

Council Reference:
Your Reference:



6 December 2022

Tweed WSP
Department of Planning and Environment – Water
Suite 5, 620 Macauley Street
ALBURY NSW 2640



Via email to: tweedriverarea.wsp@dpie.nsw.gov.au

Dear Sir / Madam

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

Thank you for the opportunity to review and make a submission to Department of Planning and Environment on the Draft Water Sharing Plan for the Tweed River Area Unregulated and Alluvial Water Sources 2023(WSP). Further, thank you for the advice provided to Tweed Shire Council on matters DPE anticipated would be of most interest to Council.

The matters identified by DPIE in their advice and draft WSP have been considered by Council and Council has formed a position as set out below.

New Tweed Coastal Floodplain Alluvial Groundwater Source

This addition to the WSP 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.

Amendments - Part 10

The current WSP permits the raising of Bray Park Weir. The draft WSP 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. This reflects Council's previous submissions.

In-River Dams – Section 42.

The draft WSP continues the prohibition of the construction of a dam at Byrrill Creek. The constraint on constructing an in river dam on Byrrill Creek continue without qualification as per the current Water Sharing Plan.

It is noted that if a clause such as clause 42(2) in the Draft Richmond WSP was included it may be perceived as permitting Council to construct a dam at Byrrill Creek.

The draft WSP 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.

Notwithstanding, Council is proposing the raising of Clarrie Hall Dam and is investigating the option of raising or narrowing Bray Park Weir. This clause may prohibit such works or at the least give an understanding that such works are prohibited.

Cease to Pump (CTP) – Schedule 1 and Part 6

A higher CTP will protect low flows for longer and will result in more inflows for Bray Park Weir pool and it therefore supported.

In periods of low flow a significant portion of the water released from the dam for the water supply is used by irrigators and other users and as such is not available for the Tweed District Water Supply.

High Flow Conversion – Section 51

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 Weir. The change is supported.

Operation Rules – Section s40A & 40B

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.

Council is obliged by its Water Access Licence (WAL 33036) to maintain an environmental flow in Doon Doon Creek and a flow through or over Bray Park Weir. 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 WSP 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.

In addition, it is proposed that 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.

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.

New Water Supply Work Approval distances – Part 7

Council concurs with restriction on the development of water supply works based on distances from vulnerable natural assets.

New Long Term Annual Average Extraction Limits (LTAAELs) – Part 4 Division 2.

It is understood that is Tweed Shire Council entitlement and usage increases it may impact on other water access licence holders.

Far North Coast Regional Water Strategy.

It is noted that the objectives and performance indicators of the WSP as written in Part 2 Sections 8 to 10 align with the objectives of the Draft FNC Regional Water Strategy. This is supported.

Changes in Allocations

It is noted that many of the allocations for stock and domestic (Division 1), Share components (Division 2 Clause 15 (1)) have significantly increased. It is also noted that in the submissions to NRC and in discussions with DPIE Council sought an increased allocation from the Upper Oxley River Water Source from 46ML/a to 60ML/a due to an increasing demand at Tyalgum. Revised figures (Tweed District, Uki, and Tyalgum Water Supplies: Demand Forecast update 2020, Hydrosphere September 2020) now put that at 50ML/a at 2035. 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/a for the Tyalgum Water Supply and asks that this be reflected in any new WSP.

Similarly, there will be a growth in demand at Uki. Presently the allocation for Uki (67ML/a) is contained in the Mid Tweed allocation to Council. Peak demand at Uki is forecast to rise to 75 ML/a by 2035 and as such Council will be seeking and increased allocation to 27,575 ML/a and asks that this be reflected in any new WSP.

Should you require any further information regarding this letter, please contact Robert Siebert on (02) 6670 2506.

Yours sincerely



David Oxenham
Director Engineering

[REDACTED]

[REDACTED]

December 14, 2022

Submitted via email to tweedriverarea.wsp@dpie.nsw.gov.au

Tweed WSP
Department of Planning and Environment – Water
Suite 5, 620 Macauley Street
Albury NSW 2640

Formal submission on the Draft Water Sharing Plan for the Tweed River Area Unregulated and Alluvial Water Sources 2023 (the Water Sharing Plan or WSP)

EXECUTIVE SUMMARY

[REDACTED] was formed in 2017 in response to community concern over groundwater extraction to serve the bottled water industry. Our submission focusses on that specific issue. We make the following key assertions:

- 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.
- Groundwater and surface water are inextricably linked but their connection is poorly researched. The water sharing plan must account for this connectivity.
- 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.
- 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.
- The Precautionary Principle should be applied to all facets of the Water Sharing Plan for the Tweed River Area Unregulated and Alluvial Water Sources 2023 to mitigate the effects of climate change.

