



CHAIRMAN: [REDACTED]

M: [REDACTED]

EXECUTIVE OFFICER: [REDACTED]

M: [REDACTED]

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SUBMISSION ON THE DRAFT WATER SHARING  
PLAN FOR THE  
NSW BORDER RIVERS UNREGULATED RIVER  
WATER SOURCES 2024

Prepared by



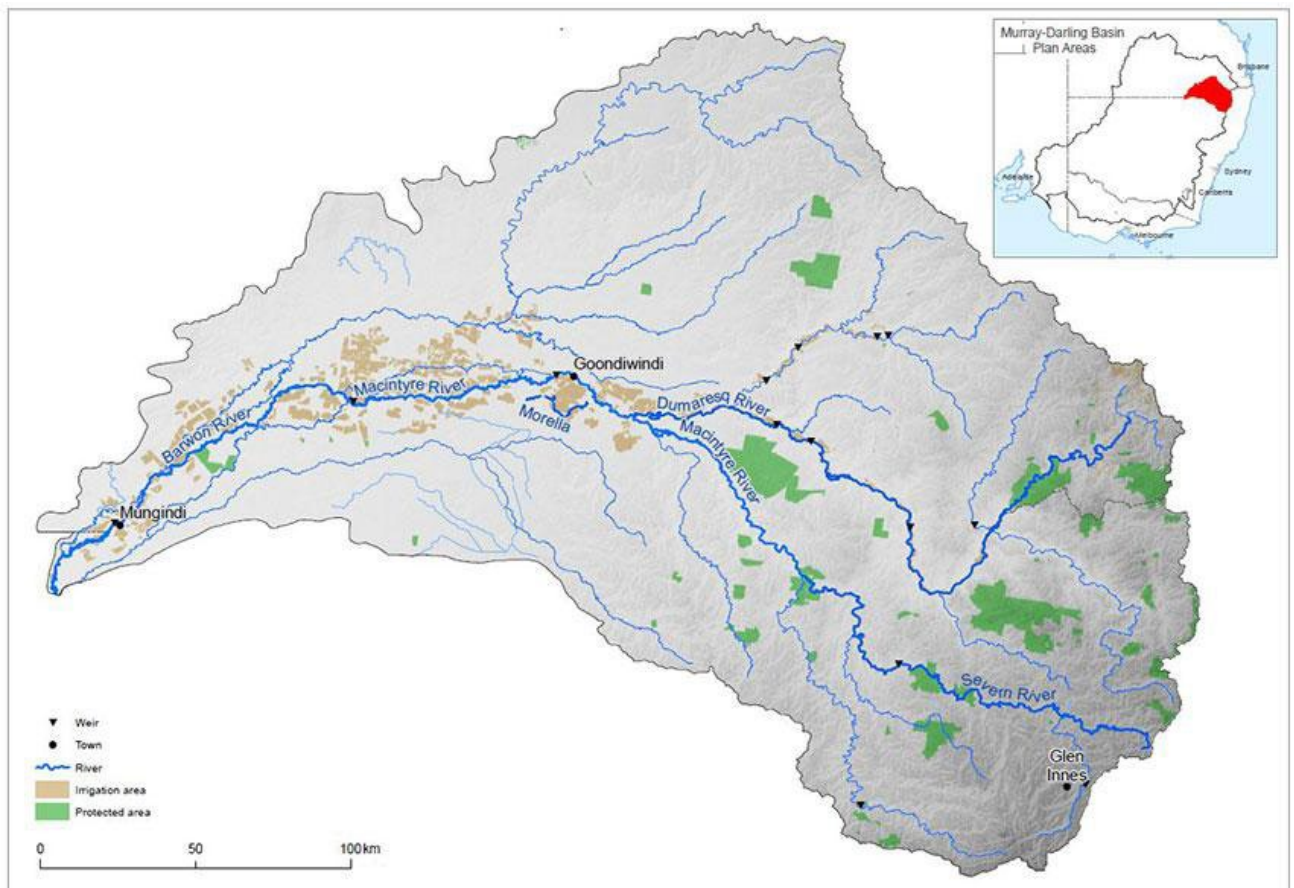
Executive Officer

## Introduction

Thank you for the opportunity to respond to the draft Water Sharing Plan for the NSW Border Rivers Unregulated River Water Sources 2024.

Border Rivers Food and Fibre (BRFF) represents the water users and entitlement-holders of the Border Rivers region of southern Queensland and northern New South Wales. These water-users responsibly utilise the water resources of the Macintyre Brook, the Dumaresq, Macintyre, Severn, Weir and Barwon River systems and the Eastern Recharge Zone of the Great Artesian Basin. Production from irrigated agriculture includes vegetables, nuts, dairy, citrus, wine-grapes, herbs, stone-fruit, hay, cereals, coarse grains and cotton. Irrigated agriculture contributes nearly \$1 Billion (farm gate) to the local economy in good years.

The catchment area of 49,500 km<sup>2</sup> makes up 4% of the Murray Darling Basin and it comprises 5% of the total basin water resources.



This submission represents the views of the members of BRFF, though individuals are entitled to their own views relating to their own circumstances.

