



8 November 2023

Lower Murray-Darling River Area WSP  
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## DRAFT WATER SHARING PLAN FOR THE LOWER MURRAY-DARLING RIVER WATER SOURCES 2024

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The National Parks Association of NSW (NPA) appreciates the opportunity to submit comments on the Draft Water Sharing Plan for the Lower Murray Darling River Water Sources 2024.

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 also provide outstanding opportunities for experiencing and learning about nature through our unrivalled program of bushwalking, field surveys, bush regeneration and other outdoor activities.

The NPA believes it is important that the NSW Government protect and sustain healthy and resilient freshwater ecosystems and their associated biodiversity (flora and fauna). This requires actions to i) protect and sustain healthy and resilient freshwater ecosystems and their associated biodiversity (flora and fauna) and that ii) Natural flows and flow regimes must be protected and managed so that riverine connectivity and associated floodplains remains healthy from the source to the sea (or from sources to naturally terminal wetlands).

Water sharing plans are subject to review every 10 years under the Water Management Act 2000. Considerable new information and overall strategic direction has emerged since this Plan was developed. This is an opportunity for such information and direction to be incorporated. Since the Plan was created in 2011, the NSW Government released the NSW Water Strategy. There is a long-term water plan (LTWP), a regional water strategy (RWS), and the MBDA Native Fish Recovery Strategy. The remake of this water plan provides opportunities for the NSW Government transition to these broader strategic commitments.

Below is a list of recommendations.

### Stronger alignment between objectives, strategies, and performance indicators

The NPA supports the department's revision of the objectives, strategies, and performance indicators so there is stronger logical connection between objectives, the strategies of the plan, and the performance indicators they will monitor. However, the NPA's view is that these can be improved by considering the other overarching plans associated with this water resource. Specifically:

- The objective of "protect and, where possible, enhance and restore the condition of the water sources and their water-dependent ecosystems" should **include** rather than exclude 'ecological processes and biological diversity' which are also specified under the WM Act.
- Throughout 2018–2019, millions of native fish perished at Menindee and throughout the wider Lower Darling region. The region is significant for breeding and recruitment by iconic species

head office:



such as Murray cod and golden perch, threatened species including silver perch and freshwater catfish, and a suite of small native fish species. Yet there seems to be little or no consideration of how this water sharing plan can help realize the strategies in the LTWP or the Native Fish Recovery strategy. Items like *Revising the Cease-to-Pump rules to protect environmental water delivered to unregulated creeks, wetlands, lagoons from regulated streams and water sources*, and rules that facilitate rather than impede improved environmental flow management, or areas that can become native fish recovery reaches or facilitate fish passage during dry times must be considered.

- Similarly, components of the western regional water strategy need inclusion. The regional water strategy recognises an adequate level of connectivity, or water flowing between river valleys, is critical to sharing water fairly and supporting environmental health across NSW. Indeed, connectivity was consistently raised as an important issue during consultation, with widespread support for ensuring there are appropriate triggers to minimise or prevent cease-to-flow periods and protect connectivity flows throughout the catchment.
- Performance indicators could be modified to better align with the objectives. Noticeably spiritual and customary benefits for Aboriginal water are missing as performance indicators. The addition of ecological processes and biological diversity as an objective will also need some KPIs

### Increase areas protected under Schedule 4

Many wetlands within the plan area are recognized as being capable of supporting the bird species listed in intergovernmental agreements. They provide vital habitats for large colonies of breeding water birds. For example, records of up to 5000 nests and 20000 cormorants have been recorded at Menindee lakes. During the 1992 when western NSW was in drought, waterbirds congregated at the deeper lakes in the anabranch such as Lake Nearie and Little lakes.

