

Summary of proposed changes

A summary of proposed changes for the Water Sharing Plan for the Brunswick Unregulated and Alluvial Water Sources 2016

The Minister for Water is planning to replace the *Water Sharing Plan for the Brunswick Unregulated and Alluvial Water Sources 2016* (Brunswick 2016 plan) in July 2027 (draft Brunswick 2027 plan), in accordance with the *Water Management Act 2000* (the WM Act).

The table below outlines the proposed changes for this plan. In drafting the replacement plan, the NSW Department of Climate Change, Energy, the Environment and Water (the department) also aims to update the plan to simplify its drafting, make the intent of its provisions clear, and improve its legal robustness. Some changes have been made to “modernise” the plan, consistent with Parliamentary Counsel’s Office’s (PCO) drafting style set out in the PCO Standard document. Some of these changes will be rolled out across all (or groups of) water sharing plans to ensure a consistent style across plans where possible.

Table 1. Summary of proposed changes to the Water Sharing Plan for the Brunswick Unregulated & Alluvial Water Sources

Section in Brunswick 2016 plan	Proposed change in draft Brunswick 2027 plan	Basis for change
General layout of Plan	There are several structural layout changes in the draft Brunswick 2027 plan. For example, we have removed unnecessary notes, as well as moving and consolidating amendment provisions to the amendment part of the plan.	We have moved or reworded clauses, but their intent is the same. Such changes reflect updated WSP drafting that provides a more standard and consistent layout across the state’s water sharing plans (WSPs) at the time, as well as making the WSP easier to understand.
Part 1 Introduction	The commencement date will be 1 July 2027.	The commencement date will be 1 July 2027. The replacement plan will apply for 10 years. This aligns with the start of the water year to eliminate accounting complications. Note that the plan may be amended, if necessary, within the 10-year term.

Section in Brunswick 2016 plan	Proposed change in draft Brunswick 2027 plan	Basis for change
Part 1 Introduction	Creation of a new Extraction Management Unit (EMU).	The draft Brunswick 2027 plan proposes to establish a new extraction management unit, the Brunswick River Coastal Floodplain Alluvial (CFA) EMU. The boundaries of the proposed EMU are shown on the draft Brunswick Plan Map and are the same as the boundary of the Brunswick River Coastal Floodplain Alluvial Groundwater Source. This is to enable management of extraction to an annual extraction limit using a consistent framework to the rest of the plan area.
Part 2 Vision, objectives, strategies and performance indicators	Vision, objectives, strategies and performance indicators have been modified to reflect the latest WSP drafting and include an additional clause requiring the monitoring and evaluation of performance indicators within set timeframes.	The proposed vision, objectives, strategies and performance indicators provide more detail than the previous WSP objectives. A review of the objectives, strategies and performance indicators was a recommendation of the Natural Resources Commission (NRC).
Part 3 Bulk Access regime	This section has been removed as it does not provide any additional further information than exists in the WM Act or elsewhere in the WSP.	Simplifies the drafting of WSPs.
Part 4 Environmental Water Provisions	The environmental water provisions remain in the plan but not in their own part. They have been distributed throughout the plan into: • Part 4 – Limits to the availability of water and • Part 6 – Operation of water allocation accounts and managing access licences.	Simplifies the drafting of WSPs.
Part 5 Requirements for water	Update to Basic Landholder Right (BLR) figures including Native Title determinations, licence figures and inclusion of harvestable rights figures.	Reflects updated Native Title determinations, land use and licensing data since the Brunswick 2016 plan commenced.
Part 6– Division 1 Long-term average annual extraction limit	A long-term average annual extraction limit (LTAAEL) of 763 ML/year for the Brunswick River Coastal Floodplain Alluvial EMU has been added.	This LTAAEL is 25% of rainfall recharge over the area, based on environmental and socio-economic risks which identified 75% of rainfall recharge as planned environmental water.

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Part 6– Division 1 Long-term average annual extraction limit	The LTAAEL for Brunswick River Catchment EMU has been split into 2 components: • a Standard LTAAEL for take from all flows and • a Higher flow LTAAEL for extraction that can only occur from higher flows. The Standard LTAAEL has been fixed and includes harvestable rights at the commencement of the current Brunswick 2016 plan. The Higher flow LTAAEL is the maximum sum of share components of higher flow licences in the Brunswick River Catchment EMU during a water year. An ability to amend the standard LTAAEL, once the sustainable water sharing project is complete, has been included.	NRC recommendations included setting a fixed and numerical LTAAEL. This is the Standard LTAAEL. This ensures that extraction will be no more than could occur at the commencement of the first WSP.
Part 6 - Division 2 Available water determinations (AWDs)	WSPs previously required the minister to make certain AWDs at a certain time. This is now amended to require the minister to consider making AWDs as set out in this Part.	A provision of a WSP cannot require the Minister to make certain AWDs at a certain time, as that is limiting the minister's broad power under section 59 of the WM Act. Instead, the plan sets out that the minister must consider making the AWDs set out in this Part.
Part 7 Rules for granting access licences	Removal of ability to grant Unregulated River Aboriginal Community Development Licences (ACDLs) into the Upper Brunswick Water Source. Retain ability to grant Aquifer (subcategory Aboriginal Community Development) access licences into the Brunswick River Coastal Floodplain Alluvial Groundwater Source.	Data from Durrumbul gauge #202001 in the Upper Brunswick River Water Source indicates that high flows, which are the flows ACDLs can extract from, are only a small volume of water – 7 ML/day. This is being prioritised for the environment in line with the water sharing principles of the WM Act. The total 100 ML/year limit in the Brunswick River Coastal Floodplain Alluvial Groundwater EMU is based on the limit that was applied in the current plan.
Part 7 Rules for granting access licences	A new clause has been included to enable a work approval and licence to be amended if a water source boundary changes that affects which water source or management zone a work or licence is located.	Enables a licence to be amended to reflect the water source or management zone that it is located in.

