



Commonwealth Environmental Water Holder Submission on the Intersecting Streams Unregulated River Water Resources 2024 Water Sharing Plan

Introduction

The Commonwealth Environmental Water Holder (CEWH) is a statutory position established under the Water Act 2007 (Water Act) and is responsible for managing the Commonwealth environmental water holdings. Commonwealth environmental water must be managed to protect or restore the environmental assets of Murray-Darling Basin (the Basin), so as to give effect to international agreements including the Ramsar convention. Dr Simon Banks is the current CEWH.

The Murray–Darling Basin is Australia’s largest river system, which covers more than a million square kilometres across south-eastern Australia. It’s rivers, creeks and tributaries traverse Queensland, New South Wales, Victoria, the ACT and South Australia. As the holder of Commonwealth environmental water, the CEWH considers the entire Basin in planning and using environmental water, managing the national interests of this complex and important river system.

In undertaking their function, the CEWH gives effective to international agreements, including the Ramsar Convention on Wetlands, the Japanese Australia Migratory Bird Agreement, the China–Australia Migratory Bird Agreement and the Convention on Biological Diversity. Watering actions are planned to support threatened ecological communities and species.

The CEWH is governed by the requirements of the *Water Act 2007* and the *Basin Plan 2012* (the Basin Plan). The Basin Plan requires the CEWH to perform their functions and exercise their powers in a way that is consistent with the Basin-wide environmental watering strategy, and to have regard to the Basin annual environmental watering priorities developed by the Murray–Darling Basin Authority (MDBA). Under the Basin Plan, the CEWH is also required to undertake environmental watering in a way that uses local knowledge and experience, works effectively with local communities and has regard to Indigenous values.

In addition, the CEWH must comply with other relevant state and Commonwealth policy, frameworks and legislation, including the Public Governance, Performance and Accountability Act 2013 and the *Environment Protection and Biodiversity Conservation Act 1999*.

The CEWH welcomes the opportunity to provide a submission on the draft Intersecting Streams Unregulated River Water Sources 2024 Water Sharing Plan (draft Intersecting Streams WSP). The CEWH currently manages, in long-term average annual yield terms:

- 13,773 ML of unregulated entitlements in the New South Wales Intersecting Streams in the Warrego River at Toorale, and
- 113,859 ML of unregulated entitlements in the Queensland Lower Balonne, Condamine, Moonie, Nebine and Warrego catchments that contribute to flows to the NSW Intersecting Streams.

These holdings are approximately 40% of the Commonwealth's portfolio in the northern Murray-Darling Basin.

This submission focuses on the key areas of interest and relevance to the CEWH, including:

- Protection of held environmental water
- Planned environmental water
- Exemption for in-river dam applications for town water supply
- Protecting wetlands and
- Aboriginal cultural values, uses and benefits

Protection of held environmental water

While significant advancements towards protection of environmental water have been made in line with the Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin, in the northern Basin, the key area where held environmental water is still not protected is in the Intersecting streams.

Active management is critical to ensuring environmental water can remain and be used in-stream for its intended environmental purposes between connected water resources¹. Active management has already been successfully implemented in several catchments in the northern Basin since its inception in December 2020 enabling system scale environmental outcomes to be achieved with environmental water. Protecting environmental water in the Intersecting Streams WSP would build on this success by ensuring that all held environmental water in the northern Basin remains in-stream for its intended environmental purposes.

The Queensland Department of Regional Development, Manufacturing and Water and the New South Wales Department of Planning and Environment have developed and implemented interim accounting procedures and protocols to account for held environmental water at the Qld/NSW Border. The CEWH appreciates that NSW is now progressing its work plan to recognise held environmental water from Queensland in the NSW Intersecting Streams and protect it under active management when it reaches the Barwon-Darling. This includes modelling to support water accounting, a water user survey and ongoing engagement with State and Commonwealth water agencies.

¹ Active Management Procedures Manual for the Barwon-Darling Unregulated Rivers Water Source.

Queensland gifted water

Part of the CEWH's water holdings includes gifted water entitlements from Queensland. This water contributes to Basin Plan environmental water recovery targets, but NSW does not recognise the gifted entitlement. That means, that once this water reaches NSW it becomes part of the general flows in the river and can be accessed by consumptive users. Lack of protection and recognition of gifted water is inconsistent with the Intergovernmental Agreement on Water Reform in the Murray–Darling Basin commitment to protect environmental water. The Queensland Government could have allocated the gifted water for consumptive purposes within the Basin Plan's sustainable diversion limits. The gifted water has the same entitlement characteristics as all other water entitlements recovered by the Commonwealth in Queensland and should be protected under active management to help ensure that the Basin Plan environmental objectives are met.

Toorale National Park and State Conservation Area

An Operating and Maintenance Plan (The Plan) has been developed and implemented to inform the management of planned environmental water and held environmental water at Toorale². The Plan is an important measure for demonstrating transparent management and accounting arrangements, and to give increased confidence to the community about decisions on the use of water for the environment at Toorale. The Plan recognises environmental demands in the Darling River during dry periods as a priority for environmental water. It is important that Commonwealth environmental water sourced from the Toorale licences is protected by active management when it reaches the Darling River, as it is additional water in the river. This water needs to be protected to ensure that the Darling environmental demands are met.

It is recommended that:

1. Queensland held environmental (including gifted water) be recognised as active environmental water in the Intersecting Streams WSP and is protected from extraction.
2. Water left instream from the Toorale unregulated entitlements be recognised as active environmental water and is protected from extraction.
3. Access rules in the Intersecting Streams be modified for unregulated river access licences to ensure that active environmental water is protected from extraction.
4. The Active Management Procedures manual for the Barwon-Darling be updated to include held environmental water from water sources in the Intersecting Streams Plan, including across the border from Queensland, as active environmental water.

² Toorale water management infrastructure operating and maintenance plan

Planned environmental water

The CEWH recognises the inherent value of planned environmental water and the important role this water plays in contributing to, and achieving environmental outcomes. The Basin Plan requires for no net reduction in the protection of planned environmental water. Any changes which reduce the protection of planned environmental water could increase the risk to achieving environmental outcomes, including the capacity of the CEWH to support these outcomes in the NSW Intersecting Streams and downstream.