The NPA therefore supports the additional inclusions to the list of significant wetlands in Schedule 4 of the plan, and supportive of the associated simplification of access rules because of the expanded list. We are also supportive of the rules that restrict new surface water supply works and trade into these areas and support the rules to prevent trade and new works within or 3 km upstream of Ramsar listed wetlands or within these significant wetlands. However, the list does not go far enough:

- The NPA urges the plan to include wetlands that meet the five criteria under the Murray Darling Basin and [Bioregional assessment criteria](#), and include: Alam creek, Balaka Creek, Bijije Creek Booligal Creek, Chaiaka Creek, Coopara Creek, Cooper Creek, Deep Creek, Dry Lake, Five Mile Creek, Inlet Creek, Jack creek, Jack OBriens Creek, Lake Benanee, Malta Creek, Manie Creek, Meeks Creek, Middle creek, Nine Mile Creek and Pamamaroo Lake.
- The plan should also safeguard the ecosystems in the relevant State Protected Areas. Specifically, Kemendok Nature Reserve, Nearie Lake, Kinchega National Park, Langidoon-Metford State Conservation Area, and Lake Eckerboon. These are lands recognised as having high conservation value and have been purchased and are managed using public monies. They are ecosystems that should not be threatened by private interests.

All these areas must be protected from new water supply works, including relocated works, that may impact on flows. As such, the NPA **does not endorse** the Minister having discretion to consider allowing new works in significant wetlands. This rule must be mandatory.

### Expanding First Nations Water Rules

The visions and objectives in the plan encompass 'spiritual, social, customary and economic benefits'. However, the strategy only provides for water associated with Aboriginal **cultural** values and the KPI is only Aboriginal **cultural** benefits. The rule in the plan (27-3) narrows this definition further to *personal, domestic and communal* **cultural** purposes, and lists only seven activities. It also assumes water is 'taken'. However, a water 'right' could also provide identity and spirituality from water through a flow. The plan needs to provide for a more agnostic range of water uses by First Nations people.

## Other suggested changes to the rules

- Thegoa Lagoon should be included as a lagoon in Schedule 4A. This would simplify Rules 35 (1) a and b.
- Rule 35 (ii) states [from Thegoa Lagoon no water should be taken if] “*notified by the Department not to take water, in circumstances where the volume of water impounded in the lagoon is more than 50% of full containment volume only because of inflows from licensed environmental water or water from the Murray Additional Allowance, for the period specified in the notification or until such time as any water above 50% of full containment volume is not from licensed environmental water or these additions*” The regional water strategy acknowledged connectivity is a key issue for the community and made it a priority action. The MBDA Native Fish strategy also recognises connectivity as a key issue, and the science from the mass fish kills also notes that a lack of connectivity is a contributing factor. The NRC review recognises the importance of the flows from Queensland through to the Murray. It is therefore the NPA’s view that a similar ‘water shepherding’ rule like the one for Thegoa Lagoon should be applied to the other lagoons and key water channels within the plan area would be a valuable addition.
- Part 10 Amendments to the plan. Rule (b) allows amendments to be made “*to add, remove or modify a management zone, including the water sources to which a management zone applies and the boundaries of the zone,*” The draft plan has no management zones. However, the NRC review has flagged the need to “*use existing information to identify and protect known high value cultural sites in the replacement Plans*” The MDBA Fish recovery strategy identifies the need for there to be ‘river reaches’. Such cultural and wildlife areas may need created as specialised ‘management zone’ in the near future and there needs to be this option include within the scope of possible amendments to the plan- if not already under part b.
- The draft plan states the LTAAEL will be calculated using “*an estimate of the average annual extraction under entitlements under the Water Act 1912, Part 2 between 1 July 1993 and 30 June 1999,*” During the term of the Lower Murray-Darling Plan, reliance on unregulated water sources for town water supply has reduced due to the installation of the Wentworth to Broken Hill pipeline, which extracts water from the regulated Murray system. The Plan’s local water utility entitlement should be reviewed considering this change and updated to reflect the reduced reliance, while maintaining the unregulated water source as a town water contingency supply. Where estimates are reduced, licences cancelled, or surrendered, and entitlements become available, then Aboriginal water should be provided for as a priority.
- 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. Within the draft plan it is defined 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, and “water by reference to the commitment of the physical presence of water in the water source”*. This is not consistent with the [Department’s web page](#) which states “*allocated specifically to support the needs of water dependent plants, animals or ecosystems. Water for the environment is used to help restore components of natural flow regime to rivers, creeks and wetlands*”. Moreover, it precludes the objectives of the WM Act which mentions a need to protect or enhance ‘*ecological processes and biological diversity*’.

