

Summary of changes

A summary of the changes made to the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023*

The NSW Government replaced the water sharing plans (the plans) for the Bega and Brogo Rivers Area Regulated, Unregulated and Alluvial Water Sources (2011) and the Murrrah-Wallaga Area Unregulated and Alluvial Water Sources (2010) in July 2023. As part of the replacement process, the Bega and Brogo and Murrrah–Wallaga plans were merged into a single plan – the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023*.

The table below outlines the substantive changes from the previous plans. In drafting the replacement plan, the NSW Department of Planning and Environment (the department) also updated the plan to simplify and modernise its drafting, make the intent of its provisions clear, and make it legally robust.

Table 1. Summary of changes to the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023*

Plan part	Change in 2023 plan	Basis for change
Introduction	We have merged the Bega and Brogo Rivers Area Regulated, Unregulated and Alluvial Water Sources (2011) and the Murrrah-Wallaga Area Unregulated and Alluvial Water Sources (2010) into one water sharing plan.	<p>The Bega and Brogo Rivers Area and the Murrrah-Wallaga Area have common communities, industries and local government.</p> <p>The merged plan will be known as the <i>Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023</i>.</p>

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<p>Introduction</p>	<p>We have updated how we describe the groundwater managed by this plan. We have added the Bega River Area Coastal Floodplain Alluvial Groundwater Source to the water sources of the water sharing plan (plan). We have also established the Bega River Area Floodplain Alluvial Extraction Management Unit (EMU).</p>	<p>We now articulate that the groundwater managed in this Plan is that which is contained in Cenozoic sediments. We have included a new coastal floodplain, alluvial groundwater source in the plan. This will align with other plans that have this new water source included. The water source has been separated from the upriver alluvium, as it is less highly connected to the river than the upriver alluvium and more influenced by coastal processes.</p> <p>The EMU is established so that a long-term average annual extraction limit and associated rules may be established for the Bega River Area Coastal Floodplain Alluvial Groundwater Source.</p>
<p>Introduction</p>	<p>We included a new plan map which includes:</p> <ul style="list-style-type: none"> • the new Bega River Area Coastal Floodplain Alluvial Groundwater Source and • a small boundary change to the Upper Bega and Brogo River Regulated Water Source and • divides the Upper Bega/Bemboka Rivers Tributaries Water Source into an upstream and downstream management zone. 	<p>New maps include the new water source and extraction management unit.</p> <p>The small boundary change to the Upper Bega and Brogo River Regulated Water Source reflects the Regulated River Order for the Bega and Brogo Regulated Rivers 2018, which extended the definition of the regulated river to include the Brogo Dam storage.</p> <p>The creation of the management zones facilitates a low flow trade rule within the Upper Bega and Brogo unregulated system. The zoning allows the prohibition of low flow trade into the Upper Tributary Management Zone to protect areas of high environmental values (very high and high HEVAE scores).</p>

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<p>New inclusion</p>	<p>We have included a new map which identifies additional High Priority groundwater dependent ecosystems (GDEs) so they can be protected.</p>	<p>Following the updated approach to GDE protection, the Bega River Area Regulated, Unregulated and Alluvial Water Sources plan offers additional GDE protection by identifying groundwater dependent vegetation communities on a map and setting rules around the distance that new groundwater works can be constructed from the mapped GDEs.</p> <p>When a work approval is applied for within a restricted distance of a GDE identified on the GDE map the department will confirm the groundwater dependence of the vegetation community before the approval is determined.</p>
<p>Vision, objectives, strategies, and performance indicators</p>	<p>We have reviewed the vision, objectives, strategies and performance indicators.</p>	<p>The new vision, objectives, strategies and performance indicators deal with similar matters to the previous plan's objectives.</p> <p>The Natural Resources Commission (NRC) recommended reviewing the objectives to strengthen monitoring, evaluation and reporting (MER) of the plan outcomes.</p> <p>We will include more detailed vision, objectives, strategies and performance indicators in the MER plan. This information is in Appendix B of the Background document to the Bega River Area Regulated, Unregulated and Alluvial Water Sharing Plan 2023.</p> <p>The plan includes a provision at Clause 11(2) that requires performance indicators to be monitored and evaluated.</p>
<p>Bulk access regime</p>	<p>We have removed the Bulk access regime section as it does not give any more information than exists in the <i>Water Management Act 2000</i> or elsewhere in the plan.</p>	<p>The drafting of plans has changed to improve readability and simplify the plans.</p>

