

Department of Climate Change, Energy, the Environment and Water

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# What We Heard

Draft Water Sharing Plan for the Murray Unregulated River Water Sources 2024

May 2024





# Acknowledgement of Country

The Department of Climate Change, Energy, the Environment and Water acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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# Executive summary

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## About this document

The Water Sharing Plan for the Murray Unregulated River Water Sources 2011 will expire in June 2024.

The Department of Climate Change, Energy, the Environment and Water - Water group publicly exhibited a draft replacement water sharing plan, providing an opportunity for water users, broader stakeholders and other interested parties to learn more about proposed changes, to make submissions and comment on the draft plan.

This report summarises how we engaged with communities, the key issues we heard and the next steps in finalising the Water Sharing Plan for the Murray Unregulated River Water Sources 2024.

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## Background

The department is responsible for surface and groundwater management and the equitable sharing of surface and groundwater resources.

Water sharing plans (WSPs) are the primary legal framework for managing and sharing water in NSW. They are made under the NSW Water Management Act 2000 (WM Act) and are valid for 10 years. The rules in the plans allow equitable sharing of water for all water users, including the environment.

They do this by:

- providing water for the environment by protecting a proportion of the water available for fundamental ecosystem health
- setting limits on the total volume of water extracted to ensure security for the environment and water users
- protecting the water needed to meet basic landholder rights

## Engagement at a glance



**60**

phone consultation



**215**

unique website visits



**16**

formal submissions



**26**

public information session attendees



**8**

live webinar attendees



- providing water users with a clear picture of when and how water will be available for extraction
- providing flexibility for licence holders in the way they can manage their water accounts
- specifying rules to minimise the impacts of extraction on other groundwater users, groundwater-dependent ecosystems, culturally significant sites, water quality and the integrity of aquifers
- specifying the rules for water trading, that is, the buying and selling of water licences and water allocations
- setting the mandatory conditions that apply to licence holders.

Under the *WM Act* water sharing plans are subject to review every 10 years and may be replaced to deliver better outcomes for all water users, including the environment.

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## Consultation

Consultation is an essential part of developing water sharing plans.

From 9 October to 17 November 2023, the draft replacement Water Sharing Plan for the Murray Unregulated River Water Sources 2024 (the plan) was exhibited publicly.

We encouraged stakeholders to provide feedback directly and through written submissions. Our website included a 'Have your say' section that provided details of different ways to make a submission, including via email, direct mail and a downloadable feedback form.

In addition to the feedback provided by those who attended face-to-face and webinar sessions, we received 16 written submissions. The valuable feedback received during the public exhibition period and through submissions has helped the department to finalise the draft replacement water sharing plan.

### How did we consult?

Between 9 October and 17 November 2023, the department consulted with stakeholders and sought their views on the proposed changes to the plan. We identified stakeholders with a potential interest in the plan. These included WaterNSW customers (holders of water access licences and water supply work approvals), environmental interest groups, Local Aboriginal Land Councils, community groups, farming groups and local councils/water utilities

WaterNSW customers were contacted via mail (~350 letters) and other groups and individuals were contacted via email (~500 recipients). These communications informed recipients of the plan's

replacement, ways to access information and invited them to attend one of the public information sessions.

During public exhibition, we held 3 face-to-face information sessions and one webinar.

## Face-to-face information sessions

We held 3 face-to-face stakeholder meetings during the 40-day exhibition period, at locations that were convenient to the majority of stakeholders and in areas likely to be affected by proposed changes. We used a presentation and discussion approach for the meetings, in which staff were available over 2 hours to discuss the plan's changes and answer questions. Stakeholders could watch the presentation, gather printed information, inspect maps and discuss any questions or concerns one-on-one with staff.

Table 1 summarises participation at each meeting.

Table 1. Attendance at face-to-face meetings

Location	Date	Registered to attend	Attended
Deniliquin	25 October 2023 10.00 am to 12 noon	5	9
Albury	25 October 2023 5.00 pm to 7.00 pm	6	7
Tumbarumba	26 October 2023 11.00 am to 1.00 pm	8	10

## Webinar session

The department held a live webinar session using a virtual meeting platform. We presented the proposed changes to the plan and attendees could post questions in the live chat. We allocated time at the end of the presentation for clarification, questions and discussion.