## Changes to Access Rules

It is proposed to introduce flow-based access rules linked to stream gauges where available, to better protect very low flows and medium environmental values. Changes are proposed to access rules within the Mole River, Glen Innes and Inverell Water Sources.

It is proposed to introduce a 1 ML/day cease to pump volume at the Severn at Fladbury gauge site in the Glen Innes water source and a no visible flow at the Macintyre at Wallangra gauge site in the Inverell water source.

It is proposed to subdivide the Mole River Water Source into 2 Management Zones establishing a;

1. Management Zone 1 in which contains the Deepwater River and tributaries, with a CtP threshold of 1 ML/d at the Deepwater at Bolivia gauge,

2. Management Zone 2 in which contains the Mole River, Bluff River, Brassington Creek and their associated tributaries, with a CtP threshold of no visible flow at the pump site plus a 24 hour first flush rule at the pump site.

Stream flow data is available in real time online from WaterNSW.

### *Response*

BRFF believes that more work must be done to justify these proposed changes. We are unsure that the proposed gauge site is best.

Within this work, the Department has also not justified what the environmental outcomes are going to be from these changes, despite saying that there will be benefits to high ecological value areas. What are these areas and what will be the benefits? How has the Department measured the current impacts and how does the Department propose to measure the changes after the implementation of the new plan?

## Trading

For the NSW Border Rivers 2024 Plan, permitting limited trade into Bonshaw (10 ML), Camp Creek (65 ML), Campbells Creek (19 ML), Ottleys Creek (670 ML), Reedy Creek (15 ML) and Yetman (36 ML) Water Sources is proposed. The current rule of no trade into Beardy River, Croppa Creek and Whalan Creek, Glen Innes, Kings Plains, Mole River, Tenterfield Creek and Inverell Water Sources remains unchanged. The current trade rules between trading zones and management zones within the Mole River, Tenterfield Creek, Inverell, Kings Plains and Glen Innes Water Sources remains unchanged.

### *Response*

BRFF members have a range of views on the broadening of trading rules. Members directly affected by the proposed changes are often strongly opposed due to the potential impact on local economies and communities from water leaving a particular valley, or part thereof. More broadly, BRFF is not opposed to water trading.

### **Protecting replenishment flows**

For the NSW Border Rivers 2024 plan it is proposed to include a clause in which protects replenishment flows sent down the Boomi River in the Croppa Creek and Whalan Creek Water Source from the regulated river system. These flows are reserved for BLR and licenced Stock and Domestic access in the NSW – QLD Border Rivers Intergovernmental Agreement and are protected from extraction in the Water Sharing Plan for the NSW Border Rivers Regulated River Water Sources 2021. There are no clear rules in the Water Sharing Plan for the NSW Border River Unregulated River Water Sources 2012 that prohibit unregulated river licence holders from extraction these flows.

#### *Response*

BRFF supports the protection of BLR and Stock and Domestic flows for our members.

### **Protection of significant wetlands**

We propose to prohibit new or amended works or trades: within a nationally significant wetland listed on the Directory of Important Wetlands in Australia and wetlands listed in Schedule 4 of the plan, 3 km upstream or within a Ramsar wetland, Unless there will be no more than minimal harm to the wetland concerned. This exemption will not apply to Significant wetlands and Significant Upland Ecological Endangered Communities of the New England Tablelands listed in Schedules 5 and 6 of the current Plan. This rule does not apply to replacement works.

#### *Response*

BRFF understands that there are no RAMSAR wetlands within the Border Rivers catchment and so reference to this within the departmental documents are moot.

However, we have significant concerns with the number and physical reality of the new “wetlands” identified. The wetlands identified in the existing Plan are often questionable before considering the newly proposed wetlands. We understand that these proposed wetlands have been identified by a desktop study. Certainly BRFF believes that none should be catalogued without appropriate ground truthing. It is difficult to believe that the department has discovered so many new wetlands in a ten year period since the last plan.

As part of this, many of these proposed wetlands occur on privately held land and so BRFF believe the Department need to provide landholders with personalised notice of this potential change and appropriate consultation and ground-truthing before the draft plan is finalised.

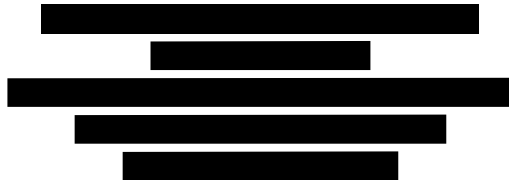
It would be useful for the Department to provide a full definition of what constitutes a wetland so that irrigators in possession of these “wetlands” can properly respond to the potential categorisation. Simply referencing other unknown documents made by unknown authors do not have a wetland make.

Some of the alleged wetlands are currently used as irrigation storage facilities. The trade in restrictions are therefore going to provide a huge implication for commercial activities on what is

likely to be disputed as a wetland and has never before been considered as such. At least, the minimal harm test could also be applied to the trade in provisions as well as the works provisions.

Obviously there is a limited amount of environmental water available. Could the department also provide more information about the overall impact of sharing this environmental water across a much greater number of new "wetlands"?

There is much more work required before this element of the draft plan is implemented.



