

Department of Planning and Environment

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# What We Heard

Draft Water Sharing Plan for Tweed River Area Unregulated and Alluvial Water Sources  
2023

May 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 and 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.

Published by NSW Department of Planning and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

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First published: May 2023

Department reference number: PUB23/112

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TMP-MC-R-DC-V1.2

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# Executive Summary

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## About this document

The *Water Sharing Plan for the Tweed River Area Unregulated and Alluvial Sources 2010* will expire on 30 June 2023.

The Department of Planning and Environment (the department) – publicly exhibited a draft replacement water sharing plan (plan), providing an opportunity for water users, broader stakeholders and other interested parties to learn more about proposed changes, and to make submissions and comment on the draft plan.

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

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## Background

The department is responsible for surface and groundwater management, including ensuring water security for NSW. We also ensure equitable sharing of surface and groundwater resources, 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.

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

### Engagement at a glance


 **0**  
phone enquiries

 **267**  
unique website page visits

 **4**  
formal submissions

 **1**  
Face-to-face public information sessions

 **1**  
Aboriginal community sessions

 **1**  
live webinars

- giving licence holders flexibility in the way they can manage their water accounts
- specifying rules to minimise impacts of extraction on:
  - other groundwater users,
  - groundwater-dependent ecosystems,
  - culturally significant sites,
  - water quality and
  - 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 subject to review every 10 years and may be replaced to deliver better outcomes for all water users, including the environment.

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## Consultation

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

The Tweed River community has been impacted by the recent catastrophic floods. However, there is a legal requirement to replace the water sharing plan.

On 12 August 2022, Jim Bentley, former CEO NSW Water Sector and other senior Water Group staff met with community representatives from council, irrigation groups, environmental council, NSW farmers, flood committee members and others to discuss how to proceed with the water sharing planning process.

From 31 October 2022 to 18 December 2022 the draft replacement *Water Sharing Plan for the Tweed River Area Unregulated and Alluvial Sources 2023* (the plan) was exhibited publicly.

In recognition of the impact of the 2022 catastrophic floods on the Tweed River community, their current priorities, and to minimise additional stress on the community, the department had extended the length of the public exhibition period for the plan from 40 days to 50 days.

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 4 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 31 October 2022 to 18 December 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 licence and water supply work approvals),
- environmental interest groups,
- Local Aboriginal Land Councils,
- community groups,
- irrigation groups,
- horticulture, beef and dairy groups and
- local councils.

The department contacted WaterNSW customers by mail (460 letters). We contacted other groups and individuals by email (160 recipients). Both these communications informed recipients of the plan replacement, ways to access information and inviting them to attend one of the public information sessions.

Public consultation for the draft *Water Sharing Plan for the Tweed River Area Unregulated and Alluvial Water Sources 2023*, and the draft Far North Coast Regional Water Strategy was run concurrently. We held one public face to face information session where communication materials and departmental staff were in attendance to speak with stakeholders and answer questions. We also held one online webinar on the water sharing plan with a presentation and question and answer session included. We published this presentation on the department’s website.

## Face-to-face information session

We held 1 face-to-face stakeholder meeting, in Murwillumbah as it was the most central location for the majority of stakeholders likely to be impacted by the proposed changes to the plan. We used a ‘drop in’ approach for the meeting in which staff were available over 4 hours. Stakeholders attended at any time throughout the 4 hours to gather printed information, inspect maps and discuss any questions or concerns one-on-one with staff.

Tables 1 and 2 below shows the location, type and participation for this meeting.

Table 1. Attendance at face-to-face meeting

Location	Date	Registered to Attend	Attended
Murwillumbah	Tuesday, 15 November 2022 10:00 am – 2:00 pm	13	11

## Webinar session

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 – Microsoft Teams	Tuesday, 8 November 2022 5:00-6:30pm	17	16

## First Nations session

We held a joint First Nations meeting for the draft *Water Sharing Plan for the Tweed River Area Unregulated, and Alluvial Water Source 2023* and the draft Far North Coast Regional Water Strategy. An independent facilitator ran the meeting with the Tweed Local Aboriginal Land Council at the Minjungbal Aboriginal Cultural Centre, Tweed Heads.

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## What we asked

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

- Cease to Pump rules
- Trading rules and restrictions/prohibitions
- Aboriginal Community Development Licences in select areas
- High flow access licences
- Operation of Clarrie Hall Dam and Bray Park Weir
- New definition of the long-term average annual extraction limit (LTAAEL)
- A new Coastal Floodplain Alluvial Groundwater Source
- Changes to provision relating to water supply works approvals
- Metering provisions
- Managing the risks of increased harvestable rights

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

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## 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/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, and if not, can we develop robust, alternative policies within the timeframe for developing the water sharing plan?
- Are there additional 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 Appendix 1. These issues will not be explored further as part of the replacement plan.

## Key issues

We received feedback on the proposed changes during the consultation sessions and through 4 submissions from the local Council, an environmental group and landholders. The issues that were within scope fell into 14 issue categories or topics. The feedback is summarised in Table 3 and is being considered to finalise the plan.

Table 3. Summary of submissions about the proposed rule changes

Issue	In support	Not in support	Comments
Tweed Coastal Floodplain Alluvial Groundwater Source	1	n/a	<p><b>In support:</b></p> <ul style="list-style-type: none"> <li>• ‘The addition of the Tweed Coastal Floodplain Alluvial Groundwater Source to the [plan] will require Council to make application, gain and hold a licence for the extraction of groundwater as required for dewatering during construction works. Licences will be granted through a controlled allocation process. The change is supported.’</li> </ul>
Bray Park Weir	n/a	1	<p><b>Not in support:</b></p> <ul style="list-style-type: none"> <li>• ‘The draft [plan] does not allow for work to be undertaken on Bray Park weir to protect the water supply from the intrusion of salt water. Works to Bray Park Weir should be provided for in the new plan.’</li> </ul>



Issue	In support	Not in support	Comments
In river dams	1	n/a	<p><b>In support:</b></p> <ul style="list-style-type: none"> <li>• ‘The draft [plan] also prohibits the construction of a dam on the Upper Oxley River which will protect the reliability of the Tyalgum water supply. The change is supported.’</li> <li>• The draft [plan] continues the prohibition the construction of a dam at Byrrill Creek. The constraint on constructing an in river dam on Byrrill Creek continues without qualification as per the current Water Sharing Plan.</li> </ul>
Cease to pump (CTP)	1	n/a	<p><b>In support:</b></p> <ul style="list-style-type: none"> <li>• ‘A higher CTP will protect low flows for longer and will result in more inflows for Bray Park Weir pool and it therefore supported.’</li> </ul>
High flow conversion	1	n/a	<p><b>In support:</b></p> <ul style="list-style-type: none"> <li>• ‘The conversion of low flow entitlement to high flow entitlement will reduce the amount of water extract during low flow period resulting in more inflows for Bray Park Wier. The change is supported.’</li> </ul>
Operation Rules	n/a	1	<p><b>Not in support:</b></p> <ul style="list-style-type: none"> <li>• ‘The operational rules have not changed but there is provision in these Sections for the Minister to "suspend or adjust" these provisions in the event of an emergency or if maintenance, refurbishment or modification of Clarrie Hall Dam or Bray Park Weir is required. It is considered that this does not wholly address issues previously raised by Council.’</li> <li>• ‘At times of low flow the environmental flows required are greater than that which would occur naturally reducing the secure yield of the Tweed District Water Supply. To address this it is recommended that the [plan] be amended to allow for (at the discretion of the Local Water Utility) the cessation of flows from Clarrie Hall Dam when there would otherwise be no flow in Doon Doon Creek and similarly the cessation of flows through the fish ladder when there would otherwise be no flow in the Tweed River at Bray Park Weir.’</li> <li>• ‘The operating rules will be further defined through liaison with DPE on the completion of planning approvals for Clarrie Hall Dam. This further refinement, after completion of the planning approvals, is supported.’</li> <li>• Environmental flows at both Clarrie Hall Dam and Bray Park Weir should be reviewed to ensure best practice management of town water extraction during low flow conditions and sufficient water is available to ensure important fish passage is maintained</li> </ul>

Issue	In support	Not in support	Comments
Water Supply Work Approval distances	1	n/a	<p><b>In support:</b></p> <ul style="list-style-type: none"> <li>‘Council concurs with restriction on the development of water supply works based on distances from vulnerable natural assets.’</li> </ul>
Long Term Annual Average Extraction Limits (LTAAELs)	n/a	2	<ul style="list-style-type: none"> <li>Tweed Shire Council entitlement and usage may impact on other water access licence holders.</li> <li>‘Global warming and subsequent climate change will mean extremes of water flow. The long-term average annual extraction limits (LTAAELs) as a base for allocation of water may no longer be fit for purpose and require close scrutiny.’</li> </ul>
Water allocations	1	1	<p><b>In support:</b></p> <ul style="list-style-type: none"> <li>‘NSW Farmers require access to reliable water for irrigation and stock water. Without irrigation water for our farming operation (which now spans 5 generations), we would not be existing</li> </ul> <p><b>Not in support:</b></p> <ul style="list-style-type: none"> <li>‘Council is the biggest consumer of water.’</li> <li>‘While the allocations to others have been increased the allocation to Council for the Tyalgum water supply has not. Council will be seeking an increased allocation to at least 60ML/annum for the Tyalgum Water Supply and asks that this be reflected in any new [plan]. Similarly, there will be a growth in demand at Uki and as such Council will be seeking and increased allocation to 27,575 ML/annum and asks that this be reflected in any new [plan]’.</li> </ul>
Groundwater dependent ecosystems	1	n/a	<ul style="list-style-type: none"> <li>‘Groundwater Dependent Ecosystems are critical to the environmental health of our region and an important income mainstay. Assertive, effective protection for these ecosystems must be built into the water sharing plan’</li> </ul>
Increased environmental flows	n/a	1	<ul style="list-style-type: none"> <li>There is a proposed rule to restrict access when combined flows are between 170-940ML/day at Palmers Road and Eungella gauges. This may impact irrigators at the end of system flows.</li> <li>Rainfall can vary between catchments and make river flows significantly different between the Tweed River and Oxley River</li> </ul>
Far North Coast Regional Water Strategy	1	n/a	<ul style="list-style-type: none"> <li>The objectives and performance indicators of the [plan] align with the objectives of the Draft FNC Regional Water Strategy.</li> </ul>

## Other questions raised

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

### Q. Do BLR bores need to be metered?

We addressed this by communicating that basic rights bores do not need to be metered.

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## Next steps

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

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

The department will publish a background document this will include a summary of the changes made as a result of public consultation.

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## More information

The draft *Water Sharing Plan for the Tweed River Area Unregulated and Alluvial Sources 2023* and supporting factsheets, will be available on the [NSW Department of Planning and Environment's website](#) until the new plan commences on 1 July 2023. After that date, the new plan and supporting information will be available [here](#).

# 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 out of scope of a water sharing plan, including some issues relating to:

- following plan rules
- assessing development applications,
- the costs and process of obtaining water licenses and works approvals
- pollution and contamination of water sources.

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

Table 4. Assessment criteria for identifying whether 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 provide 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"> <li>• Other departments manage proposed or current land development activities such as mine approvals, road tunnel developments or water pollution under other legislation.</li> <li>• 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.</li> </ul>
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 summarises issues raised during public consultation that are outside of scope of the water sharing plan.

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

Issue	Comments
<b>Stakeholders blamed for using too much water</b>	Out of scope – no change
<b>Legal agreement between councils and landholders not to raise Bray Park Weir</b>	Comments pointed to an existing agreement that may limit how Bray Park Weir may be modified
<b>Changes in Town Water Supply entitlements</b>	The water sharing plan does not change the volume of entitlement for public utilities. Public utilities need to apply to increase their entitlement.
<b>'Tweed Shire Council should have the authority and designated enforcement capacity to issue Cease to Pump orders to water extraction for bottling operations when specific preconditions indicating threats to water supply and groundwater dependent ecosystems exist'</b>	Authorising the Council to enforce a Cease to Pump for water bottling is not part of a local council's authority. The department's Water group is responsible for setting Cease to Pump rules and the Natural Resources Access Regulator (NRAR) enforces these rules.
<b>Connectivity of groundwater and surface water poorly researched</b>	The Tweed water sharing plan includes shallow highly connected groundwater aquifers. Water bottling extracts water from deeper groundwater sources which are in a different water sharing plan and are considered to be less highly connected.

Issue	Comments
<p><b>Precautionary principle should be applied to mitigate climate change</b></p>	<p>Water sharing plans 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 of change within the 10-year period of the plan.</p> <p>However, there are actions within the NSW Water Strategy, NSW Groundwater Strategy and the relevant Regional Water Strategy that seek to incorporate climate change considerations into the water sharing plan framework in future. Some of these include:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Action 2.4 of the draft Regional Water Strategy for the Far North Coast to establish sustainable extraction limits for surface water and groundwater sources within the Far North Coast area. This will consider effects of climate change in setting future sustainable limits in these highly connected surface and groundwater coastal systems.</li> <li>• Action 1.6 of the Regional Water Strategy for the Far North Coast to assess the vulnerability of surface water supplies to sea level rise and saltwater intrusion.</li> </ul>