

Department of Climate Change, Energy, the Environment and Water

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What We Heard

Draft Water Sharing Plan for the North Western Unregulated and Fractured Rock Water Sources 2024

February 2024



Credit: Destination NSW - Wild flowers in the desert landscape at Sturt National Park, Tibooburra.



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 waters 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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Contents

Executive summary	4
About this document	4
Background	4
Consultation	5
What we asked	6
What we heard	7
Key issues.....	7
Other issues	8
Next steps	9
More information	9
Appendix 1: Out-of-scope issues	10

Executive summary

About this document

The *Water Sharing Plan for the North Western Unregulated and Fractured Rock Water Sources 2011* will expire in June 2024.

The Department of Climate Change, Energy, the Environment and Water - Water group (the department) 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 North Western Unregulated and Fractured Rock Water Sources 2024*.

Background

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

Water sharing plans 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 water extracted to ensure security for the environment and water users
- protecting the water needed to meet basic landholder rights
- 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 impacts of extraction on other groundwater users, groundwater-dependent ecosystems, culturally significant sites, water quality and the integrity of the aquifer

Engagement at a glance



1

phone interview



135

unique website visits



2

formal submissions



1

live webinar attendee



2

targeted Aboriginal sessions



23

webinar views

- specifying the rules for water trading, that is buying and selling 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.

Consultation

Consultation is an essential part of developing the *Water Sharing Plan for the North Western Unregulated and Fractured Rock Water Sources 2024*.

From 30 June 2023 to 10 August 2023 the draft replacement *Water Sharing Plan for the North Western Unregulated and Fractured Rock Water Sources 2024* (the plan) was exhibited publicly.

We encouraged stakeholders to give feedback directly and through written submissions. Our website included a 'Have your say' section that gave people different ways to make a submission, including by email, direct mail and a downloadable feedback form.

The department received feedback from those who attended the webinar and one-on-one phone call sessions, as well as 2 written submissions. The valuable feedback we received during the public exhibition period and through submissions helps us finalise the draft replacement plan.

How did we consult?

Between 30 June 2023 to 10 August 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 licence and water supply work approvals)
- environmental interest groups
- Local Aboriginal Land Councils
- community groups
- farming groups and
- local councils/water utilities.

The department contacted WaterNSW customers by mail (220 letters). We contacted other groups and individuals by email (21 recipients). Both these communications informed recipients of the plan replacement, ways to access information and inviting them to attend the public webinar information session.

We:

- held one online webinar on the water sharing plan with a presentation and question and answer session
- published this presentation and a recording of the webinar on the department's website
- held phone interviews for anyone interested in speaking to a water planner and

- discussed the draft plan and proposed changes with First Nations.

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 clarifications, questions and discussion. We emailed a copy of the presentation to attendees after the webinar. Table 1 summarises attendance at the webinar.

Table 1. Attendance at webinar

Location	Date	Registered to Attend	Attended
Webinar – Microsoft Teams	Tuesday, 18 July 2023 6:00-7:30pm	6	1

First Nations sessions

The draft plan and proposed changes were discussed with the Barkandji Native Title Group Aboriginal Corporation in Broken Hill and Barkandji Traditional Owners in Menindee. We also contacted the Tibooburra Local Aboriginal Land Council and Barkandji community at Wilcannia who were not available to meet with us.

Phone interviews

We held one phone interview with a stakeholder during the public exhibition period.

What we asked

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

- combining groundwater sources
- extending the surface water source boundary
- updating long term average annual extraction limits
- high priority groundwater-dependent ecosystems
- protecting significant wetlands.

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

What we heard

Stakeholders raised issues in consultation sessions, formal submissions and via correspondence. The department considered the following when reviewing if issues raised were in or out of the scope of this consultation:

- Is the issue within the scope of the water sharing plan?
- Is the suggestion consistent with the WM Act?
- Are existing programs/processes or other departments addressing the issue?
- Does it relate to water charges, costs, operational activities or licensing matters outside of the scope of the water sharing plan?
- Is it 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 it 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 issues 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 **Error! Reference source not found.** These issues will not be explored further as part of the replacement plan.