NSW Border Rivers Unregulated River Water Sources WSP  
Department of Planning and Environment – Water  
PO Box 1226  
Newcastle West NSW 2300  
[borderivers.wsp@dpie.nsw.gov.au](mailto:borderivers.wsp@dpie.nsw.gov.au)

Sunday 17 December 2023

## **SUBMISSION**

*Draft Water Sharing Plan for the Border Rivers 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; 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 Border Rivers Unregulated River Water Sources (draft replacement plan).

This draft replacement plan covers 13 unregulated water sources that provide important tributary inflows to the regulated Border Rivers and Barwon-Darling. The Plan area contains several high-value, water-dependent environmental assets, with streams in the montane, upland, slope and lowland zones providing a diversity of habitat for aquatic organisms.

Medium to high risk to ecological values has been identified in the Border Rivers unregulated streams arising from the take of water.<sup>1</sup> Threatened species such as the southern purple spotted gudgeon (*Mogurnda adspersa*) and eel tailed catfish (*Tandanus tandanus*) recorded

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<sup>1</sup> Water Resource Plan SW 16

in the water source are highly sensitive to low flow extraction. The endangered population of tusked frog (*Adelotus brevis*), found in the Mole River in 2021 despite not being found anywhere in the NSW Murray Darling Basin for almost 30 years, is a species that survives primarily in streams and on their banks and may be dependent on water quality and a flow regime that maintains riparian vegetation and a healthy, diverse aquatic ecosystem which can limit populations of the predatory plague minnow, *Gambusia holbrooki*<sup>2</sup>.

Morrella Water Course, including Boobera and Pungbougul Lagoons, has very high Aboriginal cultural significance and is an important permanent wetland system in the Murray-Darling Basin of national significance. While the Border Rivers area does not have the extensive floodplain wetlands of some other river systems, it does have numerous floodplain lagoons and upland lagoons and wetland vegetation along many watercourses which all have important ecological value.

The Border Rivers are part of the endangered aquatic ecological community in the natural drainage system of the lowland catchment of the Darling River, listed under the *NSW Fisheries Management Act 1994*.

IRN participated in the Natural Resources Commission (NRC) statutory review of the *Water Sharing Plan for the Border Rivers Unregulated River Water Sources 2011* in 2021. 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 addresses a few but fails to adopt many of the NRC recommendations aimed at improving water management in the Border Rivers Unregulated Water Sources. It is noted that the level of entitlement significantly exceeds the Plan's extraction limits.<sup>3</sup> A water sharing and management system that prevents extraction exceeding these limits is needed.

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 SW16 (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 and some protection of low flows although not in all water sources. Rules in some old entitlements that are to be retained give stronger protection to low flows while others that allow pools to be drawn down prevent low flows progressing further downstream.

There is still no identification of Aboriginal cultural sites or cultural access licences. We consider that the draft replacement plan fails to meet the objects and principles of the *Water Management Act 2000* (WMA).

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<sup>2</sup> NSW Scientific Committee final determination

<sup>3</sup> NRC 2022. Final Report. *Review of the Water Sharing Plan for the NSW Border Rivers Unregulated River Water Sources 2012*.

## **1. Supported measures**

### **1.1 Prohibition on instream new dams**

IRN supports the proposed ban on new dams across 3<sup>rd</sup> order and larger streams in 10 of the 13 water sources, but note the omission of Inverell, Kings Plains and Yetman Water Sources, and that the Beardy River water source has been mis-named in section 38 (1) as Beardy Creek Water Source. There is no good reason to omit those 3 water sources. We consider this ban should be extended across all water sources covered by this Water Sharing Plan, as has happened in other catchments such as Intersecting Streams and Castlereagh plan areas.

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

We note that the exemption for replacement of existing dams does not prevent enlargement of the dam: it should. While there may be occasions when replacement of existing approved dams on these streams may be acceptable, there are probably others that are considered by some people to have unacceptable consequences or risks for the environment or people downstream. The exemption should require public exhibition of any replacement proposal with at least a review of environmental factors.

### **1.2 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 for all wetlands identified in the replacement plan. This would be fairer, clearer and simpler than the Minister's delegates having to obtain a reliable basis on which to decide whether installation or operation of a proposed work could do more than "minimal harm".

IRN has identified some probable errors or omissions in Schedule 4, or in the maps showing the land to which it relates. These are in the Appendix.

None of the Border Rivers wetlands are currently declared under the Ramsar Convention although many of the do meet that convention's criteria, and therefore some could be nominated then declared during the term of the plan. We therefore support inclusion of specific provisions for their protection. We query whether the 3km rule proposed here, and in other draft WSPs, is the most appropriate provision, and note that all high value wetlands, whether they are Ramsar-declared or not, warrant protection from potentially deleterious alteration of their flow regime by either new works or increased extraction upstream.

The appropriate way to protect the water regime of a wetland will depend on the wetland. For example, even without Ramsar declaration, Boobera Lagoon should be protected by not permitting any increase in diversion of water via existing or new works in any part of Morella Watercourse (or extraction of, or interference with, its groundwater supply). Banning trades or new works for just 3km upstream is not sufficient. A ban on trading any licenses into Morella water Course is needed, including from elsewhere in the Croppa Creek Whalan Creek Water Source. By comparison, most upland wetlands depend on a catchment that starts less than 3 km from the edges of the wetland and may include only 1<sup>st</sup> order streams, if any, perhaps 2<sup>nd</sup> order.



