

Department of Climate Change, Energy, the Environment and Water

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What We Heard

Draft Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source
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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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 Lower Murray-Darling Unregulated River Water Source 2011 will expire in June 2024.

The Department of Climate Change, Energy, the Environment and Water (the department) 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 Lower Murray-Darling Unregulated River Water Source 2024.

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



20

phone consultation



833

unique website visits



5

formal submissions



4

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.

Consultation

Consultation is an essential part of developing water sharing plans.

From 3 October to 11 November 2023, the draft replacement Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 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 5 written submissions. The valuable feedback received during the public exhibition period and through submissions has helped the department finalise the draft replacement water sharing plan.

How did we consult?

Between 3 October and 11 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 (57 letters) and other groups and individuals were contacted via email (~100 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 one face-to-face information session and one webinar.

Face-to-face information session

We held one face-to-face stakeholder meeting during the 40-day exhibition period, at a location that was convenient to the majority of stakeholders. We used a presentation and discussion approach for the meeting, 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 the meeting.

Table 1. Attendance at face-to-face meeting

Location	Date	Registered to attend	Attended
Dareton	24 October 2023 9.30 am to 11.30 am	5	4

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 webinars

Location	Date	Registered to Attend	Attended
Webinar – Microsoft Teams	17 October 2023 12 noon to 2 pm	9	8

Phone Consultations

We offered one-on-one video calls during the consultation period but no stakeholder chose this method of engagement. We telephoned 20 targeted stakeholders during the public exhibition period and received valuable feedback.

What we asked

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

- Protection for significant wetlands.

Although this was the key issue, comments and discussion on all aspects of the plan were welcome and encouraged. No changes were proposed to existing access and trade rules.

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
<p>Protection of significant wetlands</p>	<p>There was general support for the proposed protections for significant wetlands.</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.” (equivalent words in 2 submissions)</p> <p>“It is good to see such a comprehensive list of significant wetlands.”</p>

Other issues

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

- Connectivity – it is critical that inland water sharing plans (WSPs) are developed with the requirements of downstream stakeholders and the environment in mind
- Broken Hill’s Town Water Supply – now that the city relies on a pipeline from the regulated River Murray, the requirement for unregulated WSP water from Stephens Creek Reservoir should be reviewed
- Access rules for pools, including the ability to draw down 4 specified lagoons and in-river dam pools
- Include stream access rules that protect low flows and first flushes
- The rule that protects diversions of environmental water into Thegoa Lagoon should be applied to other lagoons and key channels within the plan area
- The protection of planned environmental water is diminished in the new plan
- No new in-river dams should be constructed in the plan area
- No harvestable rights should be allowed in the plan area
- All references to floodplain harvesting should be removed from the plan
- Extent of the plan area – for example, why are lagoons included in the unregulated WSP if they are fed from the regulated Murray River?”
- 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 Limit (LTAAEL) for the plan area needs to account for all forms of extraction, including harvestable rights and diversion of overland flow. It should not ‘lock in’ a history of use that is not appropriate. The LTAAEL 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.

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 Lower Murray-Darling Unregulated River Water Source 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.

More information

The draft Water Sharing Plan for the Lower Murray-Darling Unregulated River Water Source 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
Matters concerning regulated rivers	<p>During phone calls, comments were made about topics such as fish kills and the drought reserve in Menindee Lakes.</p> <p>(Note that the operations of regulated rivers and lakes, including the Lower Darling River and Menindee Lakes, are not governed by the Lower Murray-Darling unregulated river WSP. For example, fish kills cannot be mitigated through actions under an unregulated river WSP.)</p>
Background detail	<p>The WSP should refer to changes in Broken Hill's town water supply since 2011 and changed management at Lake Tandou. What is happening regarding block banks in the Great Darling Anabranch?</p>