

Summary of changes

A summary of changes made to the *Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Source 2023*

The NSW Government replaced the water sharing plan (the plan) for the Towamba River Unregulated and Alluvial Water Sources in March 2023. The table below outlines the substantive changes from the previous 2010 plan. 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 Towamba River Unregulated and Alluvial Water Sources*

Clause in 2010 plan	Change in 2023 plan	Basis for change
Part 1	We have added the Towamba River Coastal Floodplain Alluvial Groundwater Source to the water sources of the water sharing plan. We have also established the Towamba River Floodplain Alluvial Extraction Management Unit (EMU).	<p>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 such that a long-term average annual extraction limit and associated rules may be established for the Towamba River Coastal Floodplain Alluvial Groundwater Source.</p>
Part 1	We included a new plan map which includes the new Towamba River Coastal Floodplain Alluvial Groundwater Source and a small boundary change between Mataganah Creek and Upper Towamba River Water Sources.	<p>New maps include the new water source and extraction management unit.</p> <p>New Station Creek is a tributary of the Upper Towamba River and was previously mapped in the wrong water source. The boundary has been moved so it is captured in the correct water source.</p>

Clause in 2010 plan	Change in 2023 plan	Basis for change
<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 established for inland groundwater plans, the Towamba River Unregulated and Alluvial 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>Part 2</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 Towamba River 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>Part 3</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>

Clause in 2010 plan	Change in 2023 plan	Basis for change
<p>Part 4</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>Part 5</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.</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>Part 6</p>	<p>We have split the long-term average-annual extraction limit (LTAAEL) 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. This is where a larger volume of water can be taken at higher flows than at lower flows. This reduces the stress on lower flows and supports the department’s position of increasing Aboriginal involvement in natural resource management.</p>
<p>Part 6</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>

Clause in 2010 plan	Change in 2023 plan	Basis for change
Part 7	We have removed the ability to apply for high flow conversions in Jingo Creek Water Source and Wog Wog River Water Source.	Jingo Creek Water Source and Wog Wog River Water Source have low likelihood that extraction is impacting on low flows so have no driver for moving extraction out of the low flows and into the higher flows.
Part 7	We have included the ability to grant Aboriginal community development licences in the Towamba River Coastal Floodplain Alluvial Groundwater Source.	This water source has unassigned water, which can be used for Aboriginal community development if required.
Part 7	We have changed the total amount of share components that can be granted for extraction under Aboriginal community development licences in the Towamba River Extraction Management Unit. The limit in the 2010 plan was 310 ML/yr. This limit has changed to 306 ML/yr.	The limit has been reduced to reflect updated flow data since the 2010 plan.
Part 8	<p>We have changed some of the access rules for licensed users. The 2010 plan applies a rule that requires licence holders in 6 water sources of the Towamba River EMU to cease pumping when flow in the river reaches 5 ML/day. We have updated this cease to pump value to 6.5 ML/day. The effected water sources are:</p> <ul style="list-style-type: none"> • Jingo Creek • Lower Towamba River • Mataganah Creek • Myrtle Creek • Upper Towamba River • Wog Wog River <p>In the 2010 plan, the Pambula Lake and Tributaries Water Source has a rule which requires licenced users to cease pumping if there is no visible flow at the pump site. We have updated the cease to pump rule to 0.5 ML/day at gauge 220003 Pambula River at Lochiel. Users cannot commence to pump until the river has risen past 3.4 ML/day.</p>	<p>The increased cease to pump rules aim to mitigate identified risks to low flows.</p> <p>Referencing flow in the Pambula Lake and Tributaries to a gauge will also help with implementation of the cease to pump rule.</p>

Clause in 2010 plan	Change in 2023 plan	Basis for change
Part 8	We have removed references to total daily extraction limits (TDELs) and individual daily extraction limits (IDELs) from the plan.	IDELs cannot be implemented currently due to lack of metering and flow gauging. The department considers that TDELs and IDELS are an appropriate management tool so want to be able to introduce them in the future if there is enough infrastructure and metering to do so.
New inclusion	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.	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.
Part 9	Construction of groundwater water supply works 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.
Part 9	<p>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>

Clause in 2010 plan	Change in 2023 plan	Basis for change
<p>Part 10</p>	<p>The 2010 Towamba River unregulated and alluvial water sharing plan prohibits trade between all water sources and allows trade within water sources.</p> <p>The 2023 plan allows trade into the following water sources:</p> <ul style="list-style-type: none"> • Lower Towamba River • Mataganah Creek • Myrtle Creek • Upper Towamba River, and • Wog Wog River <p>Trade within water sources is also allowed in the 2023 plan, with trade within the Lower Towamba River water source only allowed in a downstream direction to protect high ecological values.</p>	<p>The water sharing plan does not allow trade between disconnected water sources, or into areas of high ecological value or high hydrologic stress.</p> <p>Recommendations for changes have been based on risks that extraction pose to ecological values as described in the Risk Assessment for the Towamba River Unregulated and Alluvial Water Sources which was developed for the water sharing plan replacement process.</p> <p>The proposed new rules aim to protect high ecological values and will enable trading to maximise social and economic opportunities.</p>
<p>Part 12</p>	<p>We have limited amendment rules to those that are possible under the 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>	<p>Parliamentary Counsel’s Office requires that wide-ranging amendments cannot be included in the draft plan where the outcome of a policy change is uncertain.</p>
<p>Part 12</p>	<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. 	<p>We have included this provision to manage the risk to stream flows that increased uptake of harvestable rights may cause.</p>
<p>Part 12</p>	<p>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.</p>	<p>This reflects the department’s intent to move to a sustainable extraction limit over the coming years.</p>

Why we have made these changes

The *Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2010* was extended for a period of up to 2 years so the NSW Department of Planning and Environment could replace it. This was in line with the recommendation of the Natural Resources Commission's review of the 2010 plan.

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 *Water Sharing Plan for the Towamba River Unregulated and Alluvial Water Sources 2023* and supporting information, visit the NSW Department of Planning and Environment's website, water.dpie.nsw.gov.au/plans-and-programs/water-sharing-plans/status/south-coast-region.