The plan should include provisions making it clear that protection of wetlands in Schedule 4 from harm due to direct or cumulative alterations of hydrology or flow regime is a valid consideration in decisions regarding any type of application that may be required under the Water Management Act.

### **1.3 Protection of replenishment flows**

IRN supports the new rule to protect replenishment flows from the regulated system through the Boomi River. These provide environmental benefits as well as water supply to stock and domestic users downstream. This rule must be extended to protect Held Environmental Water (HEW) to enable the option of using the Boomi River as a delivery method to connect with the Barwon River concurrently with watering the environment of the Boomi River.

### **1.4 First flush protection in Mole River**

IRN strongly supports the proposal to implement a 24 hour first flush protection rule in the Mole River water source. As outlined below (2.5) this important environmental outcome should be implemented across the entire replacement plan area with consideration of other types of first flush flow protection rules.

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

- Failure to protect Planned Environmental Water
- Unsustainable LTAAEL
- Protection of low flows
- Schedule 3 rules
- Protection of first flush flows
- Take from pools
- Cultural water and sites
- Change to trading rules
- 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>4</sup> As noted ‘Entitlement is considerably higher than the estimated allowable licenced extraction’<sup>5</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. This includes accounting for diversions using block banks to flood land.

There is no assessment of water required to meet environmental needs of the water source.

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

The replacement plan does not adequately protect the physical presence of water in the water source in the form of low flows. Ephemeral streams need higher levels of low flow protection to prevent prolonged drought conditions.

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

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

- 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 western end of 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.

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<sup>4</sup> Ibid p 24

<sup>5</sup> Ibid p1

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>6</sup>

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

### **2.3 Protection of Low flows**

The draft replacement plan area has a range of cease to pump rules, some do not provide adequate ecosystem protection. We note that none of the water sources have flow classes. There appears to be very little consistent low flow protection across the draft replacement plan that is required to meet environmental outcomes and improved river health.

The majority of water sources have a cease-to-pump rule when there is no visible flow at the pump. This does not protect any water for the environment and 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. Protection of low flows is significant for riverine ecological and connectivity requirements, especially to provide fish passage. New climate change modelling for the region needs to be considered including predicted increased evaporation rates.

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.

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. Attention needs to be given to the requirements of the Long-term Watering Plan.

We note that three water sources have a proposed increase in very low flow protection at or below 1 ML/day – Mole River Zone 1, Inverell and Glen Innes water sources. There is no transparency around the environmental assessment and the trade-off for consumptive users. We do support the proposal to introduce protection of very low flows but are not convinced that the environmental benefits of protecting flows up to 2ML per day or some ecologically relevant level have been given due consideration.

We are also concerned that the focus on only using gauges from which realtime data is currently collected is a constraint that introduces additional problems, particularly if the gauge is a long time downstream from many points of take. This should not prevent protection of very low flows.

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<sup>6</sup> Alluvium, October 2019. *Audit of the Water Sharing Plan for the Border Rivers Unregulated and Alluvial Water Sources 2011*

Protection of low flows should be achieved in additional water sources using publicly accessible old gauges or depth measures that are not in the realtime network until such time as more realtime and reliable gauges are functioning and being maintained. The amendments section of the plan needs to make provision for this while introducing interim locations in all water sources, or at least for adding low flow protection during the course of this plan.

#### **2.4 Schedule 3 rules**

IRN notes that a number of entitlements listed under Schedule 3 Table A have much stronger cease-to-pump rules that appear to have been carried over from entitlements granted under the *Water Act 1912*. We understand that licences that gave less protection to low flows than the 1ML/day rule in the Deepwater River catchment (Mole Zone 1) and Inverell water source have been excluded from this Schedule. We appreciate that this indicates some past and current willingness to limit and reduce opportunities for individual licensees to take water at significant expense to basic rights, licensed take or environmental needs of people and species downstream.

To meet the WMA principles and objectives, all entitlements should have stronger rules to protect low flows in all water sources.

We therefore request that the licences list in Schedule Table B that allow pools to be pumped down be omitted and amended to ensure that low or brief inflows do not just refill a drawn-down pool but might be able to flow further. It is unfair and ineffective to restrict the taking of very low or brief flows by some licensees only to refill a pool downstream from which someone else who has been privileged by “grandfathering” of their old licence conditions is consequently able to take additional flows. This appears to be an issue particularly along the Mole River.

All licences must have rules consistent with the rule that pools cannot be pumped below full containment.

#### **2.5 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 all water sources, 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 significant wetlands.

We note that the Tenterfield water source maintains a 24 hour first flush rule and it is proposed to be implemented in the Mole River Management Zone 2.

A 24 hour rule is fundamentally different to the rules proposed to protect very low flows in the Inverell, Glen Innes and Mole Zone 1 water sources. A 24 hour rule will have different effects for ecosystems and or opportunities to take water depending on

- whether the first flow after a stream ceases to flow is caused by runoff from gentle brief or prolonged rain or a short heavy or very heavy storm or localised or widespread event,
- how close to the source or sources of runoff a licensee is and slope of the streams
- how much water is used by the streams in wetting the bed and refilling pools.