Key issues

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

Table 2. Summary of submissions about the proposed rule changes

Issue	In support	Not in support	Stakeholder comments
Combining groundwater sources	1	0	Support for the combining groundwater sources but to treat the Bancannia Trough separately.
Extending surface water boundary	0	0	No specific comment about the proposed change however there were comments recommending mapping and setting separate extractions for the 5 surface water catchments.
Updated Long Term Average Annual Extraction Limits	0	1	Comments concerned that the groundwater extraction limit of 60,000 ML has been incorrectly calculated and that the surface water and groundwater extraction limits should be more conservative (i.e. lower).

Issue	In support	Not in support	Stakeholder comments
High priority groundwater-dependant ecosystems	0	2	<p>Comment to change the groundwater dependent ecosystems map to show groundwater-dependent ecosystems associated with the Tibooburra-Milparinka basement exposures.</p> <p>Comment that the setback distances for groundwater take from nationally significant groundwater-dependent ecosystems should be the same as Ramsar sites unless a scientific basis for site-specific setbacks is available.</p> <p>Comment that the setback distances (2000m) from mapped groundwater-dependent ecosystems (e.g., river red gum ecosystems along creeks) should be removed.</p>
Protecting significant wetlands	0	0	No specific comment about the proposed change however there were comments that recognising importance of wetlands.

Other issues

Other issues or suggestions raised by stakeholders during the consultation that are within scope of the water sharing plan, background documents or processes included:

- change the plan map to show the exposures of fold belt rock (basement) in the Tibooburra-Milparinka area
- complete consultation with Aboriginal people, in particular in the Tibooburra area
- include substantial setback distances from Aboriginal sites and values dependent on groundwater
- include a map showing the boundaries of the Cooper Creek, Bulloo and Lake Frome catchments in Part 8
- separate surface water long-term average annual extraction limits for each of the 5 catchments in the plan area
- update the background document and supporting information (including conferring with the Geological Survey of NSW and a study of stream flow directions)
- clarify the status of town water for Tibooburra and providing an estimate of harvestable rights
- clarify basic landholder rights estimates for domestic and stock rights in the North Western Water Source (surface water)
- provide water for Aboriginal people
- accuracy of information contained in the background document
- include extraction from 1st and 2nd order streams
- consider the volume of water required for stock and domestic purposes and discourage extraction significantly in excess of reasonable requirements
- clarify rules around earthworks for intercepting water (e.g. farm dams, harvestable rights, floodplain harvesting) and make these rules appropriate for the plan area

- monitoring, evaluation and reporting
- provide adequate responses to all the Natural Resources Commission recommendations.
- comments about how information contained in the text and maps of supporting documents was presented, including the accuracy of information regarding geology and hydrology.

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. Some issues may also be addressed in background information.

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 North Western Unregulated and Fractured Rock 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 because of public consultation.

More information

The draft *Water Sharing Plan for the North Western Unregulated and Fractured Rock Water Sources 2024* and supporting factsheets, is 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, policies, 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 to plan rules
- assessing development applications
- the costs and process of obtaining water licenses and works approvals
- pollution and contamination of water sources.

Table outlines the criteria for, and examples of, issues that are out of scope.

Table 3. 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 describe 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 Access Licence Dealing Principles Order 2004 is the basis for assessing the local impacts of 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 groundwater source.
Is the issue consistent with the current legislative and policy framework?	A water licence is required for any activities that intercept or extract groundwater unless a valid exemption applies.

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

Table 4. Summary of submissions on out-of-scope issues

Issue	Comments
<p>The region west of the Paroo – Darling Rivers should be exempt from the requirement to have proposed water extraction works (e.g. excavated earth dams) assessed for fishway installation by DPI Fisheries. Ephemeral streams (creeks) in western NSW typically do not run on more than a handful of days in any one year and do not contain fish. Potentially requiring pastoralists to install a fishway costing several hundred thousand dollars on an excavated earth dam where fish are not naturally present is completely nonsensical.</p>	<p>Under the <i>Fisheries Management Act 1994</i>, any new dam or modification to an existing dam may require the owner to provide for fish passage. All licensed works must be referred for assessment but dams not requiring a licence may still require fish passage. Changes to the <i>Fisheries Management Act 1994</i> are the responsibility of DPI Fisheries and are outside the scope of the water sharing plan replacement.</p>
<p>Water taken from an ephemeral stream must be by-washed back into the same stream once the associated excavated earth dam is filled. Diverting water into another stream or across the landscape instead of allowing it to continue down the original watercourse will negatively impact downstream water users and water dependent ecosystems.</p>	<p>Construction and use of water supply works, including by-wash dams, must be in accordance with conditions on the relevant licence and approval.</p>
<p>NSW Water must ensure that licence applications are processed promptly. Pastoralists in western NSW have sometimes been frustrated by the length of time taken to approve a works application. The flow-on effects of lengthy approval times are delays in works completion and potentially missing an opportunity to fill a dam before a rain event or drill a bore whilst a drill rig is in the area.</p>	<p>The department are working to deliver improvements to water licensing and approvals for customers in partnership with WaterNSW and the Natural Resource Access Regulator through the Water Licensing Improvement Program. This 2-year program includes simplifying the licensing process and minimising red tape, as well as reducing timeframes for assessments. More information is available on the department's website: https://water.dpie.nsw.gov.au/licensing-and-trade/reducing-red-tape-for-water-licences-and-approvals</p>
<p>All downstream water users on ephemeral streams in western NSW must be contacted directly prior to issue of a licence. In remote areas without access to print media and poor digital connectivity it is unreasonable to expect that pastoralists will be aware of a water licence application that may affect their water security. Equally, it is unreasonable to expect pastoralists to monitor online portals for licence applications that may affect them on a regular basis for the rest of their working life. Some pastoralists have been disadvantaged because a water licence has been issued for upstream works without their knowledge, which is unacceptable.</p>	<p>Some water supply work and/or use approval applications must be advertised, as outlined under section 26 of the Water Management (General) Regulation 2018. The regulation requires advertised applications to be listed on either the department's website, or a website maintained by WaterNSW This ensures applications are publicly available for all stakeholders to view and comment on. The WaterNSW website also offers a weekly email subscription of recent advertised application listings: https://www.waternsw.com.au/customer-services/water-licensing/advertising-and-objections</p>
<p>DCCEEW- Water must make a better effort to engage with and educate landholders. It is unreasonable to expect landholders to be compliant with water regulations when the regulators are not actively engaging with stakeholders in the community.</p>	<p>The Natural Resource Access Regulator (NRAR) is responsible for the enforcement of water law in NSW through monitoring, compliance and education. NRAR have a proactive outreach program which includes visiting properties and meeting water users face-to-face. More information about this program is available here: NRARs-proactive-outreach-program_factsheet_2023.pdf (nsw.gov.au)</p>

Issue	Comments
<p>A document which is no longer available online titled "Farm Dams in the Western Division of NSW" includes several inaccurate or problematic statements. Clarification is required as to whether this document remains relevant for stakeholders in the Western Division.</p>	<p>The document titled "Farm Dams in the Western Division of NSW" is not available on the department's website and is outside the scope of this water sharing plan replacement. Current information about harvestable rights, including in the Western Division, is available on the department's basic landholder rights webpage:</p> <p>Basic landholder rights Water (nsw.gov.au)</p> <p>Note that in the Western Division, all rainfall run off may be captured and used for any purpose, provided it is done so in accordance with the WM Act and the harvestable rights order for the Western Division.</p>
<p>Those regulations concerning harvestable rights in the Western Division be reviewed, with the intent being to ensure equitable water sharing between all stakeholders.</p>	<p>The proportion of rainfall runoff that can be captured under harvestable rights, and how the water can be used depends upon where a landholding is located. In the Western Division, all rainfall run off may be captured and used for any purpose, provided it is done so in accordance with the WM Act and the harvestable rights order for the Western Division. There is no estimate available of the volume of water taken under harvestable rights in the North Western plan area.</p> <p>Review of the harvestable rights regulations for the Western Division is outside the scope of this water sharing plan replacement.</p>