendix 1	We added a new appendix with a map of the Lower Namoi floodplain and its management zones	To facilitate the management of floodplain harvesting licences and water supply works.
Appendix 2	We added a new appendix with a map of the Upper Namoi floodplain and its management zones	To facilitate the management of floodplain harvesting licences and water supply works.
General	We removed all references to the long-term watering plan (LTWP) and environmental water requirements (EWR) from the plan.	These references are requirements of the Commonwealth Basin Plan 2012 and not part of the NSW regulatory framework.

## The process for changing water sharing plans

Amending a water sharing plan requires the approval of the NSW Minister for Water and the agreement of the NSW Minister for the Environment. Consistent with section 9 of the *Water Management Act 2000* (the WM Act), when amending 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):

- 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 department's Water group worked with colleagues in the department's Environment group to develop the amendments before submitting the plan for the agreement and approval of the ministers.

The amendments made to the water sharing plan:

- meet the requirements for the Basin Plan accreditation process
- simplify and modernise its drafting
- make the intent of some provisions clearer
- provide a legally robust plan.

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## More information

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

To read the water sharing plan amendment protocol, refer to the fact sheet [https://water.dpie.nsw.gov.au/data/assets/pdf\\_file/0004/509863/water-sharing-plan-amendment-protocol.pdf](https://water.dpie.nsw.gov.au/data/assets/pdf_file/0004/509863/water-sharing-plan-amendment-protocol.pdf).