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<p>Planned environmental water</p>	<p>The environmental water provisions remain in the plan but not in their own part. They are clauses that have been distributed throughout the plan into Part 4 – Limits to the availability of water and Part 6 – Operation of water allocation accounts and managing access licences.</p>	<p>The drafting of plans has changed to improve readability and simplify the plans.</p>
<p>Requirements for Water</p>	<p>We have updated estimates for water requirements of basic landholder rights.</p> <p>Harvestable rights are now expressed as a volume.</p> <p>We have also updated requirements for water under licences.</p>	<p>Updated estimates reflect updates to land use since 2010 and 2011.</p> <p>Harvestable rights estimates have been made based on the volume in unlicensed dams in the landscape in 2022.</p> <p>Updates to licensed water requirements take into account any cancellations.</p>
<p>System operation rules</p>	<p>We have improved the minimum release rule from Brogo Dam, extending the period in which minimum releases are required to be made from when Brogo dam is at 50% storage to 20% storage.</p>	<p>Previously, minimum release rules only applied when Brogo Dam was above 50% storage. This was out of step with other similar storages in NSW. It aims to provide additional water for the environment and basic landholder rights water users.</p>
<p>System operation rules</p>	<p>We have clarified the rules and responsibilities regarding the Cochrane Dam Drought Reserve.</p>	<p>The intent of these rules has not altered but rules simplified and responsibilities clearly articulated.</p>
<p>System operation rules</p>	<p>We have updated the three-month minimum inflow sequences into Cochrane Dam used for determining Cochrane Dam Drought Reserve.</p>	<p>Updated minimum inflows figures for Cochrane Dam using modelled data have become available.</p>

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<p>System operation rules</p>	<p>We have split the long-term average-annual extraction limit for unregulated rivers and associated alluvium into 2 components - a standard LTAAEL for take from all flows and a higher flow LTAAEL for extraction that can only occur from higher flows.</p> <p>The standard LTAAEL is fixed at the volume at the start of the:</p> <ul style="list-style-type: none"> • replacement plan for entitlement • first plan for basic landholder rights. <p>The higher flow LTAAEL can increase in limited circumstances such as high-flow conversions and where Aboriginal community development licences are granted.</p>	<p>NRC recommendations included setting a fixed and numeric LTAAEL. This is the standard LTAAEL. This ensures that extraction from low flow will be no more than could occur at the start of the first plan.</p> <p>While the higher flow LTAAEL can increase, this is to enable the implementation of high-flow conversions and allow for Aboriginal Community Development licences.</p> <p>High flow conversions are where a larger volume of water can be taken at higher flows than at lower flows. This reduces the stress on lower flows.</p> <p>Aboriginal Community Development licences support the department’s position of increasing Aboriginal involvement in natural resource management.</p>
<p>System operation rules</p>	<p>Plans previously required the minister to make certain available water determinations (AWDs) at a certain time. This has changed to require the minister to consider making AWDs as set out in Part 10.</p>	<p>A provision of a plan cannot require the minister to make certain AWDs at a certain time, as that restrains the minister’s broad power in section 59 of the <i>Water Management Act 2000</i>. Instead, the plan sets out that the minister must consider making the AWDs set out in Part 10.</p>
<p>Rules for granting access licences</p>	<p>We have added eight new water sources where there is ability to grant Aboriginal community development licences.</p> <p>We have increased the total amount of share components that can be granted for extraction under Aboriginal community development licences in plan area.</p> <p>Previously, the total amount of share components that can be granted for extraction under Aboriginal community development licences was 500ML. The limit is now in 13,783ML, dependant on other trade activity.</p>	<p>Previously, the ability to grant Aboriginal community development licences existed in four water sources only. The eight new water sources have water available at high flows or there is unassigned water available in the water sources which can be used for Aboriginal community development if required.</p>

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Rules for managing access licences	<p>We have removed the access rule limiting the percentage of flows that can be taken during uncontrolled flow and supplementary flow events to 50%.</p>	<p>It is not possible to implement this rule prior to the event. In the regulated Bega and Brogo system, it is not uncommon for such events to last for months at a time. Further, the volume of water extracted during uncontrolled/supplementary events is relatively small, compared to the scale of the events and well below the targeted 50% that the rule is attempting to ensure.</p>
Rules for managing access licences	<p>We have changed some of the access rules for licensed users and updated flow classes to facilitate high flow trades.</p> <p>Cease to pump access rules have increased for the following five water sources:</p> <ul style="list-style-type: none"> • Narira Creek • Dry River • Murrah River • Bermagui River • Upper Bega/Bemboka Rivers 	<p>The increased cease to pump rules aim to mitigate identified risks to low flows, ecological assets and basic landholder rights access.</p>
Rules for managing access licences	<p>Previously, the Bermagui River Water Sources had a rule which required licenced users to cease pumping if there is no visible flow at the pump site. We have updated the cease to pump rule to 1.4 ML/day at gauge 209018 (Murrah River@Quamma).</p>	<p>Referencing flow in Bermagui River Water Sources to a gauge will provide additional protection for the environment and basic landholder rights users and will also help with implementation of the cease to pump rule.</p>
Rules for managing access licences	<p>We have amended total daily extraction limits (TDELs) for Local Water Utility access licences.</p> <p>A 0.1ML/day limit on extraction in the Upper Bega/Bemboka River Water Sources for the Bemboka town water is now 0.5ML/day except when the Cochrane Drought Reserve is operating at which time it will be 0.2ML/day.</p>	<p>TDELs adjusted to manage extraction for the township of Bemboka, taking into account seasonal fluctuations.</p>

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Rules for managing access licences	Regulated River access licence holders will now be required to order water.	Not requiring water ordering was out of step with other similar storages in NSW and makes it harder to manage water resources.
Rules for water supply works approvals	Construction of groundwater water supply works are now prohibited within 200m of a mapped high priority groundwater dependent ecosystem.	Following the updated approach to GDE protection established for inland groundwater plans, the plan offers additional GDE protection based on the best available data. As mentioned, the plan now includes a map identifying High Priority GDEs and restricting new works within 200m of the mapped GDEs.
Rules for water supply works approvals	<p>We updated the plan to apply standard distance rules for groundwater water supply works to protect:</p> <ul style="list-style-type: none"> • Other water users • Contamination sources • Coastal State Environmental Planning Policy wetlands • Potential Acid Sulfate Soils. <p>These rules are for water supply works that take water from alluvial sediments.</p> <p>These are the same distance rules adopted in other coastal water sharing plans.</p>	<p>New groundwater works are prohibited near existing water users to protect the rights of the existing water user.</p> <p>New groundwater works are prohibited near contamination sources in order to contain the contamination.</p> <p>New groundwater works are prohibited near significant coastal wetlands to protect those wetlands.</p> <p>New groundwater works are prohibited near potential acid sulfate soils to reduce the risk of acidifying those soils.</p>
Rules for water supply works approvals	We have updated distance rules for new bores near existing ones on neighbouring properties. Distance restrictions in the Bega–Brogo 2011 plan and the Murrumbidgee–Wallaga 2010 plan were smaller than other coastal water sharing plans. To prevent effects on bores on neighbouring properties, we will apply standard distances.	To prevent effects on bores on neighbouring properties, we will apply standard distances – that apply across NSW

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Rules for water supply works approvals	<p>We have removed the ability to apply for a licensed dam on a third- order stream in nine water sources.</p> <p>We have included an exemption from this prohibition for six water sources if the applicant has had a development application lodged with Council before 1 July 2024.</p>	<p>Construction of licensed dams on third order stream has been identified as a key threatening process for catchment and marine management.</p> <p>A transitional approach is appropriate given current reconstruction/development activity within the Bega Valley Council area.</p>
New inclusion	<p>We added a new provision to prohibit the granting or amending of surface water supply work approvals, within 3km upstream of a Ramsar wetland or 200m of a coastal wetland unless it will cause no more than minimal harm to the wetlands.</p>	<p>While we considered coastal wetlands in the development of water sharing rules for the 2010 plan we did not consider the possibility that water supply works could be prohibited where they may present a risk to the wetlands. With the introduction of the <i>Coastal Management Act 2016</i> and <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>, plans may now allow for prohibitions on works within distances of significant wetlands.</p>
Access licence dealing rules	<p>We updated the access licence dealing rules. Trade between several water sources into high flows is now permitted, subject to conditions and volumetric limits.</p> <p>Low flow trade is also permitted within the Upper Bega/Bemboka unregulated system, up to a 1000ML limit.</p> <p>Refer to Rule Summary Sheets for water source specific details.</p>	<p>Opening up opportunities for trade was primary recommendation of the Natural Resources Commission. It promotes economic opportunities and should help facilitate the circular economy proposal for the Bega area.</p>
Access licence dealing rules	<p>We have expanded rules permitting high flow conversion and in many cases limits have increased.</p> <p>Refer to Rule Summary Sheets for water source specific details.</p>	<p>Permitting high flow conversion where there is flow available at high flows is seen as an important tool in increased on-farm storage and reduce extraction pressure on low flows.</p>

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Mandatory conditions	We made updates based on the Non-Urban Water Metering Framework.	The current Murrah-Wallaga plan has a requirement for all works to meter. Under the non-urban metering requirement, all surface water works, except pumps less than 100mm and all groundwater works, except those less than 200mm are required to meter. Those works required to meter under existing conditions will retain this mandatory condition. New works will be subject to the new metering framework.
Mandatory conditions	We have removed references to individual daily extraction limits from the plan as we do not have the infrastructure or systems in place to apply them.	The department supports the use of total and individual daily extraction limits in the future when enough monitoring is possible. This will require flow gauges, metering of extraction and operational flow access announcement systems.
Amendment of this plan	<p>We have limited amendment rules to those that are possible under the Water Management Act, where we are well advanced in developing a policy that will require a change to the plan, or where an administrative change is required.</p> <p>This does not prohibit amending the plan in any way during its life if it is in the public interest to do so.</p>	Wide-ranging amendments cannot be included in the draft plan where the outcome of a policy change is uncertain.
Amendment of this plan	<p>The plan includes an amendment provision that requires the department to review the:</p> <ul style="list-style-type: none"> • uptake of harvestable rights within the first 3 years of the plan • access and trade rules in the plan if harvestable rights uptake has increased above 10% of rainfall runoff. 	We have included this provision to manage the risk to stream flows that increased uptake of harvestable rights may cause.
Amendment of this plan	We have included an amendment provision so that we may amend the LTAAEL during the life of the plan to set it based on a proportion of flow provided the amendments do not substantially change a LTAAEL.	This reflects the department’s intent to move to a sustainable extraction limit over the coming years.

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Amendment of this plan	We have included an amendment provision to review the impact of allowing low flow trade into the Upper Bega/Bemboka Rivers Tributaries Water Source on flows, habitats and aquatic populations if the maximum limit of low flow trade, being 1000ML is reached within the first five years of the Plan.	Review to ascertain impact before consideration of increase.

Why we have made these changes

The water sharing plans for the Bega and Brogo Rivers Area Regulated, Unregulated and Alluvial Water Sources (2011) and the Murrah-Wallaga Area Unregulated and Alluvial Water Sources (2010) were extended for 2 years so the NSW Department of Planning and Environment (the department) could amend and replace them. This is in line with the recommendation of the Natural Resources Commission’s review of these plans.

The process for changing water sharing plans

As well as the approval of the Minister for Lands and Water, replacing a plan requires the agreement of the NSW Minister for Environment and Heritage (this is known as ‘concurrence’). Consistent with section 9 of the *Water Management Act 2000* (the WM Act), when replacing 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 and Heritage group to develop the replacement plan before submitting the plan for the agreement and approval of the ministers.

More information

To read the draft *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2023* and supporting information, visit the NSW Department of Planning and

Environment's website, www.water.dpie.nsw.gov.au/plans-and-programs/water-sharing-plans/status/south-coast-region