The objectives that may be achieved by a first flush rule, such as the proposed 24 hour rule, will vary from one event and location to another. They include protection of some low flows,

though not in the tails of events, and not if small events just fill one or two pools that people are allowed to pump down again. Other objectives may also be achieved by wetting more of the bed and riparian vegetation which increases fish habitat and food production, and enabling a larger flow to go further downstream, particularly if applied to everyone and is protected after the flow reaches a regulated river. We understand that modelling may have indicated that a 24 hour rule would not reduce periods with no flow as much as a rule that bans pumping when flow is less than a very low level, but the latter rule will do much less to achieve other objectives. Both types of rule may be needed.

We urge you to consider how multiple objectives can be achieved in practice, recognising that much has been achieved in the past without real-time gauging and metering but that ecological values in our river system continued to decline, while digital real-time data measurement is beneficial, better rules are needed now that will have to rely on community implementation at least until a significant increase in digital data collection is possible. This might include use flow height at locations which currently lack real-time gauging.

The 24 hour rule or a similar rule to protect the first flush after every dry period should be achieved across all water sources in the replacement plan with the option of using s324 orders when necessary. This important connectivity requires a rule to delay recommencement of pumping after any dry period for all licensed water users.

## **2.6 Take from pools**

IRN does not support the concept that in-river or off-river pools can be drawn down to below full containment in any water source. This does not protect important drought refugia from the impact of increased evaporation rates and will increase the likelihood of drying out during prolonged hot, dry periods as these increase due to climate change. There must be consistency across water sharing plans to protect all pools at full capacity. The licence conditions listed in Table B of Schedule 3 allowing take below the full supply level of in-river pools should be removed.

## **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 many years after the first water sharing plan was gazetted for improved management of the Border Rivers Unregulated Water Sources 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 Trade Rules**

IRN does not support the proposed changes to trade rules into unregulated water sources within this draft replacement plan. There is no transparency in regard to environmental impact assessment or the basis of the risk assessment referred to in report cards. There is no explanation for the decision to base the changes to rules allowing trade into six water sources on a 15% increase in water entitlements. This proposed increase in entitlement is highly likely to increase the number of days of no visible flow days in the affected water sources. We appreciate the concept of reducing stresses on ecosystems in those water sources that are suffering from too many users taking water: this is best resolved by encouraging buy back of some unregulated licences, not shifting the problem to another location.

### 2.8.1 Ottleys Creek

This water source has a significant level of entitlement totalling 4,468 ML and an estimated 246 ML/yr of basic rights extraction. Ottleys Creek also contains a large number of significant wetlands listed under Schedule 4 of the replacement plan thus demonstrating high environmental values.

IRN objects strongly to the proposal to allow trade-in of an additional 670 ML of water extraction that will increase impacts on the river ecology and dependent species. We fail to understand how this increased pressure on water availability will ‘*address Natural Resource Commission recommendations to provide better protection for wetlands in the plan area and maintain the ecological character of significant wetlands*’<sup>7</sup>

### 2.8.2 Camp Creek

This water source has no flow records, a number of significant wetlands listed under Schedule 4 of the replacement plan, entitlement of 430 ML and an estimated 36 ML/yr of basic rights extraction.

The proposal is to allow trade-in of a further 65 ML. The risk assessment identifies that there is ‘*a risk from extraction for base/low flow*.’<sup>8</sup> IRN does not support this proposed increased pressure on low flows in Camp Creek.

### 2.8.3 Campbells Creek

This water source has no flow records and a high risk of from extraction to base/low flows.<sup>9</sup> Current entitlement is 120 ML and an estimated 26 ML/yr of basic rights extraction. IRN does not support the proposal to allow trade-in of a further 19 GL that will put further stress on low flows.

## 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>10</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 12 had not been given effect to.<sup>11</sup> It is critical that water sharing plans have strong, measurable performance indicators and that these are given effect through rules and compliance monitoring.

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<sup>7</sup> Ottleys Creek Report Card

<sup>8</sup> Camp Creek Report Card

<sup>9</sup> Campbells Creek Report Card

<sup>10</sup> NSW Government, February 2022. Replacement water sharing plan manual

<sup>11</sup> Alluvium, October 2019. *Audit of the Water Sharing Plan for the Border Rivers Unregulated and Alluvial Water Sources 2011*

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,

(3) The strategies for reaching the targeted environmental objective of this Plan are as follows—

- (a) establish and maintain compliance with a long-term average annual extraction limit and a long-term average sustainable diversion limit,
- (b) reserve a portion of flows to partially mitigate alterations to natural flow regimes in these water sources
- (c) restrict the take of water from natural pools, lagoons or lakes when the volume of that water is less than the full containment volume
- (d) restrict or prevent water supply work approvals on third order or higher streams
- (e) reserve a portion of flows to maintain longitudinal connectivity with and between these water sources and other connected water sources.