The definition of PEW needs to be changed to include environmental health. It is also critical that there also must be rules to protect first flush flows after drought to reconnect the Lower Darling and replenish important habitat such as pools and wetlands all the way down to the Murray. The LTWP states small & large freshes are important for flushing fine sediment from pools, de-stratifying pools & maintaining geomorphic features such as benches & bars in this region. Yet the draft plan has no first flush rules.

## Summary

The 2017–2020 drought resulted in 3 years of low inflows into the Barwon–Darling River and Menindee Lakes, which significantly stressed Western region **communities** and the **environment**. Climate change predictions in the RWS suggest there will be up to 40% less inflows into the Barwon–Darling on average with evapotranspiration increasing by 5%. The region already has wet and dry periods that can last decades, and prediction are this is going to be coming increasingly challenging. Water users may [‘want certainty’](#), but this a variable environment and the long term future of extraction and enterprise can only be certain through rules that support the healthy ecosystem that underpins the water resource.

I can be contacted at [REDACTED]

Yours sincerely

[REDACTED]

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**Chief Executive Officer**  
**National Parks Association of NSW**  
*protecting nature through community action*



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Friday 10 November 2023

### **SUBMISSION**

Draft replacement *Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Sources 2024*

#### **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 Lower Murray-Darling Unregulated River Water Sources (draft replacement plan).

This water source is in the arid Western Division of NSW with low rainfall runoff and high evaporation. It supports a significant area of environmental and cultural values, including lagoons and ephemeral lake systems that provide essential habitat refugia when river channels stop flowing. The Great Darling Anabranch is a crucial corridor for connecting up Menindee Lakes with the Murray River. Flows from this water source provide important connectivity and inflows to the Darling/Baaka. It is critical that connectivity is improved across all tributaries of the Darling/Baaka to halt its ecological collapse.

IRN participated in the Natural Resources Commission (NRC) statutory review of the *Water Sharing Plan for the Lower Murray-Darling 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.

The draft replacement plan fails to adopt many of the NRC recommendations aimed at improving water management in the Lower Murray-Darling Unregulated 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 SW8 (WRP) development. This WRP is still under assessment by the MDBA. The use of a template developed to remake coastal water sharing plans is not appropriate for inland water sources within the Murray-Darling Basin that fall under the requirements of the *Water Act 2007* (C'wlth)

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 and cultural outcomes has not changed, other than new rules to better protect wetlands. There is still no identification of Aboriginal cultural sites or cultural access licences. We note that there is no additional rule to ban new in-river dams consistent with other draft replacement unregulated water sharing plans out for comment at a similar time. We consider that the draft replacement plan fails to meet the objects of the *Water Management Act 2000* (WMA).

## **1. Supported measures**

### **Improved protection for wetlands**

IRN commends the list of significant wetlands included in Schedule 4. This extensive list demonstrates the high number of important environmental assets in this water source. The inclusion of new rules to prevent trade and new works within or 3 km upstream of Ramsar wetlands or within these significant wetlands is supported. However, we do not support Ministerial discretion to consider allowing new works in significant wetlands. This rule must be mandatory. We also note that current policy to allow 100% harvestable rights in Western Division has major implications for these important environmental assets. An assessment of where harvestable rights are being captured would assist in better understanding of this policy impact on the environment of the water source.

## **2. Key Issues with the draft replacement plan:**

- Failure to protect Planned Environmental Water
- Unsustainable LTAAEL
- Maintenance of rules to draw down key lagoons
- No rules for construction of in-river dams
- Failure to protect low flows
- Protection of first flush flows
- Rules for Floodplain Harvesting
- Cultural water and sites
- Changes to plan vision, objectives and performance indicators

## 2.1 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:

- (14) 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. There has been no reporting on annual average extraction. *‘Compliance assessments comparing the actual average annual extraction for each extraction management unit against their LTAAELs have not been undertaken.’<sup>1</sup>*

- 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 provision of planned environmental water is over estimated. There is no assessment of water required to meet environmental needs of the water source. This includes accounting for diversions using block banks to flood land.