Table 2 summarises the attendance at the webinar.

Table 2. Attendance at webinar

Location	Date	Registered to Attend	Attended
Webinar – Microsoft Teams	19 October 2023 12 noon to 2 pm	8	7

## Phone Consultations

We offered one-on-one video calls during the consultation period. Only one stakeholder chose this method of engagement and their query related to the regulated water sharing plan. We telephoned 60 targeted stakeholders during the public exhibition period and received valuable feedback.

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## What we asked

The online submission form focused on the following key proposed changes between the 2011 plan and the 2024 plan:

- a new cease-to-pump access rule in Mannus Upstream Management Zone
- a prohibition on applications for in-river dams on third or higher order streams in Murray Below Mulwala Water Source
- more opportunities to trade between water sources or management zones
- protection of significant wetlands.

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

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## What we heard

Stakeholders raised issues in telephone calls, the consultation session and formal submissions. When reviewing whether the issues raised were in or out of the scope of this consultation, the department considered the following:

- Is the issue within the scope of the water sharing plan?
- Is the suggestion consistent with the *Water Management Act 2000*?
- Are existing programs/processes or other departments addressing the issue?
- Does the issue relate to water charges, costs, operational activities or licensing matters outside of the scope of the water sharing plan?

- Is the issue likely to affect water availability for basic landholder right users and licence holders and, if so, how?
- Can current legal mechanisms enable the change, or is legislative change required?
- Is the issue consistent with current policy settings, and if not, can we develop robust, alternative policies within the timeframe for developing the water sharing plan?
- Are there additional costs for the NSW Government?
- Can we investigate the issue within the timeframe for developing the water sharing plan?

Issues raised from public consultation that were out of scope of the water sharing plan are summarised in Appendix 1. These issues will not be explored further as part of the replacement plan.

## Key issues

We received feedback on the proposed changes during multiple consultation sessions and through submissions about the proposed rule changes. The feedback is summarised in Table 3 and is being considered to finalise the plan.

Table 3. Summary of submissions about the proposed rule changes

Issue	Comments
<b>New cease-to-pump rule for Mannus Upstream Management zone</b>	The few local water users expressed verbal support for the proposed 1 ML/day rule at gauge 401029 but did not make written submissions. The only written submission to comment on this rule stated: “support this change in cease to pump rules – from a height rule to a flow rule.”
<b>New in-river dams in Murray Below Mulwala Water Source</b>	There was general, but limited, support for the proposed ban on new in-river dams in larger streams. “(We) support the proposed ban on new dams across 3rd order and larger streams in the Murray Below Mulwala Water Source and the retention of the ban in the Dora Dora Water Source” and “However, we do not support the exemption for town water supply purposes.”
<b>Allow limited trade between most water sources or management zones</b>	There was some support for greater opportunities to trade between many water sources or management zones. However, some objections were raised, e.g. “(We do) not support the proposed changes to trade rules into unregulated water sources within this draft replacement plan.”



Issue	Comments
<b>Protection of significant wetlands</b>	<p>There was general support for the proposed protections for significant wetlands and no commentary on the detail of the proposed rules. However, there were concerns about the accuracy/suitability of nominated wetland areas, particularly on the floodplain below Lake Mulwala, and the potential for erosion of property rights.</p> <p>“(We commend) the list of significant wetlands .... (and) the inclusion of new rules to prevent trades and new works...however, we do not support Ministerial discretion to consider allowing new works in significant wetlands.”</p> <p>“Further ground truthing and consultation with landholders to correctly identify wetlands on their properties is essential.”</p> <p>“(On my property) large areas are not wetlands but are actually agricultural land.”</p> <p>“the area (is not wetland but) is farmed RU1 land protected by registered levee banks.”</p>

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## Other issues

During the consultation period many additional issues were raised. Some of the other issues raised that are within the scope of the water sharing plan are:

- The plan should make further provisions to recognise the needs of local water utilities
- Do not support the rule that off-river pools can be drawn down to 80% capacity
- Have in more of the plan’s water sources stream access rules that protect low flows and first flushes
- Licensees and landholders directly affected by changes require direct consultation, on a case-by-case basis
- No new in-river dams should be constructed in the plan area
- The protection of planned environmental water is diminished in the new plan
- The plan’s vision, objectives and performance indicators have been simplified compared to the former water sharing plan. The targeted environmental objectives and performance indicators in the 2020 amended plan should remain in the replacement plan.
- The Long Term Average Annual Extraction Limits (LTAAELs) for the plan area need to account for all forms of extraction, including harvestable rights and diversion of overland flow. They should not ‘lock in’ a history of use that is not appropriate. The LTAAELs should be expressed as a volume and not only be defined in words.

- The department needs to undertake meaningful engagement with a range of Traditional Owners, identify and protect Aboriginal cultural assets and provide cultural access licences for Aboriginal use. The plan's wording on Aboriginal uses and values is too narrow.

Some of the issues raised during public exhibition are already addressed within the replacement plan and consideration will be given to how these can be better communicated.

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## Next steps

Feedback and issues raised within scope of the water sharing plan are considered by the department before recommending a replacement water sharing plan to the Minister for Water.

Before deciding to replace the plan, the Minister must seek agreement from the Minister for the Environment. The department expects the Water Sharing Plan for the Murray Unregulated River Water Sources 2024 will be in force by 1 July 2024.

The department will publish a background document that will include a summary of the changes made due to public consultation.

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## More information

The draft Water Sharing Plan for the Murray Unregulated River Water Sources 2024 and supporting factsheets are available on the department's [website](#) until the new plan commences on 1 July 2024. After that date, the new plan and supporting information will be available [here](#).

# Appendix 1: Out-of-scope issues

Managing water resources in New South Wales relies on a range of legislation, initiatives and cooperative arrangements with other agencies. Many issues that are out of scope of a water sharing plan are managed by other agencies, including some issues relating to:

- complying with plan rules
- assessing development applications
- the costs and process of obtaining water licences and water supply works approvals
- pollution and contamination of water sources.

Table 4 outlines the criteria for, and examples of, out-of-scope issues.

Table 4. Assessment criteria for identifying whether an issue is out of scope

Assessment criteria	Comment/Example
Does the issue relate to water charges, costs, infrastructure proposals, operational activities or a licensing matter?	These are issues with the implementation and operation of water management that a water sharing plan cannot address
Is the issue about including descriptions or explanations within the plan?	The water sharing plan is a legal document and states the rules relevant to water sharing. Other documents provide supporting information that describes how water is managed and how decisions have been made.
Is another program or process addressing the issue, or is it the responsibility of another department?	Proposed or current land development activities such as mine approvals, road tunnel developments or water pollution are managed under other legislation by other departments.  The <i>Access Licence Dealing Principles Order 2004</i> is the basis for assessing the local impacts of proposed water extraction, when an applicant seeks approval to trade water or construct a new water supply work.
Does the issue require time and resources beyond the time frame to review the water sharing plan?	For example, a study on the effects of climate change in a particular water source.
Is the issue consistent with the current legislative and policy framework?	A water licence is required for any activities that intercept or extract water unless a valid exemption applies.

Table 5 summarises issues raised during public consultation that are outside of the scope of water sharing plans.

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

Issue	Comments
Metering	<ul style="list-style-type: none"> <li>“(We seek) further information on what is proposed to fill remaining metering gaps (90% complete)”</li> </ul>
Compensation	<ul style="list-style-type: none"> <li>"DPE’s proposed Wetland Mapping has negative implications for existing property rights for private land, which is effectively being re-zoned" and "DPE Wetland maps and related regulatory overlays are an attempt to apply conservation status on sections of freehold private property without consent of the owners or compensation under Just Terms Acquisitions."</li> <li>"How will negatively affected landholders be compensated where their unregulated water access rights have been diminished?"</li> </ul>
Matters concerning the regulated River Murray	<p>During phone calls, there were limited comments about topics such as water buybacks, flooding and fish kills.</p> <p>(Note that the operations of regulated rivers and lakes, including the regulated River Murray System, are not governed by the Murray unregulated river WSP. For example, measures to avoid flooding can only be taken under a regulated river WSP.)</p>