(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 Border Rivers Unregulated Water Sources 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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## APPENDIX

### **Wetlands: omissions and errors**

We note that *Carex* Sedgeland has not been included although they are an endangered ecological community and occur in the Border Rivers. A workshop on threats and actions to save this wetland community in 2018 identified the Deepwater-Bolivia area (within Mole River water source) as one of four locations where the remaining sedgeland warranted priority action and listed change in hydrology that alters the wetland's water regime as one of the key threats. If these wetlands have been mapped, they should be included in Schedule 4<sup>12</sup>.

IRN appreciates the inclusion of two springs in the wetland maps and schedule and hopes that more springs can be given protection at source in the future because these locations are likely to be important refuges and they enable a wetland around the spring and a watercourse below it to also be an important refuge. This applies in different ways to permanent springs and the wonderful type of spring that opens up and starts to flow during drought conditions.

Mt Gibraltar Springs is listed in the schedule but may be shown in the wrong place on the Proposed wetlands map WET006-v1 as it is on top of a hill and an aerial image of this location does not appear to have wetland vegetation at this precise location. Perhaps the wetland is either in Mt Gibraltar Nature Reserve or at the location a short distance to the southeast marked on maps (e.g. [six.maps.nsw.gov.au](http://six.maps.nsw.gov.au)) as Gibraltar Spring where there does appear to be some wetland and the start of a watercourse.

A wetland called Clarevaux Lagoon has been omitted from the maps but is easily seen on [six.maps.nsw.gov.au](http://six.maps.nsw.gov.au). There are actually two lagoons close to each other. Both are significant upland lagoon wetlands (endangered ecological communities with NSW and EPBC Act recognition). The second lagoon is marked on map WET006-v1 and the name Clarevaux appears in table C with one of the two DP lots that it is in. Please

- add the other half of this wetland which is in Lot 144 DP 753321 to this list
- find out if it has another name or name it Clarevaux Lagoon 2
- add wetland called Clarevaux Lagoon on other maps to both your map and schedule 4

Some wetlands are shown on the map as being in more than one DP lot but not all are listed in Schedule 4 e.g. a wetland that is partly in DP1150526 as listed in Table C but is mostly in DP 732424 which is missing.

There are 2 wetlands called Novar they are both in Inverell Water Source, not one in Inverell and one in Glen Innes Water source. You could call them Novar 1 and Novar 2.

### **River gauge numbers**

There is an error on both the Plan Map and in the text of the "Proposed Changes" explanatory document: the numbers for the river gauges on Deepwater River and on the Severn River at Fladbury have been transposed. The number for the gauge on the Deepwater River is 416022 but is shown and referred to as 416023; the gauge on the Severn River at Fladbury is 416023 not 416022 as shown.

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<sup>12</sup> ██████ attended this workshop. Information about this ecological community is normally available on line but some links were not working correctly when checked. The relevant section of the Department of Climate Change, Energy, the Environment and Water or ██████ ██████ may know if the sedgeland has been mapped. ██████ may have a name for the second lagoon near Clarevaux.



# Submission form for the draft Water Sharing Plan for the NSW Border Rivers Unregulated River Water Sources 2024

Office use only		Submission number	
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## How to fill out this form

The NSW Department of Planning and Environment (Water) is seeking your comments on the draft *Water Sharing Plan for the NSW Border Rivers Unregulated River Water Sources 2024*.

Key issues and changes have been summarised in this submission form, although comment on all aspects of the water sharing plan is welcome. For water source specific details including rules, please see the water source report cards. More detailed comments are welcomed as attachments.

**A copy of your submission will be sent to your email address provided in the next section.**

**Send completed submissions to:**

**Post: NSW Border Rivers Unregulated River WSP  
Department of Planning and Environment – Water  
PO Box 1226  
Newcastle West NSW 2300**

**Email: [borderrivers.wsp@dpi.nsw.gov.au](mailto:borderrivers.wsp@dpi.nsw.gov.au)**

**Note: Submissions close 17 December 2023.**

### Information on privacy and confidentiality

The NSW Government will consider all submissions received. The Government values your input and accepts that information you provide may be private and personal.

If you want your submission or your personal details to be treated as confidential, please indicate this by ticking the relevant box below. If you do not make a request for confidentiality, the department may make your submission, including any personal details contained in the submission, available to the public.

Be aware that the NSW Department of Planning and Environment may be required by law to release copies of submissions to third parties in accordance with the *Government Information (Public Access) Act 2009*.

How to fill out this form	
1. I give permission for my submission to be publicly available on the NSW Department of Planning and Environment website *	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. I would like my personal details to be kept confidential	<input type="checkbox"/> Yes <input type="checkbox"/> No

Your details			
1. Email address*			
2. Name of respondent*			
3. Address			
4. Contact phone number*			
5. Are you an individual or representing an organisation?*	<input type="checkbox"/> Organisation <input type="checkbox"/> Individual ( <i>skip to next section</i> ) <i>Mark only one</i>		
6. Name of organisation*			
7. Who are you representing?	<input type="checkbox"/> Government <input type="checkbox"/> Peak representative organisation <input type="checkbox"/> First Nation <input type="checkbox"/> Environment <input type="checkbox"/> Mining industry	<input type="checkbox"/> Irrigator <input type="checkbox"/> Water related industry <input type="checkbox"/> Groundwater licence holder <input type="checkbox"/> Groundwater user - basic rights	<input type="checkbox"/> Surface water licence holder <input type="checkbox"/> Surface water user - basic rights <input type="checkbox"/> Local landholder <input type="checkbox"/> Other:
8. Did you attend any of the following in relation to the NSW Border Rivers Unregulated Rivers water sharing plan ?	<input type="checkbox"/> face to face meeting <input type="checkbox"/> public webinar <input type="checkbox"/> one-on-one or industry meeting <input type="checkbox"/> none of these		