- Part 6 Division 1 cl 29 (c) in Divisions 2 – 3 - *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 in the form of low flows. Pumping can continue until there is no visible flow.

## 2.2 Unsustainable Long Term Annual Average Extraction Limit (LTAAEL)

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

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<sup>1</sup> Natural Resources Commission, March 2022. Final Report. Review of the Intersecting Streams and Lower Murray-Darling unregulated water sharing plans p 51

- It is not based on an assessment of sustainability.
- 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 LTAAEL fails to include an estimate of capture or diversion of overland flow including harvestable rights. The policy to allow for 100% harvest of rainfall runoff in this water source is a significant issue. It is IRN's view that no harvestable rights should be allowed or granted from these water sources.
- 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.

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

2.2.2 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.<sup>2</sup>

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

### **2.3 Maintenance of rules to draw down significant lagoons**

IRN does not support that Thergoa Lagoon, Boeill Lagoon, Neilpo Lagoon and Peacock Creek can continue to be drawn down to 50% capacity. There is no certainty that these access rules will continue to adequately protect lagoon ecosystems or resilience in time of severe drought conditions. The lagoons are significant habitat and drought refugia with high cultural values. Keeping these significant water bodies at 50% capacity prolongs drought impacts with the high evaporation rates and temperatures in the NSW Western Division. Failure to protect low flows into these water bodies, as described below, further impacts on their drought resilience.

IRN does not support the proposed amendment at Cl 53 (1) (c) to remove access rules that apply to in-river and off-river pools.

The NRC Review recommended at R4 (e) that drawdown rules in the draft replacement plan adequately protect lagoon ecosystems and that rules fully protect held environmental water released into Thergoa Lagoon. There has been no evidence provided of any further environmental assessment of the significance of these water bodies in the landscape.

IRN supports the rule at Cl 39A to prohibit new water supply works on these four significant lagoons.

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<sup>2</sup> Alluvium, October 2019. *Audit of the Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011*



## **2.4 No rules applying to construction of in-river dams**

IRN does not support that Cl 38 (applying rules for water supply works on in-river dams) is not applicable in this water source. IRN does not support the construction of in-river dams in these ephemeral streams that provide important connecting flows to the Darling/Baaka.

IRN does not support the rule at Cl 34 (2) (c) that allows for in-river dams to be drawn down below full containment volume if a supply work approval authorises the purpose for water take. These old supply work approvals need to be reviewed along with all in-river dams to assess their environmental impacts and disruption to flow connectivity.

An amendment provision is required to allow for changes in regulation of in-river dams in this water source.

## **2.5 Failure to protect low flows**

The draft replacement plan area has a cease to pump rule set to when there is no visible flow. The lack of protection of low flows has significant ecological and connectivity impacts. 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. It artificially extends the duration as well as extent of periods without flow. This does not provide the commitment for physical presence of water under the definition of planned environmental water. This fails to facilitate connectivity, as continuity and downstream extent of low flows are not protected. This threatens the productivity of the aquatic ecosystems and survival of local populations of species trying to complete their life cycles or find water to drink.

Human-induced climate change is likely to exacerbate periods with little or no flow due to drought and increased evaporation so if pumping rules effectively allow artificial extension of periods with no flow downstream this will be a double wham. Setting, implementing and enforcing practical ways to protect low flows would be beneficial to people downstream such as basic rights holders as well as to ecological values. The appropriate time to work out and set practical rules to improve protection of low flows is now, before a replacement plan is adopted.

## **2.6 Protection of first flush flows**

It is critical for first flush flows to be protected after drought to replenish important habitat such as pools and wetlands throughout this water source, including during periods that may turn out to be no more than a brief respite in a more extended drought, and to contribute to connectivity needs in the Darling/Baaka. 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 licensed water users.

## **2.7 Cultural water and sites**

The draft replacement plan fails to identify and protect water-dependent Aboriginal cultural assets and also fails to provide access licences for Aboriginal cultural activities. We note that there is an amendment provision in Part 10 cl 53 (1) (f) to allow for changes in the

replacement plan. These actions are yet to occur 20 years after the first water sharing plan was gazetted for improved management of the Lower Murray-Darling where there are significant cultural values. It is imperative that a timeframe for achieving these amendments is included in the replacement water sharing plan to ensure that these legal requirements under the WMA are achieved within the lifespan of the plan.

## **2.8 Rules for Floodplain Harvesting**

The NRC Review raised issues with Floodplain Harvesting in this water source. DPE -Water responded that this issue is not relevant because there are no gazetted floodplains in this water source.<sup>3</sup>

Therefore, all reference to rules for Floodplain Harvesting should be removed from this draft replacement plan at Cls 3 (3) Note, 18 (d), 19 (d), 53 (1) (e) (vi).

## **2.9 Changes to plan vision, objectives and performance indicators**

IRN does not support the change in approach for replacement water sharing plans for inland water sources that are managed under the Basin Plan and *Water Act 2007* (C'lwth).<sup>4</sup> This has resulted in significant changes to the plan vision, objectives and performance indicators provided in the 2020 amendment plan that was submitted with the NSW Murray and Lower Darling Surface Water Resource Plan.

We are 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.

The Alluvium audit of the 2011 water sharing plan identified that the performance indicators at Part 2 cl 10 had not been given effect to.<sup>5</sup> It is critical that water sharing plans have strong, measurable performance indicators and that these are given effect through rules and compliance monitoring.

IRN recommends that the targeted environmental objectives and performance indicators in the 2020 amended plan remain in the replacement plan:

(2) The targeted environmental objectives of this Plan are to protect and, where possible, enhance the following over the term of this Plan:

- (a) the recorded distribution or extent, and population structure of, target ecological populations including native fish, native vegetation and low flow macroinvertebrate communities,
- (b) the longitudinal and lateral connectivity within and between water sources to support target ecological processes,
- (c) water quality within target ranges for these water sources to support water-dependent ecosystems and ecosystem functions,

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<sup>3</sup> NRC Final Report p 48

<sup>4</sup> NSW Government, February 2022. Replacement water sharing plan manual

<sup>5</sup> Alluvium, October 2019. *Audit of the Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011*

- (5) The performance indicators used to measure success in achieving the targeted environmental objectives in subclause (2) are changes or trends in ecological condition during the term of this Plan including the following:
- (a) the recorded range or extent of target ecological populations,
  - (b) the recorded condition of target ecological populations,
  - (c) measurements of hydrological connectivity,
  - (d) the recorded values of water quality measurements including salinity, turbidity, total nitrogen, total phosphorous, pH, water temperature and dissolved oxygen,
  - (e) the extent to which the strategies in subclause (3) have provided flow conditions of sufficient magnitude, frequency, timing and water quality to achieve targeted environmental objectives,

### **Conclusion**

IRN considers that the draft replacement plan for the environmentally sensitive Lower Murray-Darling Water Source does not meet the principles and objects of the WMA or the Basin Plan. Significant improvements to rules are needed so that history of use is not carried over from the *Water Act 1912*.

For more information on this submission contact:

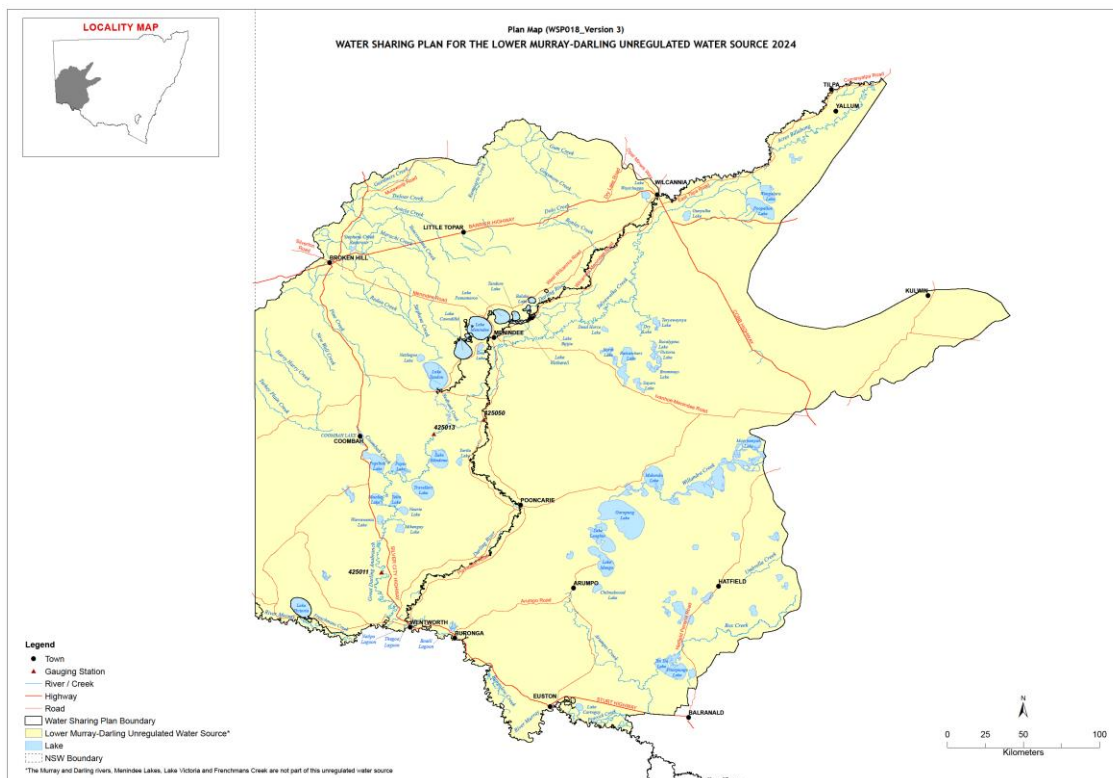
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# DRAFT WATER SHARING PLAN FOR THE LOWER MURRAY-DARLING UNREGULATED RIVER WATER SOURCE 2024

Submission by [REDACTED] 9.11.2023

## WHAT AN AWFUL MESS!

I enclose a copy of the map, just to illustrate the difficulty that I have had in understanding this mess that is called a Water Sharing Plan.



Why would I call it a mess? Firstly it does not include the unregulated section of the Darling River between Wilcannia and Menindee or the regulated section of the river below Menindee Lakes or the regulated Menindee Lakes or the regulated section of the Murray River even though all of these are within the area of the WSP. At the same time it does include the Anabranch and Talyawalka Creek that both depend entirely on flows from upstream (in fact rely on flows from the Darling River that is not part of this WSP) just like the Darling that is not included also relies on flows from upstream. And it does include numerous ephemeral streams and lakes that depend entirely on local rain.

In addition the WSP includes a licence for 6.3 GL for Essential Energy for Broken Hill's water supply, even though that water supply is now mostly coming from the Murray River. That licence for 6.3 GL refers to extraction from Stephens Creek Reservoir.

The Natural Resources Commission recommended "The Connection between the regulated and unregulated water sources should also be considered in remaking of the plan." I have

seen no indication that this has been done. I see no recognition of the situation of the lagoons adjacent to the Murray River – are they independent of the Murray River, do they feed water into the Murray, or does the Murray feed the lagoons? Why are they included in an unregulated WSP if they are fed from the regulated Murray River?

Why is an LTAAEL calculated to include totally independent water sources across an area larger than the size of Austria, notably Stephens Creek at Broken Hill, and lagoons that are fed from the regulated Murray River?

## **ESTABLISHMENT OF THE LTAAEL**

Below I quote from the draft plan:

### **“Subdivision 2 LTAAEL and SDL Establishment of LTAAEL**

The LTAAEL is the sum of the following within the water source—

(a) an estimate of the average annual extraction under entitlements under the *Water Act 1912*, Part 2 between 1 July 1993 and 30 June 1999,

(b) an estimate of the annual water requirements for basic landholder rights in the water year between 1 July 2011 and 30 June 2012

(c) an estimate of the average annual extraction for the purposes of plantation forestry between the date of the earliest available information and 30 June 2009,

(d) an estimate of the annual average extraction for the purposes of floodplain harvesting between 1 July 1993 and 30 June 1999.

(e) an estimate of the annual extraction of water by the Broken Hill Water Board averaged over the period from 1 July 1993 to 30 June 1999.

**Note**— The LTAAEL is taken to be varied by a change to the amount of water committed as licensed environmental water—see the Act, section 8F(2).”

Under the Water Management Act 2000, the environment is first priority. As with other WSPs in NSW, the LTAAEL is calculated by first considering everything else but the environment. The environment is not even a factor in the above calculations.

Despite the statement above “sum of all of the following within the water source”, there is in reality no single “water source”, there are several unrelated and unconnected water sources. For example Stephens Creek is not connected to any other water sources in the WSP. The Anabranck and Talyawalka Creek are connected to, and dependent on a water source that is outside the WSP. Many of the other lakes and creeks are totally isolated, but they are mostly not subject to extraction. So, what is the point in setting an LTAAEL for the sum of totally independent systems?

Why are the particular periods of time selected for estimating the extractions? Why is the Water Act 1912 used, and not the current Water Management Act 2000?

Why was year 2011-2012 selected for basic landholder rights? From memory that was a year of plentiful water, leftovers from the floods of 2010.

Why does the estimate of extraction for forestry terminate at 2009, given that we are now in 2023?

Is there an estimate for floodplain harvesting? Are there any recognised floodplains in the WSP area?

The annual extraction by the Broken Hill Water Board for 1993-1999 – does this only refer to extractions from Stephens Creek Reservoir? Why should this water source that is totally separate from the rest of the WSP area, have any influence on LTAAEL for the remainder of the WSP area?

### **THE GREAT DARLING ANABRANCH**

The Anabranh is a complex watercourse that is not connected to any other watercourse within this WSP. It depends entirely on feeds from either Lake Cawndilla or from the lower Darling River, both of which are part of another WSP. Water from Lake Cawndilla flows down a man-made channel into Tandou Creek (regulated), then either into Lake Tandou (unregulated) or down Redbank Creek (unregulated) and into the Anabranh (unregulated).

What is happening with the block banks (dams) on the Anabranh, and how are these handled in the WSP? Landholders along the Anabranh are delivered stock and domestic water from a pipeline. Is this water part of the WSP? If not, then this water needs to be subtracted from the LTAAEL calculations above.

### **ABORIGINAL WATER RIGHTS**

This WSP area is home to Aboriginal people who are living on the land of their ancestors. For them the health of both regulated and unregulated water sources in the area are of critical cultural importance, especially in the Menindee area. Examples are Emu Lake (unregulated) and the small lakes between Lakes Menindee and Cawndilla (including Lake Eurobilli, (regulated) and Talyawalka Creek (unregulated). The Barkindji people and any other relevant group should be consulted. It is good to see such a comprehensive list of significant wetlands. I support the inclusion of Lake Eurobilli even though it is in a regulated river WSP – it is a known culturally important site.

### **LAKE TANDOU**

Lake Tandou was once the site of a major irrigation project. However, not too long ago the water licences were sold back to the Federal Government in a get-rich scheme involving collusion between certain politicians and business-men. Whatever the ethics there are now no water licences applying to Lake Tandou. Given the lack of water licences, Tandou Creek should not be categorised as a regulated stream and should be part of the WSP discussed here. I note that Lake Tandou is now on the list of significant wetlands.

There should be a statement in the new WSP in regard to the changed situation for Lake Tandou and Tandou Creek, given the very large scale of this change.

### **BROKEN HILL WATER BOARD (ESSENTIAL ENERGY)**

The Broken Hill Water Board situation was discussed in some detail in the NRC report.