The key points are detailed with citations on the following pages 2 to 11 inclusive.

We appreciate the opportunity to make this submission and ask that the water sharing planning process accounts for increasing community alarm around water preservation in the face of global warming.

Yours sincerely

[REDACTED]

[REDACTED]

c/- [REDACTED]

[REDACTED] is a not-for-profit incorporated association registered number [REDACTED] in New South Wales, Australia.

INTRODUCTION

Scrutiny of the extracting operators revealed chronic, long term non-compliance with extraction limits, hours of operation and transport movements.¹

Development application approvals from 1993 onwards provided minimal detail around monitoring and enforcement of Consent Conditions. Almost no supporting evidence of sustainability of groundwater extraction was required or provided. Water extraction operators have demonstrated scant adherence to their General Terms of Agreement with Tweed Shire Council and WaterNSW.

In October 2019, the NSW Office of the Chief Scientist and Engineer (OSCE) published their independent review of the impacts of the bottled water industry on groundwater resources in the Northern Rivers region of NSW.²

This became a key document in the argument against extraction of groundwater for bottling. Subsequently, Tweed Shire Council voted unanimously to remove the permissibility of water extraction for bottling from the Tweed Shire Local Environment Plan 2014.³

This meant that from 29 May 2020, no new development applications for water extraction for bottling would be accepted. Existing operators seeking to expand are now required to provide evidence of sustainable use of the resource, that it will not have an adverse impact on natural water systems or the potential agricultural use of the land, the environment or other groundwater or surface water users.

supports Tweed Shire Council's submission on the Draft Water Sharing Plan, specifically around Surface Water-Groundwater Connectivity, protection of Groundwater Dependent Ecosystems, stronger provisions on Cease to Pump rules and the need for Climate Change to be clearly factored into Water Sharing Plans for this area.

This submission identifies:

- current water extraction for bottling operations
- their proximity to monitored water sources
- the difficulties of ensuring Compliance with Consent Conditions
- issues with interpretation of Consent Conditions
- inconsistent and inaccurate extraction recording and metering practices
- groundwater-surface water connectivity issues


CEASE TO PUMP RULES

supports the request from Tweed Shire Council in relation to Cease to Pump (CTP) rules for commercial water bottling extraction during low flow conditions. Connectivity between alluvial aquifers and fractured rock aquifers means that the authority to impose those rules in low flow conditions should be vested with the Local Government body, rather than a more remote authority.

¹<https://www.tweed.nsw.gov.au/council/news-updates/latest-news/media-releases/2489-call-for-patience-over-alleged-unauthorised-water-extraction-activities>

²https://www.chiefscientist.nsw.gov.au/_data/assets/pdf_file/0011/313895/Final-Report_Northern-Rivers-Bottled-Water-Review.pdf (3.2.4 p49, cited Preston B.J. p125)

³ <https://www.planningportal.nsw.gov.au/ppr/lep-decision/amend-tweed-lep-2014-remove-enabling-clause-water-bottling-facilities>



It is the Local Government body that implements water restrictions when necessary. This authority has a responsibility to ensure water security and as such is well placed to monitor local flow and supply conditions.

Cease to Pump Rules – Palmers Road gauge by way of example. Please read this section in conjunction with the section further below on Mount Warning Beverage Company.

Cease to Pump (CTP) – The gauging station for the Tweed River catchment water sources is proposed to change from the Eungella gauge to Palmers Road gauge. This informs the trigger for CTPs to be implemented.

The CTP ‘trigger’ level is proposed by Tweed Shire Council to increase from 3ML/day to 4ML/day for the Palmer’s Road gauge accounting for the Tweed River and feeder creeks. A higher CTP will protect low flows for longer and will result in more inflows for Bray Park Weir pool for the Tweed District water supply.

For Mount Warning Beverage Company, using the Palmers Road gauge, if flows in the water source are in the Very Low Flow Class level (4ML/day, currently 3ML/day, or as otherwise advised by Tweed Shire Council officers), then CTP rules should apply.

- High Flow Conversion – Section 51 The conversion of low flow entitlement to high flow entitlement will reduce the amount of water extracted during low flow periods resulting in more inflows to Bray Park Weir. This change is supported in TSCs submission.
- Water Supplies: The Tweed Shire Council Submission states “There will be a growth in water demand at Uki.” Peak demand at Uki is forecast to rise to 75 ML/a by 2035. To address this, TWA inc recommends the WSP provides for cease to pump rules for the Tweed River and adjacent alluvial sediments to also be applied when Tweed Shire Council is required to release water from Clarrie Hall Dam to maintain its urban water supply.

HIGH PRIORITY GROUNDWATER-DEPENDENT ECOSYSTEM MAP (GDE033_Verion 1)
 WATER SHARING PLAN FOR THE TWEED RIVER AREA UNREGULATED AND ALLUVIAL WATER SOURCES 2023

Legend

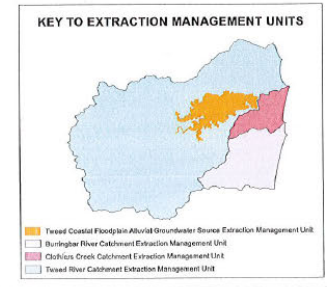
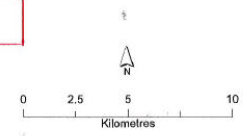
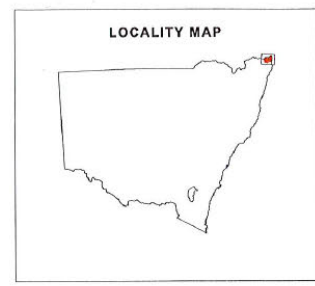
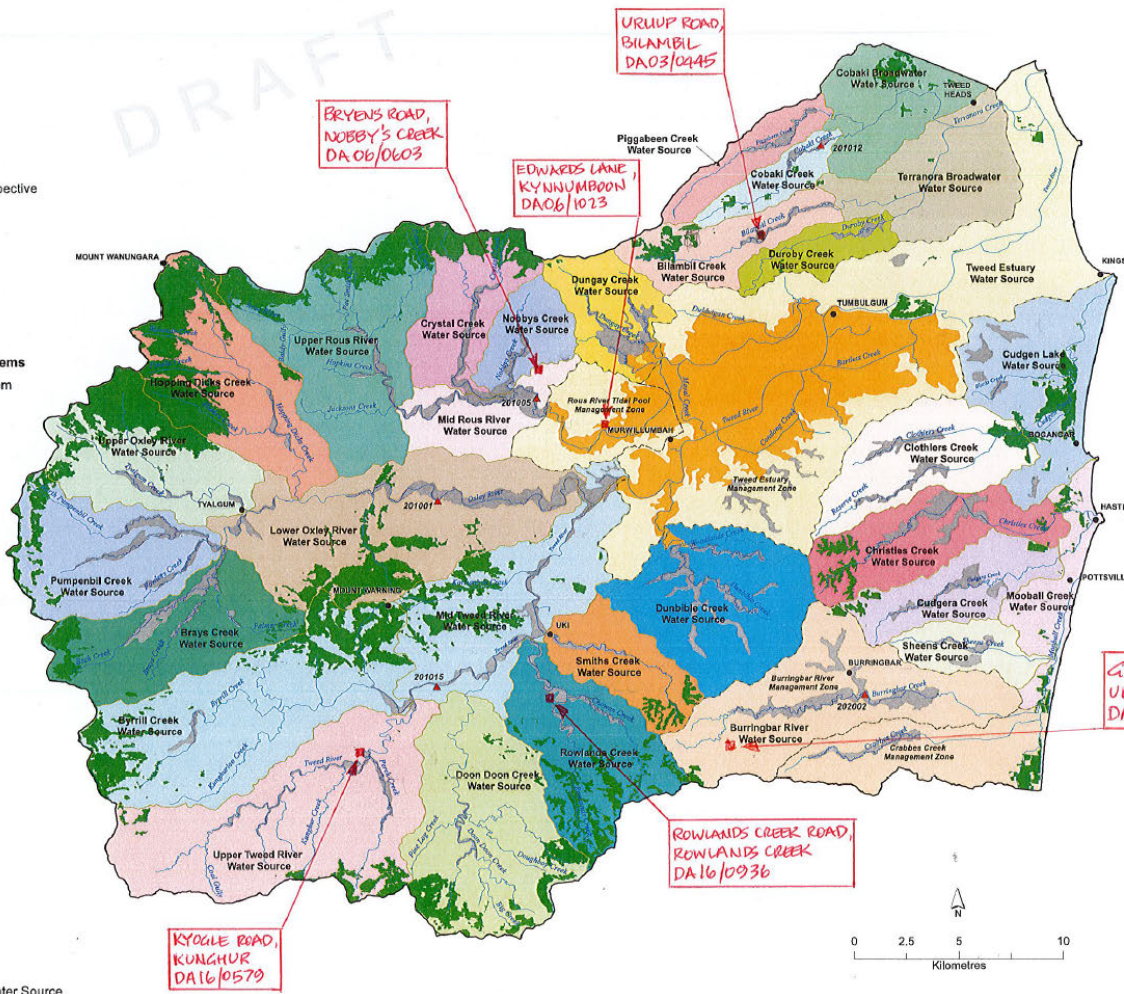
- Town
- River / Creek
- Water Sharing Plan Boundary
- ▨ Management Zones
- Unconsolidated alluvial sediments within respective water source (indicative area only)
- Gauging Stations :**
- ▲ 201005 - Boat Harbour 3
- ▲ 201012 - Cobaki
- ▲ 201015 - Palmers Rd
- ▲ 201001 - Eungella
- ▲ 202002 - Burringbar

High Priority Groundwater-Dependent Ecosystems

- Groundwater dependent vegetation ecosystem

Water Sources

- Bilambil Creek Water Source
- Brays Creek Water Source
- Burringbar River Water Source
- Byrrill Creek Water Source
- Christies Creek Water Source
- Clothiers Creek Water Source
- Cobaki Broadwater Water Source
- Cobaki Creek Water Source
- Crystal Creek Water Source
- Cudgen Lake Water Source
- Cudgera Creek Water Source
- Doon Doon Creek Water Source
- Dunbible Creek Water Source
- Dungay Creek Water Source
- Duroby Creek Water Source
- Hopping Dicks Creek Water Source
- Lower Oxley River Water Source
- Mid Rous River Water Source
- Mid Tweed River Water Source
- Mooball Creek Water Source
- Nobbys Creek Water Source
- Piggabeen Creek Water Source
- Pumpenbil Creek Water Source
- Rowlands Creek Water Source
- Sheens Creek Water Source
- Smiths Creek Water Source
- Terranora Broadwater Water Source
- Tweed Coastal Floodplain Alluvial Groundwater Source
- Tweed Estuary Water Source
- Upper Oxley River Water Source
- Upper Rous River Water Source
- Upper Tweed River Water Source



CURRENT OPERATIONS AND CONSENT CONDITIONS

	Company	Location	General Terms of Agreement	Tanker Movements per day	Tanker size	Movements per Week	Approved Hours of Operation	Hydrological Report Submitted
1	DA03/0445.04 Eniflat Pty Ltd – L. Karlos	LOT 1 DP 735658 & LOT 1 DP 728217 477 Uriup Road, Uriup NSW 2484	5 ML	12 trips	6 metres 13,000 litres	84	M-F 7am to 6pm Sat-Sun 8am to 6pm	Nov 2016
2	DA05/1507 Lot 5 in DP 1206755 Lykapa P/L & others, leased to Harris Group, T/as Pristine Water Supplies –	10-20 Edwards Lane, (& 308 Numinbah Road) KYNNUBOON NSW 2484	45 ML	10 trips M to F 4 trips Sat & Sun	25 metres 38,000 litres	58	M-F 7am to 7pm (excl. public holidays) Sat, Sun 8am to 12 pm	Not requested
3	DA06/1023.03 Property sold to Richards Group 2022 Formerly Comprador Pastoral Co.	101 Bryens Road NOBBYS CREEK NSW 2484 - Lot 2 DP 128866 - Lot 66 DP 755715 - Lot 1 DP 799355 - Lot 121 DP 1111869	12 ML	Provision for bulk tanker movements allowed – days, number and times not specified N.B. Bottled water may not currently be produced on site	19 metres 28,000 litres	One 5 tonne truck of bottled water only per week	Not stated	Not requested
4	DA16/0579 Mount Warning Beverage Company	2574 Kyogle Road KUNGHUR NSW 2484 Lot 1 & 2 in DP 883113	50 ML	12 trips weekdays, 8 on Sat, Sun and Public Holidays (plus unknown amount of bottled exports)	19 metres 28,000 litres	76	7am to 7pm	Not requested
5	DA16/0936 J. Hallam (Not yet commenced)	350 Rowlands Creek Road Lot 3 in DP 815475	24 ML	6 trips per day, Mon-Sat	15 metres 15,000 litres	36	7am to 6pm	Feb 2018
6	DA13/0040.02	64 Geles Road UPPER BURRINGBAR NSW 2483 Lot 1 in DP 593157	20 ML		Unknown			Not requested

Approved and not currently operating

In place	
D91/0025	Glengarrie Road Glengarrie NSW 2486
D92/0207	Tomewin Rd, Dungay NSW 2484
D96/0373	65 Slash Pine Road, Glengarrie NSW 2486
K99/9918	1 - 11 Rivendell Drive, Tweed Heads South NSW 2486
DA03/1812	109 - 127 Pottsville Road, Mooball NSW 2483
DA03/1720	153 Mount Warning Road, Mount Warning NSW 2484
Withdrawn	
DA16/0660	306 Dungay Creek Rd, Dungay NSW 2484 – DA rejected, appeal dismissed

SURFACE WATER / GROUNDWATER CONNECTIVITY⁴

Current Bottling Operations in relation to their Water Sources

1. Eniflat Pty Ltd

Lot 1 DP 735658, 477 Uriup Rd, Uriup

Bulk Water export only

Bilambil Creek Water Source transects this property.

Bilambil Creek Water Source

Domestic and stock rights estimate: 49 ML/year

The extraction limit imposed on DA03/0445 permits an annual extraction of 5ML for bottling under the General Terms of Agreement. NSW Land and Environment Court (LEC) judgements, in 2018 and 2019, established there has been extraction in excess of this limit over many years. To date, this appears to continue despite a 2.5 year amnesty, granted up to May 2022, to return to compliance.

█ has found no evidence that this compliance has occurred.

Connectivity between alluvial and fractured rock aquifers is explained in the following extract from the 2019 LEC appeal judgement against the rejection of DA19/0888.

The appeal was dismissed on 1 November 2019 by Justice Nicola Paine.⁵

Land and Environment Court Eniflat Pty Ltd; Karlos v Tweed Shire Council

Extract - Hydrogeological Assessments:

The Hydrogeological report submitted by the applicant was reviewed by Tweed Shire Council's Consultant Hydrogeologist as part of the Appeal for DA18/0910.

Insufficient information has been provided in respect of the existing aquifer system, including long-term groundwater levels, water quality and aquifer properties. The connectivity of various aquifers in the local area with each other and the surrounding

⁴ <https://www.tandfonline.com/doi/full/10.1080/08120090802541853>

⁵ <https://jade.io/article/671434?at.hl=eniflat>

environment under current and proposed conditions has not been properly assessed. Insufficient information has been provided to demonstrate that there will not be an impact on existing or potential neighbouring groundwater users.

The extraction bores are located in close proximity to a number of natural watercourses. Insufficient information has been provided in respect of the hydrological character of the nearby natural watercourses which may be affected by the proposal. It has not been demonstrated that the proposal will not have detrimental impacts on local springs or base flow conditions within the nearby watercourses.

It has not been demonstrated that the extraction bores will not detrimentally impact on any groundwater dependent ecosystem such as local springs or spring fed watercourses.

The applicant was requested to provide a new/revised hydrological report that addresses all of the above matters. However such report was not received and an Appeal was lodged over this application.

An extract from the 2019 judgement states: Ian Acworth, Emeritus Professor University of New South Wales, past Director of the Connected Waters Initiative Research Centre, submitted that the water in the abstraction bores had a very similar chemistry to the water sample from Bilambil Creek, indicating a hydraulic connection between the two, suggesting that pumping from the fractured rock would impact on the creek.⁶

contends that given the likelihood of a hydraulic connection between the extraction bore, Bilambil Creek and the Cobaki Creek water source, pumping restrictions (applicable to the draft surface water access rules) should be able to be imposed by Tweed Shire Council.

- Harris Group, Pristine Water Supplies**, leased from Lypaka Pty Ltd
10 - 20 Edwards Lane. and 308 Numinbah Road KYNNUMBOON NSW 2484
Situated within 200 m of the Mid-Tweed River Water Source

Mid Tweed River Water Source

The DA05/1507 extraction limit is based on no hydrogeological evidence whatsoever. This was not required when the development application was submitted.

- Richards Group (formerly Comprador Pastoral Company)**
101 Bryens Road NOBBYS CREEK NSW 2484

Nobbys Creek Water Source

This property changed hands in 2021 with the new owners resuming water extraction for bottling operations in late November 2022. Neighbours have expressed alarm over the impact on local groundwater sources. Please refer to the later section dealing with the Precautionary Principle.

The Richards Group apparently have rebuilt the filling standpipe and are running tankers into their property. TWA Inc has obtained legal advice on the interpretation of the original consent and the operators are arguably operating well outside its provisions.

⁶ <https://jade.io/article/671434?at.hl=eniflat>

Again no hydrogeological evidence was required in the original application process and there is no cogent existing evidence for its sustainability. Equally, there is no evidence that the surface water in the Nobby's Creek water course is unaffected.

4. Mount Warning Beverage Company,
2574 Kyogle Road, Kunghur
Lot 1 DP 883113 & Lot 2 DP 883113

Upper Tweed River Water Source

The proposed changes to the Cease to Pump and pumping restriction limits are to protect and mitigate stress on the ecological assets within this water source. However, there appears to be no change to the draft Alluvial Groundwater Access rules.

Mount Warning Beverage Company lodged DA19/0346 for alterations and additions to an existing water bottling facility at Lot 1 DP 883113 & Lot 2 DP 883113 No. 2574 Kyogle Road, Kunghur, refused on 7 July 2021 for, among other reasons, the following concerns:

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning & Assessment Act 1979 the application has not satisfied Tweed LEP 2014 in regard to Clause 1.2 Aims of the Plan section a), b), c), d), e), f), g), and I, SEPP (Primary Production and Rural Development) 2019 in regard to the Aims of the Policy, and Section 4.15(1)(a)(i) of the Environmental Planning & Assessment Act 1979 in regard to the Objects of the Act parts a), b), c), or e) in that it has not been adequately established that the commercial extraction of groundwater for water bottling is a sustainable use of this resource, or that it will not have an adverse impact on natural water systems or the potential agricultural use of the land, the environment, or other groundwater or surface users.⁷

In 2022, Mount Warning Beverage Company was fined by Tweed Shire Council for over-extraction.

The Groundwater Dependent Ecosystem map in the WSP shows the area of Perch Creek / Tweed River to be Unconsolidated alluvial sediments within the respective water source.

5. 350 Rowlands Creek Road, Uki
Lot 3 in DP 815475
[DA16/0843](#) water extraction facility (Submitted: 18/11/2016)
[DA16/0936](#) water extraction facility (Submitted: 21/12/2016)

Aquifer - New England Fold Belt Coast Groundwater Source⁸

Continuing 25ML - WAL 38385

Rowlands Creek Water Source - one water feed for the Mid Tweed River Water Source

Groundwater-dependent ecosystems (GDE's) are identified on the draft plan GDE map within this water source.

⁷ <https://datracker.tweed.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=817916>

⁸ https://www.industry.nsw.gov.au/data/assets/pdf_file/0004/166873/nth-coast-fractured-porous-rock-gw-background.pdf

In reference to the Water Sharing Plan for the Tweed River Area Unregulated and Alluvial Water Sources 2010.

*Groundwater alluvial access licences - "The alluvial aquifers in this water source are highly connected to their adjoining streams and alluvial groundwater extraction can have an impact on the river."*⁹

**6. 64 Geles Road UPPER BARRINGBAR NSW 2483
Lot 1 in DP 593157**

[DA13/0040.02](#) amendment to Development Consent DA13/0040 to fit out existing building for the purpose of a spring water bottling facility (Submitted: 20/01/2014)

New England Fold Belt Coastal Groundwater Source

Continuing 20MI per annum under WAL 303892

Burringbar River Water Source

Total groundwater entitlement: 55 MI/year

Groundwater-dependent ecosystems (GDE's) are identified on the draft plan GDE map within this water source

National Water Initiative (NWI)¹⁰

Paragraph 23 (x) reflected the most immediate impacts that were being observed when the NWI was signed in 2004: '*recognition of the connectivity between surface and groundwater resources and connected systems managed as a single resource*'¹¹.

Systems that display high physical connectivity tend to display the impacts of 'double accounting' and resultant over use more quickly than many other groundwater systems, so integrated groundwater and surface water management in Australia has typically focused on systems that display rapid connections and high use impacts, especially impacts of groundwater pumping on streamflows.

Managing surface water and groundwater together will often be necessary to optimise the hydrological cycle as a whole, and thereby optimise the economic, social and environmental outcomes of water resource use and achieve the intent of the NWI.

GROUNDWATER DEPENDENT ECOSYSTEMS

NSW Office of the Chief Scientist and Engineer – Independent review of the impacts of the bottled water industry on groundwater resources in the Northern Rivers region of NSW – Final Report – 31 October 2019

⁹http://www.water.nsw.gov.au/_data/assets/pdf_file/0007/547873/wsp_tweed_river_area_report_card_rolands_creek.pdf

¹⁰<https://www.dccew.gov.au/sites/default/files/sitecollectiondocuments/water/Intergovernmental-Agreement-on-a-national-water-initiative.pdf>

¹¹ https://www.pc.gov.au/_data/assets/pdf_file/0007/228175/water-reform.pdf p368

[REDACTED]

The extraction of groundwater can harm GDE ecology if it impacts the amount of water entering wetlands and water courses, may lead to alteration of the ecosystem and loss of ecosystem services (Eamus et al., 2006). For example, where extraction increases the depth to groundwater, the availability of water within the root zone of terrestrial groundwater dependent vegetation will be reduced, which could lead to stress and the potential loss of vegetation (Eamus et al., 2015). Further monitoring and studies are required to improve understanding of tolerance thresholds; and the relationships between drawdown, changes to the groundwater environment and impacts on biota. Impacts to GDEs are considered in the hydrogeological assessment process for groundwater extraction approvals.¹²

The report expressed concern about the lack of regulatory oversight and the uncertainty of recharge rates, “particularly evident in fractured rock systems that are difficult to characterise fully.”

¹³

Based on the analysis, the Review considers the recharge rates used in the WSP are reasonable and conservative. This statement is made with a relatively low level of confidence due to the lack of data for the groundwater sources of interest.

THE PRECAUTIONARY PRINCIPLE

Lack of extraction data is an impediment to establishing appropriate extraction limits for individual bores, measuring impacts, and at a regional scale, development of WSP and making determinations of available water. A state-wide metering policy for qualifying groundwater works with bore diameters of 200mm and above will take effect in the Northern Rivers region from December, 2024. Four of the bottled water extractors in the region are currently required by the regulator to have meters installed.

[REDACTED] is pursuing extraction data through both WaterNSW and the Natural Resources Access Regulator to attempt developing a data set. These efforts have so far been unsuccessful.

[REDACTED] recommends stringent application of the Precautionary Principle until the relevant data sets have been established and competently analysed. We assert that the long-term average annual extraction limits (LTAAELs) for allocation of Water Access Licences in the face of climate change are no longer fit for purpose as a basis for decision making.

Further, the average annual extraction limits and the subsequent allocation mechanism of Water Access Licences are on too broad a scale to account for local effects. These local effects include the collapse of Groundwater Dependent Ecosystems. We recommend careful monitoring of extraction and access data at a local level; this data should be publicly available in real-time and a function of the telemetering system. Groundwater is a common asset; its allocation and use should be in the public domain.

¹²https://www.chiefscientist.nsw.gov.au/_data/assets/pdf_file/0011/313895/Final-Report_Northern-Rivers-Bottled-Water-Review.pdf

p75

¹³ ibid p113

CLIMATE CHANGE

Progress of the National Water Initiative (NWI)¹⁴

The Productivity Commission's 2020 inquiry report was published in September 2021.

The Productivity Commission's two inquiries found that through the National Water Initiative (NWI) all Australian governments have made progress in improving the way Australia manages its water resources. However, they also found that the NWI should be renewed and modernised to better account for changes in knowledge and technology and to address emerging challenges such as climate change and population growth.

The Productivity Commission recommended a renewed NWI should focus on strengthening the capacity to deal with climate change and extreme weather events. This was underscored by the first Chief Scientist and Engineer's recommendation:

- Further work is undertaken to incorporate climate change into the development of recharge estimates for the Water Sharing Plan¹⁵.

echoes this tenet; it should be the key consideration of any new water sharing plan.

¹⁴ https://www.pc.gov.au/_data/assets/pdf_file/0007/228175/water-reform.pdf

¹⁵op cit Chief Scientist's report p119

[REDACTED]

From: [REDACTED]
Sent: Tuesday, 20 December 2022 3:10 PM
To: DPIE Tweedriverarea Wsp Mailbox
Cc: [REDACTED]
Subject: [REDACTED] - WAL Licence Holder - response to Water Sharing plan for the Tweed River

Good afternoon,

I wish to make a brief response to the above plan. I believe we are currently the largest irrigator on the Tweed River.

We have been flat out trying to recover from the devastation of this year's flooding. The mental strain has been immense, let alone the strain it has imposed on personal relationships as well.

Specifically, I wish to highlight the following :

- 1) We NSW Farmers require access to reliable water for irrigation and stock water. My father and I have continuously held Licences going back to the 70's. Without irrigation water for our farming operation (which now spans 5 generations), we would not be existing.
- 2) Tweed Shire Council has , publicly and erroneously, blamed irrigators for using too much water, when in fact Council is the biggest consumer of water in Tweed Shire.
- 3) It is noted in the proposed Plan that Tweed Council plans to raise the Bray Park Weir.
- 4) Council does not disclose the 1980 Legal Agreement with surrounding landholders, signed under Council Seal by the then President and Shire Clerk, not to raise the Weir.
- 5) Council had previously illegally raised the Weir which severely flooded and impacted surrounding agricultural low land. The Agreement resulted in landowners not suing Council for damages on the basis that after the Clarrie Hall Dam was built and full, the Weir would be returned to its legal approved height and subsequently maintained at that height.
- 6) Tweed Shire Council has announced moves that will potentially breach this registered and enduring Legal Agreement.
- 7) Our Solicitor has engaged high level legal expertise to ensure the terms of the Agreement are met, unless varied by negotiation and agreement to vary.

We sincerely appreciate the opportunity to participate in the earlier consultation process with your colleagues.

We look forward to finding a sustainable long term solution.

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Saturday, 31 December 2022 8:40 AM
To: DPIE Tweedriverarea Wsp Mailbox
Cc: water.enquiries@waternsw.com.au
Subject: [REDACTED] Irrigator on the Tweed River RE: Draft Tweed Water Sharing Plan & Far North Coast Regional Water Strategy Web sites
Attachments: 801007 Weir deed of Agt Stamped.pdf

Good morning [REDACTED],

Thank you for the links.

After a brief perusal of the Draft, I would like to add the following

- 1) At Page 10, the proposed amounts do not indicate if there is any increase / decrease in the volume. Is there any variations to these figures , particularly to the Mid Tweed , Upper Tweed and Lower Oxley areas ?
- 2) I note Public Utilities are allocated 27 569 ML / year ? Is there any change ?
- 3) Is there any change to the volume allocated to Council at Tyalgum ? This would be concern to an irrigator farming there
- 4) Is there any reduction in Low Flow volume required or proposed at Palmers Road , from 3 to 4 ML / day ?
 - a. I would register a concern if there is a proposed increase in environmental flow as it may affect our irrigation program

As also discussed, Ive also attached a copy of the current and enduring Legal Agreement between landholders and Tweed Shire Council regarding the Bray Park Weir which was signed in 1980.

It now appears Tweed Council wishes to raise the Weir up to 1.5 metres. If this is the case, it will be a breach of the Covenants. Appropriate legal remedies will be engaged in this event.

The Agreement was the result of Council illegally raising the Bray Park Weir which inundated adjacent low lying farmland.

My father advises that Lorry Moore from the Grafton Water Resources Office was involved during the incident so I imagine there would be departmental records regarding the incident.

Thank you for consideration.

Kind regards,

[REDACTED]

[REDACTED]

From: [REDACTED] > On Behalf Of DPIE Tweedriverarea Wsp Mailbox
Sent: Thursday, 22 December 2022 10:53 AM
To: [REDACTED]
Subject: Draft Tweed Water Sharing Plan & Far North Coast Regional Water Strategy Web sites

Hi [REDACTED],

Thank you for the phone conversation today.

As discussed,

- below is the link to the draft Tweed Water Sharing Plan web site.
<https://www.industry.nsw.gov.au/water/plans-programs/water-sharing-plans/recently-on-public-exhibition/tweed-river>
- below is the link to the Far North Coast Regional Water Strategy
<https://www.dpie.nsw.gov.au/water/plans-and-programs/regional-water-strategies/public-exhibition/far-north-coast-regional-water-strategy>

I have emailed our water enquiries asking them to forward your email to the regional water strategy team as I believe some of the points made are relevant for them.

Also, the link below is for the Natural Resources Access Regulator to report any potential water law breaches.
<https://www.nrar.nsw.gov.au/report-suspicious-water-activities/report-suspicious-activity>

Please get in contact with us if you have any other questions.

Kind regards



Water Planner

Water Group | Department of Planning and Environment