Your details	
<p><b>9. Do your comments refer to a specific water source?</b></p>	<p><input type="checkbox"/> No                      <input type="checkbox"/> Yes</p> <p>Please specify which water source:</p>

Attach extra pages if required

### Changes to Access Rules

It is proposed to introduce flow-based access rules linked to stream gauges where available, to better protect very low flows and medium environmental values.

Changes are proposed to access rules within the Mole River, Glen Innes and Inverell Water Sources

It is proposed to introduce a 1 ML/day cease to pump volume at the Severn at Fladbury gauge site in the Glen Innes water source and a no visible flow at the Macintyre at Wallangra gauge site in the Inverell water source.

It is proposed to subdivide the Mole River Water Source into 2 Management Zones establishing a;

1. Management Zone 1 in which contains the Deepwater River and tributaries, with a CtP threshold of 1 ML/d at the Deepwater at Bolivia gauge,
2. Management Zone 2 in which contains the Mole River, Bluff River, Brassington Creek and their associated tributaries, with a CtP threshold of no visible flow at the pump site plus a 24 hour first flush rule at the pump site.

Stream flow data is available in real time online from WaterNSW.

**\*See page 6 of this document for full response to this section.**

<p><b>Please provide any comments you may have on the proposed changes to access rules.</b></p> <p>(Attach extra pages if required)</p>	<p>Comment:</p>
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### Trading

For the NSW Border Rivers 2024 Plan, permitting limited trade into Bonshaw (10 ML), Camp Creek (65 ML), Campbells Creek (19 ML), Ottleys Creek (670 ML), Reedy Creek (15 ML) and Yetman (36 ML) Water Sources is proposed.

The current rule of no trade into Beardy River, Croppa Creek and Whalan Creek, Glen Innes, Kings Plains, Mole River, Tenterfield Creek and Inverell Water Sources remains unchanged.

The current trade rules between trading zones and management zones within the Mole River, Tenterfield Creek, Inverell, Kings Plains and Glen Innes Water Sources remains unchanged.

**Please provide any comments you may have on the proposed changes to trading**

(Attach extra pages if required)

### Protecting replenishment flows

For the NSW Border Rivers 2024 plan it is proposed to include a clause in which protects replenishment flows sent down the Boomi River in the Croppa Creek and Whalan Creek Water Source from the regulated river system. These flows are reserved for BLR and licenced Stock and Domestic access in the NSW – QLD Border Rivers Intergovernmental Agreement and are protected from extraction in the *Water Sharing Plan for the NSW Border Rivers Regulated River Water Sources 2021*. There are no clear rules in the *Water Sharing Plan for the NSW Border River Unregulated River Water Sources 2012* that prohibit unregulated river licence holders from extraction these flows.

**Please provide any comments you may have on the proposed changes to pool rules**

(Attach extra pages if required)

Comment:

### Protection of significant wetlands

We propose to prohibit new or amended works or trades:

- within a nationally significant wetland listed on the Directory of Important Wetlands in Australia and wetlands listed in Schedule 4 of the plan,
- 3 km upstream or within a Ramsar wetland,

Unless there will be no more than minimal harm to the wetland concerned. This exemption will not apply to Significant wetlands and Significant Upland Ecological Endangered Communities of the New England Tablelands listed in Schedules 5 and 6 of the current Plan.

This rule does not apply to replacement works.

<p><b>Please provide any comments you may have on the proposed wetland rules.</b></p> <p>(Attach extra pages if required)</p>	<p>Comments:</p>
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### Additional feedback

The previous sections relate to the key proposed changes from the current water sharing plan. However, comments on all aspects of the plan are welcome and encouraged. Please use the space below, or attachments if required or preferred.

<p><b>Comments on any aspects of the draft plan.</b></p>	
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Attach extra pages if required.

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## Additional Information

If you would like to provide any additional information in the form of supporting documents or files to help us understand your view, email [borderrivers.wsp@dpie.nsw.gov.au](mailto:borderrivers.wsp@dpie.nsw.gov.au) from the same email you provided above.

All submissions with approval for publication will be posted on the department's website after the public exhibition period closes along with the final review reports.

**\* Full response to access rules comment on page 3 of this submission.**

Proposed change: It is proposed to introduce a no visible flow of the Macintyre at Wallangra gauge site in the Inverell water source.