Broken Hill Water Board extracts water from Stephens Creek Reservoir when there is water to extract. It also takes water from a pipeline from the Murray River. Until recently it took water from the Weir 32 weir pool at Menindee. Stephens Creek reservoir is part of this unregulated WSP, while the other water sources are not. Broken Hill Water Board has 6.3 GL of licences for the unregulated water source. In a year when Broken Hill Water Board obtains all of its water from the Murray River pipeline, does this mean that other users can extract an extra 6.3 GL from the Murray Lower Darling Unregulated WSP?

Broken Hill Water Board also has a licence on the Murray River, and apparently they still have a licence to pump from the Weir 32 weir pool at Menindee. The latter possibility might disappear when the old pipeline is no longer useable. If the Broken Hill Water Board does not use all of that 6.3 GL from Stephens Creek, can they sell the unused water on the market?

The Broken Hill Water Board situation has changed since the 2011 WSP. There should be a comprehensive statement in the new WSP in regard to the new situation.

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# PASTORALISTS' ASSOCIATION

OF WEST DARLING est. 1907

11<sup>th</sup> November, 2023.

## **Draft replacement Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source**

### **Submission from the Pastoralists' Association of West Darling**

The Pastoralists' Association of West Darling (PAWD) represents the interests of pastoralists in far west NSW, including those living and operating agricultural enterprises in the Lower Murray-Darling Catchment. Pastoralists depend on the Darling River to supply water for stock and domestic use, and water in the channel also acts as a boundary fence between neighbouring properties. Water is also vitally important for town supplies, indigenous people, small scale high value irrigation enterprises and environmental health. With this background in mind, PAWD makes the following remarks for consideration as part of development of the replacement Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source.

The Lower Darling River is almost totally reliant on inflows from its tributaries. In recent decades there has been a significant reduction in the volume and frequency of flow events in the Darling River, which has largely been attributed to excessive upstream extraction for irrigation purposes. The subsequent decline in general river health, horticulture on the Lower Darling and associated environmental catastrophes are well known, and serve to highlight the fact that current water management regimes (including Water Sharing Plans) in NSW are failing to deliver fair and equitable outcomes for all stakeholders, with much of the disadvantage associated with reduced water availability being felt by downstream environments, communities and enterprises.

PAWD supports the adoption of water management policy that protects flows in our river systems. As a starting point, the [Objects](#) and [Water management principles](#) of the Water Management Act 2000 No 92 are an excellent guide for regulators tasked with the implementation of fair and reasonable water sharing arrangements across NSW. Application of the Objects and Water management principles would ensure equitable outcomes and underpin water security for all stakeholders on the Lower Darling River and go a long way towards delivering PAWD's vision for a healthy Lower Darling River. No one wants to see a repeat of the fish kills downstream of the Menindee lakes or river communities running out of water whilst excessive volumes of water are being used for irrigation further upstream at the same time.

Accordingly, PAWD recommends that the development of all Water Sharing Plans adhere to the Objects and Principles of the Act. Failure to do so will serve to perpetuate the disadvantage being experienced by stakeholders on the Lower Darling River.





Given the Lower Darling River's reliance on inflows from its tributaries, it is critically important that all Water Sharing Plans on the western fall of the Great Dividing Range are developed with the requirements of downstream stakeholders and the environment in mind. Accordingly, it is absolutely necessary to develop all Water Sharing Plans with adequate end-of-river flow frequency and volume targets in mind. Undertaking regular community consultation and adopting a review process to ensure that no specific Water Sharing Plan or management strategy unreasonably impacts downstream stakeholders or ecosystems would be appropriate.

As a key prerequisite, all Water Sharing Plans must ensure that the health of our river systems from top to bottom is improved, and the needs of stakeholders on the Lower Darling River are always accounted for. All Water Sharing Plans must also prioritise the needs of the environment, town water supplies and stock and domestic users over and above the use of water for any other purpose.

Thank you for the opportunity to comment on the draft replacement Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source.

  
Councillor.