

Department of Planning and Environment

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What We Heard

Draft Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023

February 2023





Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and waters, as we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Contents

Executive summary	4
About this document.....	4
Background.....	4
Consultation	5
What we asked.....	7
What we heard	8
Next steps	12
More information	12
Appendix 1: Out-of-scope issues	13

Executive summary

About this document

The water sharing plans for the *Bega and Brogo Rivers Area Regulated, Unregulated and Alluvial Water Sources (2011)* and the *Murrumbidgee Area Unregulated and Alluvial Water Sources (2010)* will expire on 30 June 2023. They will be replaced by one combined plan, the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023*.

The NSW Department of Planning and Environment (the department) publicly exhibited a draft replacement of the water sharing plan in July and August 2022. This gave water users, broader stakeholders and other interested parties an opportunity to learn more about proposed changes, make submissions and comment on the draft plan.

This report summarises how we engaged with communities, the key issues we heard and the next steps in finalising the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023*.

Background

The department manages surface and groundwater, ensuring water security for NSW. We also ensure sharing of surface and groundwater resources is fair, and that water entitlements and allocations are secure and tradeable.

Water sharing plans are the primary legal framework for managing and sharing water in NSW. They are made under the NSW *Water Management Act 2000* and are valid for 10 years. The rules in the plans allow equitable sharing of water for all water users, including the environment.

Engagement at a glance



4

phone enquiries



355

unique website page visits



23

formal submissions



2

Face-to-face public information sessions



4

Aboriginal community sessions



1

live webinars

They do this by:

- providing water for the environment by protecting a proportion of the water available for fundamental ecosystem health
- setting limits on the total volume of water extracted to ensure security for all water users
- protecting the water needed to meet basic landholder rights
- letting water users know when and how water will be available for extraction
- giving licence holders flexibility in the way they can manage their water accounts
- specifying rules to minimise the effects of extraction on:
 - other groundwater users
 - groundwater-dependent ecosystems
 - culturally significant sites
 - water quality
 - the integrity of the aquifer
- specifying the rules for water trading – that is, buying and selling water licences and water allocations
- setting the mandatory conditions that apply to licence holders.

Under the *Water Management Act 2000*, water sharing plans are reviewed every 10 years. They may be replaced to deliver better outcomes for all water users, including the environment.

Consultation

Consultation is an essential part of developing the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023*.

From 13 July 2022 to 21 August 2022, the department publicly exhibited the draft replacement *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023* (the plan).

We encouraged stakeholders to give feedback directly and through written submissions. Our website included a 'Have your say' section that gave people different ways to make a submission, including by email, direct mail and a downloadable feedback form.

The department received feedback from those who attended face-to-face and webinar sessions, as well as 23 written submissions. The valuable feedback we received during the public exhibition period and through submissions has helped us finalise the draft replacement water sharing plan.

How did we consult?

Between 13 July 2022 and 21 August 2022, the department consulted with stakeholders and sought their views on the proposed changes to the plan.

We identified stakeholders with a potential interest in the plan. These included:

- WaterNSW customers (holders of water access licences and holders of water supply work approvals)
- environmental interest groups
- local Aboriginal land councils
- community groups
- irrigation groups
- horticulture and dairy groups
- local councils.

The department contacted WaterNSW customers by mail (506 letters). We contacted other groups and individuals by email (398 recipients). Both these communications informed recipients of the plan replacement and ways to access information. We also invited them to attend one of the public information sessions.

We held 3 public information sessions over 5 weeks and included a live webinar and face-to-face sessions. In addition, the department also met with various stakeholder groups at several targeted events across 2021 and 2022.

The public exhibition period for the draft *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023* included information sessions with plan-specific presentations and communication materials available. Departmental staff attended to speak with stakeholders and answer questions.

Table 1 shows the locations of face-to-face community information events.

Face-to-face information sessions

We held 2 face-to-face stakeholder meetings. These were in 2 locations that are convenient for most stakeholders in each area that is likely to be affected by proposed changes to the plan.

We used a 'drop in' approach for the meetings in which staff were available over 3 hours at each location. Stakeholders attended at any time throughout the 3 hours to watch presentations, gather printed information, inspect maps and discuss any questions or concerns one-on-one with staff.

Table 1 and Table 2 summarise participation for each meeting.

Table 1. Attendance at face-to-face meetings

Location	Date	Attendees
Bega	26 July 2022, 10 am to 1 pm	35
Cobargo	27 July 2022, 10 am to 1 pm	20

Webinar sessions

The department held a live webinar session using a virtual meeting platform. We presented the proposed changes to the plan live and attendees could post questions in the live chat.

We emailed a copy of the presentation to attendees after the webinar. We allocated time at the end of the presentation for clarifications, questions and discussion.

Table 2. Attendance at webinars

Location	Date	Registered to Attend	Attended
Webinar	4 August 2022, 11:30 am to 1 pm	12	9

What we asked

The online submission form focused on the following key proposed changes between the 2010 and 2023 plans:

- changes to cease-to-pump rules
 - their effects on businesses
 - how appropriate they are for protecting the environment
- trade framework
 - general overall increase in trade into high flows
 - the effect of increased trade opportunities on buying and selling water
- Aboriginal community development licences in select areas
- changes to high-flow conversion rules
- rules to protect environmental flow releases from the Brogo Dam
- removal of the access rule limiting supplementary and uncontrolled flows in the regulated river
- requirements for water ordering for water users in the Bega and Brogo Regulated River
- administrative changes in managing and accounting for the drought reserve for the Cochrane Dam
- new definition of the long-term average annual extraction limit (LTAAEL)

- inclusion of the new Bega River Area Coastal and Floodplain Alluvial groundwater source
- changes to rules and distance conditions for water supply works approvals and construction near:
 - groundwater-dependant ecosystems
 - culturally significant sites
 - contamination sites
 - acid sulphate soil sites
 - Coastal State Environmental Planning Policy wetlands
- introduction of the non-urban water metering framework
- how appropriate a review of access and trade rules will be after assessing the uptake of harvestable rights at year 3.

Although these were the key issues, we welcomed and encouraged comments and discussion on all aspects of the plan.

What we heard

Stakeholders raised issues through consultation sessions, formal submissions, and email correspondence. When reviewing if issues were in or out of scope for the replacement plan, the department considered the following:

- Is the issue within the scope of the water sharing plan?
- Is the suggestion consistent with the *Water Management Act 2000*?
- Are existing programs or processes or other departments addressing the issue?
- Does it relate to water charges, costs, operational activities or licensing matters outside of the scope of the water sharing plan?
- Is it likely to affect water availability for basic landholder right users and licence holders, and if so, how?
- Can current legal mechanisms enable the change, or is legislative change required?
- Is it consistent with current policy settings? If not, can we develop robust, alternative policies within the timeframe for developing the water sharing plan?
- Are there extra costs for the NSW Government?
- Can we investigate the issues within the timeframe for developing the water sharing plan?

Issues raised from public consultation that were out of scope of the water sharing plan are summarised in **Error! Reference source not found**. These issues will not be explored further as part of the replacement plan.

Key issues

We received feedback on the proposed changes during multiple consultation sessions and through submissions about the proposed rule changes. Table 3 summarises the feedback the department considered to finalise the plan.

Table 3. Summary of submissions about the proposed rule changes

Issue	In support	Not in support	Comments
<ul style="list-style-type: none"> • Changes to cease-to-pump rules • Effect of proposed changes to access rules on businesses • Appropriateness to protect the environment 	3	11	<p>In support:</p> <ul style="list-style-type: none"> • ‘Rules to support connecting flows should be prioritised’ • ‘Sends message that cannot rely on river and must build storage.’ <p>Not in support:</p> <ul style="list-style-type: none"> • ‘Rather than imposing increased risk on irrigators the focus should be on increasing the Drought Reserve in Cochrane Dam and encouraging the implementation of on-farm water storage.’ • ‘The focus should be on the Cochrane Dam drought reserve and improving its security, triggers and releases.’ • ‘Disregards the riparian works which landholder have undertaken and continue to maintain under the Bega River Health Agreement.’ • ‘Need to encourage the implementation of on-farm storage.’ • ‘Oppose changes to rules for dams on third-order streams.’ • ‘The whole region will be impacted if more dairy farms close and the factories in Bega downsize as a result of this plan.’ • ‘The cease-to-pump levels will definitely impact our dairy farm in a negative way.’ • ‘We understand that cease-to-take rules are aimed at protecting the environment and are set to achieve a balance between environmental and extractive water needs. Determining if they appropriately protect the environment is difficult to say.’

Issue	In support	Not in support	Comments
<ul style="list-style-type: none"> • Trade framework • General overall increase in trade into high flows • Effect of increased trade opportunities on buying and selling water 	2	7	<p>In support:</p> <ul style="list-style-type: none"> • ‘In principle, we support trade into these water sources at high flow, and the use of high-flow conversion rates as an incentive to facilitate trade away from low flow to high-flow licensed water take.’ • ‘This is a positive change, but the upper limits will stop implementation, particularly in the Upper Bega–Bemboka tributaries.’ • ‘I support the trade rules. The maximum limits are too low.’ <p>Not in support:</p> <ul style="list-style-type: none"> • ‘Our catchments are too short of available flow to be economical or justifiable in implementing.’ • ‘We don’t use our entitlement, but we are unlikely to sell because it may affect the resale of the farm.’ • ‘Not selling at all. Would perhaps buy if we were able to put in decent on-farm storage.’
Aboriginal community development licences	4		<p>In support:</p> <ul style="list-style-type: none"> • ‘Scale seems mean-spirited in light of history of dispossession of water rights.’
High-flow access licence conversions	1	5	<p>Not in support:</p> <ul style="list-style-type: none"> • ‘Flows are too low for high-flow conversion rules to be implemented.’ • ‘I object to the removal [of high-flow conversion] from water sources. On-farm storage should be encouraged.’ • ‘Every water source should have high-flow conversion.’
Rules to protect environmental flow releases from the Brogo Dam	1	3	<p>Not in support:</p> <ul style="list-style-type: none"> • ‘The Brogo has an over allocation and under-utilization problem.’
Removal of the access rule limiting supplementary and uncontrolled flows in the regulated river	3		<p>In support:</p> <ul style="list-style-type: none"> • ‘This could be a positive rule change if the licence holders downstream could build on-farm water storages to benefit from it.’
Water ordering	2		<p>In support:</p> <ul style="list-style-type: none"> • ‘Water ordering has merit.’

Issue	In support	Not in support	Comments
Administrative changes for the Cochrane Dam		17	Not in support: <ul style="list-style-type: none"> ‘Build extra capacity.’ ‘Need minimum releases all year round to maintain flow and stop pulsing occurring.’ ‘Increase the drought reserve and secure it with effective triggers and releases.’
New long-term average annual extraction limit (LTAAEL) definition	3	11	In support: <ul style="list-style-type: none"> ‘Specifying an amount of water available for take by licensed users and under basic rights is fundamental.’ Not in support: <ul style="list-style-type: none"> ‘No, restrictions will ultimately impact future agricultural development.’ ‘Concern over moving to a numeric LTAAEL too soon.’
Inclusion of a new groundwater source	1		Nil
Changes to rules and distance conditions for water supply works approvals and construction	2	18	Not in support: <ul style="list-style-type: none"> ‘Makes it more uneconomical in the future landscape.’ ‘Dams should be allowed on third-order streams.’ ‘Frustrated the plan does not permit viable on-farm storages in all water sources.’
Non-urban water metering framework	1	5	Not in support: <ul style="list-style-type: none"> ‘The metering of water use between water sources needs to be simplified – particularly for the upper Bega-Bemboka systems – the rules are crazy.’
Managing the effects of increased harvestable rights	1	6	Not in support: <p>‘Three-year timeframe for review of harvestable rights does not provide enough time for uptake.’</p>

Other issues

Other issues were raised during the consultation period. Examples of issues raised that are within the scope of the water sharing plan include:

- further consultation
- review of Cochrane Dam Drought Reserve and flow management
- explaining in which areas dams can be built
- explaining when and to whom cease-to-pump conditions apply.

We addressed these issues by taking more action in the plan or through communicating and consulting further with the relevant stakeholders.