It is our understanding that under the proposed changes to the access rules the cease to take arrangements under our WAL [REDACTED] would move from the TinTot gauge to the Wallangra gauge. Our present take arrangement completed in 2019 was negotiated over an approximate 18-month consultation period with Water NSW (primary contacts were [REDACTED] & [REDACTED]) with the aim of providing a much better environmental outcome whilst enabling a sustainable and stepped water take arrangement based on varying water flows. This in fact triggered much higher minimum flows for cease to pump thresholds on the new license than previous and when compared to that of all other licensed users in the Inverell water source. Upon successful negotiation of the new take arrangements a significant on-farm infrastructure investment was made [REDACTED] AUD) based on the security underwritten by the agreed license conditions that primarily focused on minimum heights and associated flows at the TinTot gauge.

Below is an excerpt of the take arrangements for WAL [REDACTED]:

“When the water level at the Tintot Gauge (Gauge 416068) located near the Neil McCosker Bridge on Graman Road over the Macintyre River is:

Less than 0.66m (equating to a daily discharge of less than 67.5 ML per day) the maximum amount of water that can be extracted by the authorised works is zero ML per day.

When the water level 0.66m (equating to a daily discharge of 67.5 ML per day) the maximum amount of water that can be extracted by the authorised works is 2.5ML per day.

When the water level 0.70m (equating to a daily discharge of 108 ML per day) the maximum amount of water that can be extracted by the authorised works is 5ML per day.

When the water level 0.77m (equating to a daily discharge of 200 ML per day) the maximum amount of water that can be extracted by the authorised works is 10ML per day.

When the water level 0.84m (equating to a daily discharge of 307 ML per day) the maximum amount of water that can be extracted by the authorised works is 20ML per day.

When the water level 0.95m (equating to a daily discharge of 507 ML per day) the maximum amount of water that can be extracted by the authorised works is 40ML per day.”

We are concerned that we have no control or oversight on the water take behaviors' of the downstream users between the Tintot gauge and Wallangra when flows approach the 67.5 ML/day threshold at the Tintot gauge. Under the new arrangement water could be harvested by these downstream users completely undermining the spirit under which the updated take arrangements of WAL [REDACTED] were negotiated that insured environmental flows far greater than present minimal standards but also allowed for responsible commercial water harvest that justified a significant financial investment for a family owned farming business.

**From:** [digital.services=squiz.dpie.nsw.gov.au@squiz.regional.nsw.gov.au](mailto:digital.services=squiz.dpie.nsw.gov.au@squiz.regional.nsw.gov.au) on behalf of [digital.services@squiz.dpie.nsw.gov.au](mailto:digital.services@squiz.dpie.nsw.gov.au)  
**To:** [DPE Border Rivers WSP Mailbox](#)  
**Subject:** Submission for the draft replacement Water Sharing Plan for the NSW Border Rivers Unregulated River Water Sources  
**Date:** Saturday, 16 December 2023 10:04:18 PM

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### Permission

I would like my submission to be treated as confidential.: No

I would like my personal details to be treated as confidential.: No

### Your details

Email address: [REDACTED]

Name of respondent: [REDACTED]

Address: [REDACTED]

Contact phone number: [REDACTED]

Are you an individual or representing an organisation?: Individual

If you selected organisation, please specify.: NSW Storms and Floods from 10/03/2021 Special Disaster Grant

Who are you representing?: Irrigator

If you selected other, please specify.:

Did you attend any of the following in relation to the Murray Unregulated Rivers water sharing plan?: Face-to-face meeting

Do your  
comments  
refer to a Yes  
specific water  
source?:

If yes, which  
water source.: unreg border river beardy river

Attach extra  
pages if No file uploaded  
required.:

### **Your feedback**

Please  
provide any  
comments The proposal to introduce a 1 ML/day cease to pump volume should only  
you may have be on the upper catchments as the lower catchments have other factors e.g.  
on the loosing steams to ground water which are out of our control.  
proposed  
changes to  
access rules.:

Attach extra  
pages if No file uploaded  
required.:

### **Your feedback**

Please  
provide any  
comments There should be no trade as this causes unfair water movement. Trade  
you may have should only be in the actual stream and no movement out of stream to other  
on the areas. introducing trade would cause disadvantages to areas, as water  
proposed would be taken from a stream to another stream and potential loss of  
changes to productivity in the area and decrease land values. Trade would cause  
trading.: inflating water prices and would only have a market for larger enterprises  
e.g. corporate. For example if the stream has only 400ml and 200ml is sold  
to another stream the other irrigators are unable to replace that water from  
any other source. Meaning that taking from one area and placing into  
another is reducing productivity for the area. NO TRADE

Attach extra  
pages if No file uploaded  
required.:

### **Your feedback**

Please  
provide any  
comments N/A  
you may have  
on the  
proposed  
changes to  
pool rules.:

Attach extra  
pages if No file uploaded  
required.:

### **Your feedback**

Please  
provide any



comments  
you may have N/A  
on the  
proposed  
wetland  
rules.:

Attach extra  
pages if No file uploaded  
required.:

**Additional feedback**

There is no need for the plan to be changed, introducing trade in the  
Comments on streams will only have a negative effect on the environment, agricultural  
any aspects of productivity, community population and wellbeing of smaller irrigators.  
the draft The only benefit will be for corporate and developers. There will be a  
plan.: greater divide within the agricultural industry and smaller business will be  
driven out.

Attach extra  
pages if No file uploaded  
required.: