

Maintaining the protection of planned environmental water—surface water

Planned environmental water (PEW) is water committed for fundamental ecosystem health or other specified environmental purposes. It is committed either generally, at specified times, or in specified circumstances, and cannot be taken or used for any other purpose.

Section 10.28 of the *Basin Plan 2012* states that a water resource plan (WRP) must ensure that there is no net reduction in the protection of planned environmental water from the protection provided for under state water management law immediately before the commencement of the Basin Plan (23 November 2012).

To establish that there is no net reduction in the protection of PEW, NSW is required to provide the Murray–Darling Basin Authority (MDBA) with an understanding of any changes from previous arrangements that were in place from 23 November 2012, and an assessment of the effect of those changes.

Planned environmental water in NSW

The NSW *Water Management Act 2000* requires environmental water rules be established for all water sources. The PEW rules are established in water sharing plans (WSPs).

For regulated rivers (those rivers with major storages in their headwaters) WSPs can include rules on the timing of releases from storages, and the volume of flows required at specific sites.

For unregulated rivers (those whose flow is not controlled by major storages), environmental flow rules typically involve cease-to-pump rules (to protect very low flows) and commence-to-pump rules (to protect freshes).

Implementation

The NSW Department of Industry—Lands & Water, WaterNSW and licence holders all have a role in maintaining protection of PEW.

In regulated river systems, NSW uses two different flow release mechanisms to achieve environmental outcomes from PEW:

- **Rules-based environmental water** (Non-discretionary PEW) involves fixed rules that prescribe automatic water release actions (for example, transparency/translucency releases) or specified system operations (for example, limits on extraction) based on set criteria. This is managed by the system operator in consultation with NSW Department of Industry.
- **Account-based environmental water** (Discretionary PEW) involves rules directing that water be set aside into bulk accounts—often referred to as environmental water allowance (EWA)—once or as certain conditions are met. Once accrued, delivery is decided by environmental water managers. In NSW this is the Office of Environment and Heritage, often informed by expert and community representatives who are members of an environmental water advisory group. With the ability to order releases from such accounts, environmental water managers have flexibility in determining when and how watering actions should occur to optimise outcomes.

Monitoring and compliance in NSW

Water available for extraction is managed to ensure that the volume of water taken does not exceed the WSP's extraction limit over the long term. WSPs include provisions that describe how compliance with the extraction limit is monitored and assessed. When extraction does exceed the extraction limit, the total volume available for extraction can be reduced through mechanisms such as available water determinations.

Commonwealth Government definition of PEW

The Commonwealth Government definition of PEW is consistent with the NSW definition in the sense that PEW is protected through WSP environmental water rules. However, the Commonwealth Government definition also captures any additional rule in a WSP that is linked to environmental outcomes or other environmental purposes.

MDBA requirements

The MDBA's Position Statement 6A states that the MDBA will assess 'no net reduction in the protection of PEW' using three parameters—volume protection, legal protection and maintaining effectiveness—to ensure that environmental outcomes assumed under the Basin Plan are protected. To ensure that any change is consistent with the original intent of the PEW rules, a comparison would also be made between the proposal and the original objectives or outcomes linked to those PEW rules.

Where a proposal looks to change the water sharing plan rules that would introduce greater discretionary decision making, a change to PEW volumes, or a change to how the current PEW rules operate, it will go through an assessment process to demonstrate that PEW is still protected and is no less effective in providing identified environmental outcomes.