Basic landholder rights (domestic and stock bores)

The effect of proposed changes to basic landholder rights (domestic and stock) bores was raised frequently during consultation and in correspondence. The department shared the following information with stakeholders:

- The plan does not impose any new restrictions on groundwater taken under basic landholder rights. Water can be taken for domestic use and stock use, but not for intensive agricultural or other industrial uses.
- We have changed the volumes assigned in the plan for this purpose because demand has changed.
- Rules in the plan aim to protect basic landholder right access.
- The department's website has information on basic landholder rights and the rules that apply.
- An application for a new bore could be refused if it would affect existing bores.
- When we assess an application for a development, we consider effects on groundwater, including effects on basic landholder rights bores and their yield.

Next steps

The department is considering feedback and issues raised that are within the scope of the water sharing plan. We will then recommend a replacement water sharing plan to the Minister for Lands and Water.

Before deciding to replace the plan, the Minister for Lands and Water must seek agreement from the Minister for Environment and Heritage. The department expects the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023* will be in force by 1 July 2023.

The department will publish a background document and another summarising the changes. These will include a summary of the changes made because of public consultation.

More information

The draft *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023* and supporting fact sheets will be available the [NSW Department of Planning and Environment's website](#) until the new plan begins on 1 July 2023.

After that date, we will publish the new plan and supporting information on the [South Coast region page](#).

Appendix 1: Out-of-scope issues

Managing water resources in New South Wales relies on a range of legislation, initiatives and cooperative arrangements with other agencies. Other agencies manage many issues that are outside the scope of a water sharing plan, including some relating to:

- following plan rules
- assessing development applications
- the costs and process of getting water licences and works approvals
- pollution and contamination of water sources.

Table 4 outlines the criteria for and examples of out-of-scope issues.

Table 5 summarises issues raised during public consultation that are outside the scope of the water sharing plan.

Table 4. Assessment criteria for identifying if an issue is out of scope

Assessment criteria	Comment/Example
Does the issue relate to water charges, costs, infrastructure proposals, operational activities or a licensing matter?	A water sharing plan cannot address these issues about how water management is carried out and operated.
Is the issue about including descriptions or explanations within the plan?	The water sharing plan is a legal document and states the rules relevant to water sharing. Other documents give supporting information that describe how water is managed and how decisions have been made.
Is another program or process addressing the issue, or is it the responsibility of another department?	<ul style="list-style-type: none"> • Other departments manage proposed or current land development activities such as mine approvals, road tunnel developments or water pollution under other legislation. • The Access Licence Dealing Principle Order 2004 is the basis for assessing the local effects of water extraction when an applicant seeks approval to trade water or construct a new water supply work.
Does the issue require time and resources beyond the time frame to review the water sharing plan?	For example, a study on the effects of climate change in a particular groundwater source.
Is the issue consistent with the current legislative and policy framework?	A water licence is required for any activities that intercept or extract groundwater unless a valid exemption applies.

Table 5. Summary of submissions on out-of-scope issues

Issue	Comments
Metering	<ul style="list-style-type: none"> • Under the Water Reform Action Plan (WRAP), which was released in December 2017, the NSW Government has committed to a new metering framework. The government released the WRAP in response to the independent investigation into NSW water management and compliance, conducted by Ken Matthews, AO (the Matthews Report) and the Murray–Darling Basin Water Compliance Review. • The new metering framework includes the: <ul style="list-style-type: none"> – NSW Non-Urban Water Metering Policy – metering-related provisions of the Water Management (General) Regulation 2018 – metering-related provisions of the <i>Water Management Act 2000</i>.
iWAS	<ul style="list-style-type: none"> • Daily water orders through WaterNSW’s tool, iWAS, help us calculate daily releases from dams across NSW. When you order water in advance, these calculations take into account how many lead days it takes for water to travel from the dam to the pump site. <ul style="list-style-type: none"> – Water orders determine which access licence usage is debited. – Water orders help to calculate releases from the dam on a daily basis.
Licensing costs and processes	<ul style="list-style-type: none"> • IPART (Independent Pricing and Regulatory Tribunal) determines costs associated with licences and approvals.