Change to access rules – Narran River Water Source (Management Zone 1 – Qld Border to New Angledool)

The CEWH is supportive of adopting a daily flow volume to support implementation of the rule. However, Commonwealth environmental water flowing from Queensland would need to be accounted for and protected above the daily flow volume of 170 megalitres per day. Without this protection, Commonwealth held environmental water flowing from Queensland may be substituted for planned environmental water which is a perverse outcome.

Change to access rules – Narran River Water Source (Management Zone 2 – New Angledool to Wilby Wilby)

The CEWH is supportive of a change in access rules to protect low flows in this management zone from extraction. However, the recommendation for this reach set out in the Natural Resources Commission's (NRC) review of the Intersecting Streams WSP is 126 megalitres per day to align with the very low flow environmental water requirement in the Intersecting Streams Long-Term Water Plan (LTWP)³. Whereas, the draft Intersecting Streams WSP has the proposed rule at 115 megalitres per day. The CEWH supports that the NRC's recommended commence to pump rate of 126 megalitres per day to ensure alignment with the LTWP.

As noted above, Commonwealth held environmental water requires protection and needs to be accounted for above the daily flow volume set out in the new rule. Without this protection Commonwealth held environmental water may be substituted for planned environmental water.

Change to access rules – Narran River Water Source (Management Zone 3 – Wilby Wilby to Narran Park Guage)

The CEWH is supportive of a change in access rules to protect low flows into Narran Lake. However, as above, the CEWH supports the NRC's recommendation for the commence to pump rate be similar to zone 2 taking losses into account.

³ Natural Resources Commission Review of the Intersecting Streams and Lower Murray-Darling unregulated water sharing plans March 2022.

As noted above, Commonwealth held environmental water requires protection and needs to be accounted for above the daily flow volume set out in the new rule. Without this protection Commonwealth held environmental water may be substituted for planned environmental water.

It is recommended that:

1. The access rules for unregulated river access licences are modified to be consistent with the recommendations set out in the NRC's Review of the Intersecting Streams and Lower Murray-Darling unregulated water sharing plans.
2. Commonwealth held environmental water is recognised as active environmental water and protected above the commence to pump daily flow volume for unregulated river access licences to ensure no net reduction in planned environmental water.

Exemption for in-river dam applications for town water supply

The CEWH recognises the importance of improving water security for towns and industries, which can be particularly challenging during dry times. However, new in-river dams or other infrastructure may impact the hydrological regime, reduce fish passage and interfere with sediment and nutrient movement. The potential impacts of any new in-river dam or other infrastructure on the environment including Matters of National Environmental significance such as threatened and migratory species and the ecological character of the listed Wetlands of International Importance (e.g. Narran Lakes and Paroo) would need to be assessed in accordance with the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) in addition to any requirements under relevant NSW environmental legislation.

New infrastructure would also need to be consistent with the Murray-Darling Basin Plan to ensure there is no backward step towards unsustainable water management practice. The CEWH notes the Murray-Darling Basin Authority has a guide to planning new infrastructure available at their website [Guide to planning new infrastructure | Murray-Darling Basin Authority \(mdba.gov.au\)](https://www.mdba.gov.au/guide-to-planning-new-infrastructure).

Protecting wetlands

The CEWH supports the amendments to improve protection for significant wetlands within the Intersecting Streams WSP area, as previously recommended by the NRC. However, the CEWH notes that works beyond 3 kilometres upstream of a Ramsar site may have the potential to impact the environment. Please refer to comments above about the need to assess the potential impacts of any works on any matter of National Environmental Significance under the EPBC Act.

Aboriginal cultural values, uses and benefits

The CEWH acknowledges the Traditional Owners and the deep cultural, social, environmental, spiritual and economic connection they have for their lands and waters. First Nations people have longstanding and continuing ties to country, and the rivers, wetlands and floodplains in the Intersecting Streams. The CEWH encourages improving the access and use of water for social, cultural, spiritual and economic benefits for First Nations people as they determine. First Nations people should be empowered to determine how they access and use water to achieve economic benefits.

CEWH recommends:

1. reviewing restrictions that limit the use of cultural water for economic benefit.
2. reviewing terminology in the plan to ensure ease of navigation and application for a specific purpose access license for Aboriginal cultural or commercial purposes.

[REDACTED]

From: [REDACTED]
Sent: Thursday, 12 October 2023 5:43 PM
To: DPE Intersecting Streams WSP Mailbox
Subject: Replacement Intersecting Streams Unregulated River water sharing plan

Replacement Intersecting Streams Unregulated River water sharing plan

Background:

The intersecting streams are key tributaries of the Darling/Baaka with very high conservation values. They mostly rise in Queensland and include: Paroo, Warrego, Narran, Moonie and Culgoa Rivers plus Yanda Creek within NSW. These river systems contain significant wetlands including the Ramsar listed Paroo wetlands and Narran Lakes. Better management of these water sources is critical for the health of the Darling/Baaka. The NSW Government had an additional two years to improve the replacement plan but has made no changes to environmental protection.

I would submit that:-

The draft replacement Intersecting Streams water sharing plan:

1. Fails to protect Commonwealth held environmental water crossing the Queensland border through active management rules.
2. Fails to increase flow protection in the Narran River to improve water availability to the Ramsar listed Narran Lakes
3. Fails to protect low flows in all other streams
4. Does not meet the definition of planned environmental water that commits to a physical presence of water
5. Fails to account for all forms of extraction including harvestable rights and diversion of overland flows
6. Locks in history of use carried over from Water Act 2012

However on the better side the proposed draft replacement Intersecting Streams water sharing plan

7. Improves connectivity by prohibiting instream dams on 3rd order and larger streams
8. Improves protection of wetlands by limiting new water infrastructure

Yours faithfully,

[REDACTED]
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Friday 13 October 2023

SUBMISSION

Draft replacement Water Sharing Plan for the
Intersecting Streams Unregulated River Water Sources

Introduction

The Inland Rivers Network (IRN) is a coalition of environment groups and individuals concerned about the degradation of the rivers, wetlands and groundwaters of the Murray-Darling Basin. It has been advocating for the conservation of rivers, wetlands and groundwater in the Murray-Darling Basin since 1991.

Member groups include the Australian Conservation Foundation; the Nature Conservation Council of NSW; the National Parks Association of NSW; Wilderness Australia; Friends of the Earth; Central West Environment Council; and Healthy Rivers Dubbo.

IRN welcomes the opportunity to provide comment on the proposed replacement water sharing plan for the Intersecting Streams Unregulated River Water Sources (draft replacement plan).

Many environmental assets of great environmental and cultural value depend wholly or in part on flows from or through these water sources, including the Barwon and Darling/Baaka Rivers, wetlands identified as significant and many smaller wetlands, Warrambools, creeks and floodplain ecosystems. Most depend on flows from Queensland. The greatest extent of environmental assets in these catchments is in NSW but protection, maintenance and benefits from them depends on successful negotiation and maintenance of agreements with Queensland, whether through the Murray Darling Basin Plan or bilateral agreements. Queensland has overallocated the Moonie, Narran and Culgoa-Balonne waters and failed to make adequate rules to protect important flow characteristics.

The NSW Government would be in a much better bargaining position to get needed flows from Queensland as part of an amended Basin Plan, if this replacement plan provided stronger protection for flows that enter NSW to get more of them to NSW assets. Relatively small reductions in diversions by some NSW users could, through effective negotiation, enable significantly improved flows from Queensland benefiting domestic and stock users and the NSW economy as well as First Nations people and the species that depend on these assets.

IRN participated in the Natural Resources Commission (NRC) statutory review of the *Water Sharing Plan for the Intersecting Streams Unregulated River Water Sources 2011* in 2020. We noted that the Alluvium audit of the Water Sharing Plan conducted in 2019 found a number of key issues that need to be addressed. These are still outstanding.

We are concerned that there appears to be no response from Government to the recommendations made by the NRC. The draft replacement plan fails to adopt many of the NRC recommendations aimed at improving water management in the Intersecting Streams water source.

We also note that the draft replacement plan is very different to the amended plan adopted in 2020 as part of the Water Resource Plan SW13 (WRP) development. This WRP is still under assessment by the MDBA.

IRN is very concerned that the development of a replacement plan was given an additional 2 years to improve information gaps and yet the basic protection for environmental outcomes has not changed, other than banning new dams and new rules to better protect wetlands. We consider that the draft replacement plan fails to meet the objects of the *Water Management Act 2000* (WMA).

Supported measures

1. Prohibition on new dams

IRN supports the proposed extension of the ban on new dams across 3rd order and larger streams to apply in the Moonie, Narran and Culgoa Water Source areas as well as the Paroo Water Source. We believe it should also apply to Yanda Creek to protect flows to Gundabooka National Park and cultural values of waterholes elsewhere in this water source.

However, we do not support the exemption for town water supply purposes. A policy for off-stream storages for town water supply is necessary to protect flow connectivity and important habitat values.

2. Trade rules

IRN also supports continued exclusion of trading between water sources in this plan area and from it to Queensland or elsewhere. Transfer of water access rights from these unregulated streams would have adverse impacts on ecosystems below the new location (in intervening reaches if licences move upstream) and any transfers to Queensland would be subject to their access rules that do not protect low flows or other important flow regime characteristics.

3. Improved protection for wetlands

IRN commends the list of significant wetlands included in Schedule 4 and the inclusion of new rules to prevent trade and new works within or 3 km upstream of Ramsar wetlands or within these significant wetlands.

Key Issues with the draft replacement plan:

1. Failure to protect Planned Environmental Water
2. No rules to protect Held Environmental Water
3. Unsustainable LTAAEL
4. Failure to protect low flows
5. Protection of first flush flows
6. Changes plan vision, objectives and performance indicators

1. Failure to protect Planned Environmental Water

The replacement plan has removed the Part 4 Planned Environmental Water provisions as provided in the 2020 amended plan that clearly outlines the definition of planned environmental water under the WMA. These are:

(2) Water is committed and identified as planned environmental water in these water sources in the following ways:

- (a) by reference to the commitment of the physical presence of water in these water sources,
- (b) by reference to the long-term average annual commitment of water as planned environmental water, and
- (c) by reference to the water that is not committed after the commitments to basic landholder rights and for sharing and extraction under any other rights have been met.

Having the environmental provisions distributed through the replacement plan across Part 4 and Part 6 diminishes the importance of planned environmental water and its protection.

The replacement plan fails to meet the planned environmental provisions:

- Part 4 Division 2 cl 17 (b) *commits water as planned environmental water by reference to the long-term average annual commitment of water resulting from compliance with the long-term average annual extraction limit.*

As outlined below there are significant issues with plan limit and compliance assessment.

- Part 6 Division 1 cl 29 (b) in Divisions 2–4—*commits water as planned environmental water by reference to the water that is not committed after the commitments to basic landholder rights and for sharing and extraction under any other rights have been met,*

All extraction has not been identified in this replacement plan therefore the commitments are unknown and the assessment of planned environmental water is over estimated. This includes diversions using block banks to flood land.

- Part 6 Division 1 cl 29 (c) in Divisions 3 and 4—*commits water as planned environmental water by reference to the commitment of the physical presence of water in the water source.*

The replacement plan does not protect the physical presence of water in the water source except in the Narran management zones. All other water sources have a cease-to-pump rule when there is no visible flow.

2. No rules to protect Held Environmental Water

The replacement plan fails to include rules to protect Held Environmental Water (HEW) entering the plan area from Queensland. This is despite the fact that daily volumes of HEW can now be calculated under the agreement with the Queensland Government.

The Commonwealth Environmental Water Office (CEWO) has environmental water holdings in the Queensland Lower Balonne, Condamine, Moonie, Nebine and Warrego catchments that contribute to flows to the NSW Intersecting Streams, with a long-term average annual yield of 113,862 ML. CEWO also has 17,826 ML of unregulated entitlement in the NSW Intersecting Streams in the Warrego Water Source which contribute to flows to the Barwon-Darling.¹

We note that protection of HEW was a key recommendation of the NRC.²

R4 a) ensure that the replacement Intersecting Streams Plan includes provisions requiring active management, including protection of licenced environmental water from Queensland entering the Intersecting Streams, and the Warrego River into and through the Barwon-Darling River

It is important that protected HEW flows are accounted for on top of planned environmental water and are not used as a replacement. The purpose of HEW under the Basin Plan is to return water sources to sustainable levels of extraction. This is over and above the objects of the WMA.

3. Unsustainable Long Term Annual Average Extraction Limit (LTAAEL)

IRN has significant issues with the LTAAEL in the replacement plan:

- It locks in history of use from the *Water Act 2012* entitlements and therefore fails to consider ecological needs of the water source as required by the WMA.
- The estimate of basic landholder rights has increased significantly from the 2020 amended plan from 6.73 ML to 3,804.24 ML.
- The LTAAEL fails to include an estimate of capture or diversion of overland flow including harvestable rights. It is IRN's view that no harvestable rights should be allowed or granted from these water sources.
- The assessment of compliance through a five year average extraction calculation is not consistent with other unregulated water sharing plans that have a three year average extraction requirement. The three-year average also meets the carryover rules.
- Planned environmental water is not protected by the LTAAEL in this replacement plan because all forms of extraction are not included.
- A sustainable, numeric volume needs to be established so that annual LTAAEL compliance can be met.³

3.1 Overland Flow: The MDBA baseline diversion limit estimate for the 2019/20 water year indicates that in the NSW Intersecting Streams, 6,000 ML was taken by run-off dams under

¹ NRC March 2022. Final report *Review of the Intersecting Streams and Lower Murray-Darling unregulated water sharing plans* p65

² Ibid p 4

³ Ibid Recommendation 3 c) p 4

basic rights and 105,000 ML was taken by run off dams that were not considered basic landholder rights .⁴

3.2 The MDBA maintains that all forms of interception should be accounted for within the Plan rules and under the LTAAEL.⁵

3.3 Alluvium audit of 2011 water sharing plan found that provisions for compliance with LTAAEL were not given effect and that calculation of the current levels of annual extraction were not occurring or the assessment of these against the LTAAEL. ⁶

These issues are significant in regard to meeting the planned environmental water provisions.

4. Failure to protect low flows

Except for some of the access rules for Narran River Water Source, water sources in the draft replacement plan area have a cease to pump rule set to when there is no visible flow. When a pump is switched on because there was a tiny flow, it can reduce the width and length of flowing water and cause cessation of flow downstream, particularly if any remaining flow is less than the evaporation rate, which is very high in this region. This does not provide the commitment for physical presence of water under the definition of planned environmental water. This fails to facilitate connectivity, as low flows are not protected. The productivity of the aquatic ecosystems and survival of species trying to complete their life cycles is threatened.

While the draft replacement plan proposes to change the access rules for the Narran River Water Source by changing the reference from gauge heights to daily flow volumes, there is no change to the physical access in the three management zones from those in the initial 2011 water sharing plan, as outlined in Schedule 1. ⁷

In fact, it is acknowledged that *‘The intent of the original rule was to reflect historical access arrangements on the Water Act 1912 licences which included an access condition of 170ML/day.’*⁸ IRN strongly objects to these rules maintaining water sharing arrangements that pre-date the WMA and could be 100 years old. This draft replacement plan is the time to change rules to conditions that reflect current knowledge of what flow regime is needed for sustainability. This includes more than just protecting “very low flows” with the old objective of leaving just enough flow to briefly provide for basic landholder rights downstream.

The Narran River is the key source of water for the Ramsar listed Narran Lakes Nature Reserve and Narran Lake beyond that which is also a significant wetland. Currently, even the Ramsar wetland rarely gets flows other than after very wet conditions upstream, missing out on many of the moderate “freshes” it would once have received, notably in moderate to dryish years, and missing the tails of some events. The protection of most of the freshes and low flows that do reach NSW is critical for maintaining resilience in the internationally

⁴ Ibid p 47

⁵ Ibid p 49

⁶ Alluvium, October 2019. *Audit of the Water Sharing Plan for the Intersecting Streams Unregulated and Alluvial Water Sources 2011*

⁷ DPE May 2023. Report Card for Narran River Water Source

⁸ DPE August 2023. A summary of proposed changes in the draft *Water Sharing Plan for the Intersecting Streams Unregulated River Water Sources 2024*

significant wetland and survival of species that rely on it. The proposed protection of only up to 10 megalitres per day from use by licensees in zone 3 is quite inadequate.

We note that the environmental science staff within DPE made recommendations⁹ to lift the flow heights for cease to pump rules in the three Narran River management zones:

- Management Zone 1 requires a higher commence to pump. Based on advice from DPIE-EES, the ratings table shows the site doesn't commence to flow until the gauge reads 1.8 metres
- the commence to pump for Management Zone 2 should be greater than 126 ML per day (or 1.21 metres) to align with the very low flow environmental water requirement in the LTWP
- the commence to pump for Management Zone 3 should be similar to Zone 2, taking losses into account.

In IRN's view, these recommendations and the extent to which they are proposed to be implemented do not go far enough. The zone 1 significant pulse of flow should be protected before extraction or diversion from any zone may commence (e.g. if flows at Narran Park gauge have ceased for more than a short period). The zone 3 rule should be closer to 50ML/day. The zone 2 rule should also be lifted above 126 ML per day to ensure that significantly more water can reach and pass through zone 3. To protect sufficient for users in zones 2 and 3 as well as low flows, the zone 1 pumping level should be raised above the 170 ML level on the out-dated licences.

The argument that a cease to pump greater than 10 ML/day in management zone 3 will provide greater environmental benefits but will likely significantly impact licence holders¹⁰ is a failure to give priority to environmental health, as required by the objects of the WMA. The intention to provide a 'balance' between environmental and water user requirements is not based on any scientific evidence.

5. Protection of first flush flows

It is critical for first flush flows to be protected after drought to reconnect the Darling/Baaka and replenish important habitat such as pools and wetlands including during periods that may turn out to be no more than a brief respite in a more extended drought. This should be achieved through the combination of rules in the replacement plan and the option of using s324 orders when necessary.

This important connectivity requires a cease - to - pump rule for all water sources.

6. Changes to Plan Vision, Objectives, and Performance Indicators

IRN is concerned that important provisions for meeting environmental objectives in the 2020 amended plan have been revised and simplified. The proposed performance indicators, in particular have been modified to such an extent as being immeasurable.

⁹ NRC March 2022. Final report *Review of the Intersecting Streams and Lower Murray-Darling unregulated water sharing plans* p 61

¹⁰ DPE May 2023. Report Card for Narran River Water Source



From: digital.services=squiz.dpie.nsw.gov.au@squiz.regional.nsw.gov.au on behalf of digital.services@squiz.dpie.nsw.gov.au
Sent: Thursday, 12 October 2023 7:19 AM
To: DPE Intersecting Streams WSP Mailbox
Subject: Submission for Intersecting Streams Unregulated River Water Sources

Information on privacy and confidentiality

1. I give permission for my submission to be publicly available on the NSW Department of Planning and Environment website: Yes
 2. I would like my personal details to be kept confidential: Yes

Your details

1. Email address: [Redacted]
 2. Name of respondent: [Redacted]
 3. Address: [Redacted]
 4. Contact phone number: [Redacted]
 5. Are you an individual or representing an organisation?: Individual
 If you selected 'organisation', please specify:

6. Who are you representing?: Surface water user – basic rights

If you selected 'other', please specify:

7. Did you attend any of the following in relation to the public exhibition of the Intersecting Streams water sharing plan?: None of these

8. Do your comments refer to a specific water source?: No
 If you selected 'yes', please specify which water source.:

Narran River Water Source

1. Please provide any comments you may have on the proposed changes to access rules.: none
 Attach extra pages if required.: No file uploaded

Narran River Water Source

2. Please provide any comments you may have on the proposed wetland rules.: none
 Attach extra pages if required: No file uploaded

Additional feedback

Comments on any aspects of the draft plan.:
 Attach extra pages if required.: No file uploaded

[REDACTED]

From: [REDACTED]
Sent: Thursday, 12 October 2023 7:16 AM
To: DPE Intersecting Streams WSP Mailbox
Subject: Lower Balonne Floodplain Association Submission on Intersecting Streams Draft Plan

Background

The Lower Balonne Floodplain Association (LBFA), has represented stock and domestic interests, and impacts of upstream development on the floodplains in the Lower Balonne for landholders and communities like Goodooga, Angledool and Weilmoringle along the Culgoa, Birrie, Bokhara, and Narran rivers since 1960.

The LBFA has also for the last ten years been representing the interests of the Intersecting Stream Licence holders. All of these private held licence holders, bar one which is not situated on one of the seven main rivers within the Intersecting Stream Plan area recently submitted a bulk tender to the Commonwealth to recover all existing licences.

In other words, there are 30 licence holders, representing about 16 GL of licenses in the Intersecting Stream Plan area, are willing sellers to the Commonwealth for \$2800 per megalitre.

These licence holders in general have suffered 3 major, non-compensated hits to their licence access over time. These hits include, the upstream impact of development in QLD which lowered licence reliability, the reduction in take by the conversion of area to volumetric limits on their licence, and the introduction of zone management changes into the Narran water source.

Comments on the Intersecting Stream draft plan.

LBFA notes the following changes to the Draft Plan.

The proposed changes from visible flow to 10 megalitre a day flow CTP rule in the Narran Management zone 3 is strongly opposed as it changes key access to water in a non-artesian bore area. This is considered a compensatory change.

The proposed ban of new in-river dams in all water sources within the Plan area is strongly opposed as it reduces ability to activate existing licences.

There appears to be some good mapping re extent of floodplains on the Paroo and Cuttaburra in the Plan, the mapping of floodplains elsewhere in the Warrego, Culgoa, Birrie, Bokhara, Narran and Moonie, is non-existent and is less than professional. These floodplains are greatly valued by our members. Surely some sat maps of previously flooding like 2012 would show the extent.

Part 2, Section 10.

Appears to be significant increase in limits to existing ability to harvest water using existing licences. Would appreciate some clarification re changes with existing Plan.

Part 3

We are seeking clarification of how the Stock and domestic rights are calculated and is that consistent with existing Plan.

Part 10 Amendment of Plan.

Appears that this Section gives rise and ability for any determined party, to lobby for changes to and modify the plan.

This includes Intergovernmental agreement between NSW and QLD, add or remove or move to other Water sources, change definition ,access rules , IDELs etc.

These are a current and future risk to existing licence holders equity and forms a real current and future risk to the Commonwealth recovered water entering the Plan area from QLD.

Thank you for the opportunity to comment on behalf of the LBFA.

[Redacted]

Chair

Lower Balonne Floodplain Association

[Redacted]

[Redacted]

13 October 2023



Intersecting Streams Unregulated River WSP
Department of Planning and Environment – Water
Level 3, 49 - 51 Victoria Street
Grafton NSW 2460

DRAFT REPLACEMENT WATER SHARING PLAN FOR THE INTERSECTING STREAMS UNREGULATED RIVER WATER SOURCES

Dear Sir/Madam,

The National Parks Association of NSW (NPA) was formed in 1957 and sixty-six years later there are 15 branches, 4,000 members and over 20,000 supporters. NPA's mission is to protect nature through community action. Our strengths include State-wide reach, deep local knowledge, evidence-based input to policy and planning processes, and over 65 years' commitment to advancing the NSW protected area network and its professional management.

We are committed to advancing the NSW protected area network and its professional management. The NPA believes that healthy and resilient river systems are vital for our collective wellbeing. We have consistently advocated for sound environmental and community outcomes through participation in government processes and collaborative projects with other environmental groups and academic bodies.

The NPA welcomes the opportunity to comment upon the *proposed amendments to the Water Sharing plan for intersecting streams unregulated river water sources* and thanks you for the opportunity to express our views.

Background

There are more than 890 parks, reserves, conservation areas and Aboriginal areas across New South Wales. Out of all the areas across the state that that could be identified as in need of enhancement, the government chose western NSW for significant recent additions. For example, Comeroo, Muttawary and Maranoa stations (known collectively as Comeroo) have been purchased. This is because these areas still have habitat critical to rare and threatened species. The area covered by the intersecting streams also contain significant and unique wetland habitats such as the Ramsar listed Paroo wetlands and Narran Lakes. Yantabulla Swamp is one of the most important waterbird breeding sites in NSW (Kingsford and Porter 1999). The intersecting streams are also key tributaries of the Darling/Baaka; a river system with very high conservation values, and yet [showing early signs of environmental collapse](#). This makes the intersecting streams area an important region for nature conservation.

This also means better management of the intersecting streams water sources is critical to conserve threatened species, the health of important inland wetlands, and the wider Darling/Baaka.

It therefore would seem somewhat incongruent of the NSW government to devote significant financial resources to purchase additional parkland in western NSW and yet at the same time fail to improve the relevant water replacement plan despite having an additional two years to do so.

National parks in western NSW may provide the 'skeleton' that protects the natural environment, but it is the water that flows which is the 'blood' that keeps the system alive. The future water sharing plan must realise this objective.

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Specific recommendations

Increased Connectivity

Connectivity between tributaries is critical in such flat country. Rivers ignore administrative boundaries such as state borders. If we are to protect the environmental assets in the region, like the significant inland wetlands of the Paroo, the plan needs to:

- incorporate cross-border flow targets that are agreed with Queensland to protect wetlands in NSW by creating end of system flow targets for Queensland water plans and can be used to protect both significant and Ramsar wetlands in NSW.
- further increase the protection of wetlands from the proposed “No new or amended works permitted within or 3km upstream of a Ramsar wetland.” to include the areas identified in the *Water Sharing Plan for the Intersecting Streams Unregulated River Water Sources 2024 Significant Wetlands Map* and/or the significant wetlands listed in table B in draft plan.
- There is a relatively small volume of HEW in the NSW Intersecting Streams. However, large volumes of the Australian Government’s environmental water entitlements have been recovered upstream in QLD water sources connected to NSW Intersecting Streams (in the QLD Condamine–Lower Balonne, Warrego & Moonie catchments). The revised plan must make provision to protect Commonwealth held environmental water crossing the Queensland border through active management rules.

The NPA is supportive of the continuation of no-take rules for in-river pools and acknowledges the improved connectivity in what is proposed by prohibiting instream dams on 3rd order and larger streams.

Conserve the significant biodiversity that exists.

Climate change is a key long-term risk to river, wetland, and floodplain health in the area. Climate modelling indicates it is likely to exacerbate seasonal variability of intersecting streams by 3-11%. This will make it more difficult to manage the significant natural landscapes and ecosystems in the region.

It is now almost four years since the long-term water plan was adopted by the NSW Government. As such it is the NPA’s view this review is an opportunity to have the water sharing rules more strongly align with the long-term plan. Specifically, the ‘priority ecosystem function **2024** objectives’ of:

- Maintain dissolved oxygen & salinity levels in key refuge pools at ecologically tolerable levels.
- Maintain frequency of events that allow fish passage in target PUs & gauges for intersecting streams.
- Increase in passage of key moderate to long-lived riverine & flow-pulse specialist native fish through key fish passages.

We know water quality affects the ecology & survival of aquatic organisms. For example, blackwater events that occur after dry or lowflow periods are caused by the build-up of organic material in channels & on floodplains & leads. To incorporate such basic ecological knowledge, there needs to be additional changes to the rules so that:

- Extraction rules protect the ‘first flush’ event.
- Planned environmental water (PEW) is water that is committed by management plans for fundamental ecosystem health or other specified environmental purposes, either generally or at specified times or in specified circumstances, and that cannot, to the extent committed, be taken or used for any other purpose. There needs to be a definition of planned environmental water in the plan which commits to a physical presence of water or a commitment to a long-term annual average.
- There needs to be protection low flows in all streams. The flow rates that define each flow category (baseflows, small freshes etc.) might vary at representative gauge sites across catchments and river reaches.

- There also needs to be flow protection in the Narran River to improve water availability to the Ramsar listed Narran Lakes
- The plan needs to account for all forms of extraction including harvestable rights and diversion of overland flows.

[Redacted]

Yours sincerely

[Redacted]

[Redacted]

**Chief Executive Officer
National Parks Association of NSW**

protecting nature through community action



Nature Conservation Council

The voice for nature in NSW

20th October 2023

DPE Water

By email: intersectingstreams.wsp@dpie.nsw.gov.au

Submission: Draft replacement Water Sharing Plan for the Intersecting Streams Unregulated River Water Sources

The Nature Conservation Council of New South Wales (NCC) is the state's peak environment organisation. We represent over 180 environment groups across NSW. Together we are dedicated to protecting and conserving the wildlife, landscapes and natural resources of NSW.

NCC is pleased to provide comment on the draft replacement Water Sharing Plan for the Intersecting Streams Unregulated River Water Sources (the WSP), and thanks the Department for confirming by email that our request for an extension for this submission until 20th October 2023 was granted.

The area described as the intersecting streams is the unceded Traditional Lands of the Barkandji, Ngemba, Budjiti, Euahlayi, Gomeroi/Kamilaroi, Guwamu, Kunja and Murrwarri Nations. The rivers of this northern part of inland NSW are the Paroo, Warrego, Narran, Moonie and Culgoa Rivers which rise in Queensland, and Yanda Creek which rises in NSW. These waterways have very high conservation values, including significant wetlands like the Ramsar listed Paroo wetlands and Narran Lakes/Dharriwah, and are critical tributaries of the Darling/Baaka River.

NCC is concerned that this draft replacement WSP does not meet the objectives of the Water Management Act 2000. Despite an additional two years to develop this WSP with improved environmental and First Nations cultural protections, there have only been inadequate, minor improvements in some areas, and most of the significant recommendations made by the Natural Resources Commission in 2022 have not been included in this plan.



Issues with the WSP and Recommendations

Cultural Water

Provisions for the development of Cultural Flows are not included in the WSP.

Recommendation 1: Use the National Cultural Flows Methodology to identify, prioritise and support Aboriginal water values.

Recommendation 2: Undertake meaningful engagement with a range of Traditional Owners. Consultation with knowledge holders including Aboriginal women should be ongoing to increase the department's understanding of the water uses and values in the area.

Recommendation 3: Link objectives and performance indicators that increase self-determined Aboriginal water ownership to rules in the WSP.

Inter Government Agreement

The current cross borders governance arrangements should be expanded and strengthened so they address critical flow needs for water users and the environment in the Intersecting Streams catchments.

Recommendation 4: Establish agreed end of system flow targets that create and protect low flows for water entering NSW from Queensland.

Recommendation 5: Embed flow targets that deliver outcomes expressed by the WPSs environmental objectives in the WSP.

Extraction Limits

The level of extraction in the Intersecting Streams area is not known, meaning compliance to any Long-Term Average Annual Extraction Limit (LTAAEL) cannot be assured. Extraction levels from 2012 are being locked in, rather than being based on scientifically sound data that protect the environment. There has been an increase in the estimate of Basic Landholder Rights (that is not included in the LTAAEL) from about 7 ML to 3,804 ML. Capture of overland flow is not measured or included in the LTAAEL. There should be no floodplain harvesting allowed in the Intersecting Streams area.



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Recommendation 6: The Long-Term Average Annual Extraction Limit (LTAAEL) must be scientifically determined to ensure the protection of water sources and their dependent ecosystems and species located within the WSP area.

Recommendation 7: Extraction must be measured so that compliance with the LTAAEL can be assessed.

Recommendation 8: The calculation of the LTAAEL should occur every three years to be brought in line with other unregulated WSPs.

Held Environmental Water Protection

Commonwealth taxpayer owned Held Environmental Water that comes from Queensland can still be extracted in NSW.

Recommendation 9: Include active management rules in the WSP that protect licenced environmental water from Queensland that enters the intersecting streams, the Warrego River and into the Barwon-Darling/Baaka Rivers.

Recommendation 10: Update the definition of active environmental water in the Barwon-Darling unregulated WSP 2012 to include held environmental water from the intersecting streams and the Warrego River.

Definition of Planned Environmental Water

This WSP weakens the definition and protection of Planned Environmental Water.

Recommendation 11: Part 4 Planned Environmental Water provisions in the previous Intersecting Streams WSP that refers to the full definition of Planned Environmental Water from the *Water Management Act 2000* should be included in this draft replacement WSP.

Environmental Protections

Cease to pump rules set to allow pumping when there is a visible flow are not adequate to provide for or protect low flows. Connectivity cannot be achieved if base flows are not protected. The proposed rule that protects up to 10 ML/day from use in zone 3,



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upstream of the Ramsar listed Narran Lakes is inadequate to protect the character of the wetlands.

Recommendation 12: Modify the cease to pump rules in the WSP area so they are adequate to give effect to the priorities of use set out in the *Water Management Act 2000*.

Recommendation 13: Cease to pump rules that protect the first flush after a drought should be included in the WSP, including the option of using s.324 orders.

Vision, Objectives and Performance Indicators

The Plan Vision, Objectives and Performance Indicators in this draft replacement plan have been simplified from those in the former WSP.

Recommendation 14: The performance indicators in this WSP must be measurable, and there must be rules in the WSP that give effect to the performance indicators.

Recommendation 15: The Plan Vision, Objectives and Performance Indicators from the previous draft plan should be inserted into this draft replacement plan.

Thank you for the opportunity to participate in the consultation.

[REDACTED]
[REDACTED] We welcome further conversation on this matter.

Yours sincerely,

[REDACTED]

[REDACTED]
Chief Executive Officer
Nature Conservation Council of NSW



Western Lands Advisory Committee

10th October 2023
Ref: DOC23/219595

NSW Department of Planning, Industry and Environment
Grafton

**Submission to public exhibition
Draft replacement Intersecting Streams Unregulated Rivers Water Sharing Plan**

Thank you and the other representatives participating in the public information session at Lightning Ridge on 19th September 2023 for allowing Geoff Wise to contribute on behalf of the Western Lands Advisory Committee (WLAC).

Please find the following submission from the Co-Chairs of the WLAC to the review. The deadline for submissions prevents us from obtaining endorsement of this submission from the whole of our committee. We will seek for this endorsement to occur at our next meeting planned for November 2023.

In Summary:

- A community driven initiative under current consideration at Commonwealth and State levels of voluntary relinquishment of all licences across the Intersecting Steams region with appropriate compensation will, if implemented, provide virtually every outcome sort by the draft new plan, without the need for the detailed plan and its encumbrances.
- The draft plan should not impose any new restrictions that may negatively impact on progress with this initiative under negotiations.
- The draft plan should allow for a review of the draft or final plan in the event that the community driven initiative is adopted.
- The draft plan should not remove any rights currently held by licence holders.
- The draft plan should not include a "one size fits all" assumption relating to the huge diversity of "wetlands", being lagoons, lakes, etc
- The Natural Resources Commission (NRC) response to the draft plan highlights the inevitability that licences will be activated, with inevitable negative impacts on flow connectivity, cultural flows, Aboriginal rights, values and access, TWS's, management of Environmentally held water, managing trade etc, and recommending regulatory amendments to the existing plan by increasing administrative inputs and taking away licence holders current rights.
- Implementation of the above referenced community driven initiative passively addresses every one of these risks referred to by the NRC without need for enhanced regulations and restrictions.
- The amendments recommended by the NRC should not be considered until due Commonwealth and State considerations have been finalised for the community driven initiative. If the NRC recommendations are ever finally considered, their implementation should not occur without appropriate compensation.

CONTEXT FOR REVISED INTERSECTING STREAMS WATER SHARING PLAN

- A plan should aim to achieve the most desirable outcomes in addressing environmental, economic, cultural and social outcomes compatible with objectives of Commonwealth and State Governments policies and programs (eg Basin Plan), as well as achieving aspirations of licence holders, other landholders, industry bodies and communities.
- A plan must have effective community engagement through the process of its development.
- A plan must have clear rules and guidelines that must be determined, implemented, monitored and enforced, requiring significant bureaucratic inputs and agency/client relationships.
- A plan must be fit for purpose.
- A plan development process must be objective in considering different means of achieving similar objectives and outcomes.

CURRENT COMMUNITY POSITION

- In 2013/14 during a Murray Darling Basin meeting held at Brewarrina a large number of water licence holders from across the Intersecting Streams (IS) region demonstrated a willingness to voluntarily relinquish their licences subject to appropriate compensation, thereby contributing significantly to outcomes of both the Basin Plan and the Intersecting Streams Unregulated River(s) Water Sharing Plan.
- In 2020 the WLAC resolved to fully support a community driven offer for voluntary relinquishment of IS licences subject to compensation.
 - The WLAC is a legislated formal committee answerable to NSW Minister for Lands, with diverse membership including Aboriginal, Local Government, landholder, Nature Conservation Council and Government Agency representatives.
- In 2020 representatives from both the Lower Balonne Floodplain Association (LBFA) and WLAC met separately with both the Commonwealth and NSW Ministers for Water regarding the willingness of voluntary relinquishment of IS licences subject to compensation. Both Ministers expressed enthusiasm for the offer and requested more detailed information.
- By March 2022 the Commonwealth Minister for Water agreed to pursue this action, but implementation was blocked when parliament was prorogued.
- Currently, both the Commonwealth and NSW Minister's for Water and representatives from the Murray Darling Basin Authority are in ongoing communications with the LBFA to progress the community driven offer.
- At a recent Annual General Meeting of the LBFA there remained unanimous agreement to pursue the offer.
- The unanimous community initiated and driven offer, once implemented:
 - Is anticipated to remove up to 98% water volume of all current licences, with perhaps one or two holders of irrigation licences needing extra information before deciding on their participation, and a small number of stock and domestic licences needing to be retained due to individual circumstances of compliance with the current planning rules.
 - Passively achieves maximum outcomes in addressing environmental, economic, cultural and social outcomes compatible with aspirations of Commonwealth and State Governments, diverse government agencies as well as licence holders, other landholders, industry bodies and communities.
 - Removes risks of extraction of licenced water impacting on Town Water Supplies.

- Note that there are six urban communities within the IS region that are predominantly Aboriginal communities, plus all the river towns along the Barwon Darling with significant Aboriginal populations that currently have a TWS risk of future development across the IS region.
- Removes risks of extraction impacts on low flow connectivity between flows from Queensland flowing through the IS Region and on onwards to the Barwon and Darling Rivers and towards the Southern Basin.
- Removes complicated management rules and strategies in managing protection of environmental water through the entire IS region.
- Removes any need for attempting to assess long term average extractions within the IS region.
- Delivers on the voice of the community.
- Massively removes the need for rules and guidelines that must be determined, implemented, monitored and enforced, requiring significant bureaucratic inputs.
- May highlight that the current plan and future draft plan are no longer fit for purpose, being excessively complex and lengthy, and not necessarily addressing the specific needs of the anticipated small remaining number of landholder held licences each with potentially unique circumstances.

SPECIFIC COMMENTS RELATING TO DRAFT NEW PLAN

- The proposed plan should not impose any reduced rights to licence holders compared to their current rights.
 - Taking away any right without appropriate compensation is effectively “theft”.
 - Reduction in rights devalues the licences both during the current phase of negotiations for voluntary relinquishment of all licences and into the longer term if the current negotiations do not proceed.
- There should not be any amendments to changes to In-river dams without effective consultation and engagement.
 - It is understood that many in- river dams across the IS region have many years of history, whether related to urban communities or private interests. There could potentially be as many in-river dams that may create overall net benefit though enhancements as there are where enhancements may have negative overall benefits.
- The proposed changes to protection of extractions from the long list of lagoons and other similar wetlands appears to be an excessive change without case by case assessment and consultation.
 - Without access to details, it appears that such changes may effectively result in some licences being totally unusable. This is a classical example of taking away long held rights which presumably have incurred annual fees without any consideration of compensation. This is unacceptable.
- There are many unique circumstances relating to the IS Region and its water management that questions whether the current and draft future plans are fit for purpose. These include:
 - With the possible exception of the Murray River, being the only 8 rivers and their associated watercourses across the whole of the Murray Darling Basin that only consider portions of the entire river for a Water Sharing Plan, rather than having a single Water Sharing Plan for the entire length of a river.
 - Hence, for example, length of river trading is not allowed.

- As a consequence of Cap being announced in about 1994/95 to stop any further development for extractions, the NSW Government response was to immediately impose an embargo on any development or extractions from the IS region until a Water Sharing Plan was introduced, whilst simultaneously Queensland response was to encourage massive growth in development, catchments and extractions from the same river systems.
 - NSW did not develop a WSP for the IS region and remove the embargo until about 2012, by which time Queensland extractions significantly reduced opportunities in NSW.
- Effectively, the value of licences across the IS Region has been the subject of “death by a thousand cuts”.
- The IS Plan Region is the only planning region across the entire Murray Darling Basin that has not been given an opportunity through the Murray Darling Basin Plan for “buyback”.
- The IS Plan region is the only planning region across the entire Murray Darling Basin in which a community initiated and driven unanimously supported agreement of all licence holders has been offered as a risk management strategy to directly contribute to the objectives of the Basin Plan. This is a Toolkit measure within the Basin Plan.
- With licences being held by graziers and not irrigators, the IS region has never had any high level lobby group such as National Irrigator Council or Cotton lobby interests.
- With few exceptions, waters across the IS region flow out of the upstream sources, not into the upstream flows. Hence language such as “third order streams” has limited relevance.
- Many of the river and creek streams end in terminal ephemeral wetlands with no connection to the downstream Murray Darling Basin.
 - Hence contributing to many of the objectives for the whole basin is limited.
 - Invariably, these terminal wetlands dry up due to soakage and evaporation, frequently with limited if any long term environmental benefits.
 - Narran Lake system is obviously an exception.
- It is strongly recommended that in the process of progressing a draft new IS Water Sharing Plan for the IS Unregulated Rivers Water Sources, provision should be made to allow a review of the Plan in the event that the community driven proposal currently under consideration by the Commonwealth and State Governments and MDBA is progressed, allowing for a more relevant and appropriate “Fit for Purpose” Plan.
- Surely the heading of the Plan should refer to “Unregulated RIVERS”, not singular.

We are most willing to communicate further on any matters raised in this paper or on any other aspects relating to the progress towards a new Plan.

Yours sincerely,

[Redacted Signature]

Co-Chair

[Redacted Name]

[Redacted Signature]

Co-Chair

[Redacted Name]

[Redacted Line]