Section in Brunswick 2016 plan	Proposed change in draft Brunswick 2027 plan	Basis for change
Part 8 - Division 1 Rules for managing access licences	Rules referring to the first three years of the plan have been removed.	This section is no longer relevant as this time has passed.
Part 8 - Division 2 Flow classes and daily access rules	The draft Brunswick 2027 plan proposes the following changes to the access rules in the Upper Brunswick River Water Source. • A pumping restriction of 6 hours/day when flows are greater than 2 ML/day and less than or equal to 6 ML/day (currently 4 ML/day) at the gauge during November to May. • The 24-hour first flush/commence to take rule is increased to 6 ML/day (currently 4 ML/day) from November to May, which follows a low flow of 2 ML/day. • Introduction of a new access rule to enable and enhance the migration of Australian bass and other native fish species. The cease to take will increase to 8 ML/day for the months of June to October.	These new access rules are proposed to protect the Upper and Lower Brunswick River Water Sources and their dependent ecosystems. The Upper and Lower Brunswick River Water Sources were identified as having high or medium risks that extraction is impacting times of low or no flows. The proposed rules further protect low flows and a proportion of fresh flows to enable and enhance fish migration in the water sources. The high risks in the Lower Brunswick River Water Source are driven by extraction in the Upper Brunswick River Water Source. Changing access rules for the Upper Brunswick River Water Source is expected to improve the water source ecosystem and the dependent ecosystem of the Lower Brunswick River Water Source.
Part 8 - Division 2 Flow classes and daily access rules	Renamed the flow reference points at: • Walkers Lane crossing of the Upper Marshalls Creek to “The Pocket Road crossing of Marshalls Creek near Walkers Lane”. • Pacific Highway Crossing of Tyagarah Creek to “Woodford Lane (old Pacific Highway) crossing of Tyagarah Creek”.	This provides a more accurate location description, and the Pacific Highway has been rerouted.
Part 8 - Division 2 Flow classes and daily access rules	For in-river pools in water sources where there are flow classes, water must not be taken when flows are in the very low flow class. For all other water sources, water must not be taken from in-river pools when they are below full capacity.	This protects low flows and refuge pools and increases connectivity which will improve water quality and river health.

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Part 8 - Division 2 Flow classes and daily access rules	Surface water access rules have been applied to groundwater extraction from alluvium within waterfront land ¹ .	Alluvium within waterfront land holds water that is highly connected to surface water. Extracting water from the alluvium within waterfront land has a similar impact to extracting water from the adjacent river or creek. It is therefore proposed to manage extraction in the same way with the same rules to access water.
Part 8 - Division 2 Flow classes and daily access rules	Removing references to total daily extraction limits (TDELs) and individual daily extraction limits (IDELs) from the plan and including an amendment provision that would allow TDELs and IDELs to be introduced in the future.	TDELs and IDELs cannot currently be used because of the lack of metering and flow gauging stations. However, the department believes that TDELs and IDELs are an appropriate management tool in some areas where they can be implemented. The amendment provision allows for the introduction of them in the future if required, if there is suitable infrastructure and metering.
Part 9 - Division 1 Rules applying to water supply works that take surface water	The following changes are proposed. - Prohibit in-river dams on third order or higher streams in all surface water sources. This will now also include the Kings Creek, Mullumbimby Creek, Upper Brunswick River, and Upper Marshalls Creek Water Sources. - Prohibit the construction of a water supply work, within a specified distance of Ramsar and coastal wetlands: 3 km upstream of, or within, Ramsar wetlands 200 m upstream of, or within, coastal wetlands.	Prohibition of in-river dams on all third order streams offers greater protection upstream of, and/or directly adjacent to, water sources that influence the Cape Byron Marine Park and associated Intermittent Closing and Opening Lakes and Lagoons (ICOLLs). With the introduction of <i>Coastal Wetlands and Littoral Rainforests Area Map of State Environmental Planning Policy (Resilience and Hazards) 2021</i> , WSPs now provide for prohibitions on works which may cause harm to coastal wetlands.

¹ Waterfront land is as defined in the Dictionary of the WM Act, includes the bed and bank of any river, lake or estuary and all land within 40 meters of the highest bank of the river, lake or estuary.

Section in Brunswick 2016 plan	Proposed change in draft Brunswick 2027 plan	Basis for change
Part 9 - Division 2 Rules applying to water supply works that take groundwater	Distance restrictions of 500 m from contamination sources and 250 m from an on-site sewerage disposal system included for new works that access groundwater. The distance restriction from new production bores to high priority vegetation Groundwater Dependent Ecosystems (GDEs) has been standardised to 200 m, rather than setting a distance based on extraction volume.	Inclusion of new distance restrictions from contamination sites and on-site sewerage disposal systems reduces risk of introducing contaminated water into aquifers and protects human health. Standardising the distance to 200 m provides greater protection for the GDEs than the minimal 100m that is in the current plan. This also allows appropriate conditions to be placed on works that access groundwater after pumping tests or other specific hydrogeological studies are undertaken.
Part 10 Access licence dealings rules	High flow conversions are not permitted across all water sources. Conversion from an unregulated river access licence to an unregulated river (high flow) access licence is now prohibited in the Kings Creek, Mullumbimby Creek, and Upper Brunswick River Water Sources.	High flows in the Upper Brunswick River Water Source, the only water source that has a flow gauge, are small – 7 ML/day. High flow conversions are therefore proposed to be prohibited to preserve high flows for the water source and its dependent ecosystems.

Part 10

Access licence dealings rules

The draft Brunswick 2027 plan proposes the following changes to trade rules.

Kings Creek: Trade into this water source is proposed to be permitted from the Lower Brunswick River Water Source in addition to the current plan rules which permit trade from the Mullumbimby Creek, Tyagarah Creek and Upper Brunswick River Water Sources. Trade is proposed to now only be permitted to a maximum of 25 unit shares or sum of net annual allocations up to 25 ML for 71T dealings, rather than the current 70 ML/year.

- **Lower Brunswick:** Trade into this water sourced is proposed to remain permitted from the Kings Creek, Mullumbimby Creek, and Upper Brunswick River Water Sources only. Trade is proposed to only be permitted to a maximum of 5 unit shares or sum of net annual allocations up to 5 ML for 71T dealings, rather than no limit.

- **Lower Marshalls Creek:** No trade into this water source is proposed to be permitted from any water source. This is a change from the current rule where trade is permitted from the Upper Marshalls Creek Water Source only.

- **Mullumbimby Creek:** Trade into this water source is proposed to also be permitted from the Lower Brunswick River Water Source in addition to the current plan rules which permit trade from the Kings Creek and Upper Brunswick River Water Sources. Trade is proposed to be permitted to a maximum of 111 unit shares or sum of net annual allocations up to 111 ML for 71T dealings, instead of 105 ML/year.

- **Upper Brunswick River:** Trade into this water source is proposed to also be permitted from the Lower Brunswick River Water Source in addition to the current plan rules which permit trade from the Kings Creek and Mullumbimby Creek Water Sources.

- Trade is proposed to be permitted to a maximum of 659 unit shares or sum of net annual allocations up to 659 ML for 71T dealings. Still

Protecting ecological and river health of the water sources in the draft Brunswick 2027 plan. No trade into water sources with high environmental values.

Section in Brunswick 2016 plan	Proposed change in draft Brunswick 2027 plan	Basis for change
	subject to no net gain above the water source of unregulated river access licenced entitlement at the plan's commencement. Upper Marshalls Creek: Trade into this water source is now proposed to be prohibited. This is a change from trade being permitted up to 302 ML/year.	
Part 11 Mandatory conditions	Modified in line with updated WSP drafting.	Updates based on the Non-Urban Water Metering Framework.
Part 12 Amendment of this Plan	Amendment rules have been limited to those that are possible under the WM Act. This is where there is a policy being developed that is well advanced and will require a change to the water sharing plan, or where an administrative change is required. This does not prohibit amending the plan in any way if it is in the public interest to do so. The following will be included: - an amendment provision to add or modify flow classes, flow reference points, surface water access rules and groundwater access rules in response to changes in water availability resulting from climate change or improved or alternate flow monitoring - an amendment to replace Part 4, Division 2 to establish extraction limits, including to achieve the sustainable level of take arising from a review. See Part 10 of the draft Brunswick 2027 plan for further details on proposed inclusions of amendment provisions.	Amendment provisions reflect potential changes including, climate change, alternate gauging stations and sustainable water sharing project work outcomes.
Plan Map	The Plan Map has been updated.	Updated to include new information.
GDE Map	The GDE Map has been updated.	Updated to include new information.
Dictionary	Dictionary has been updated.	Updated for relevancy.

Why we are proposing these changes

WSPs are the primary legal framework for managing water access and sharing in NSW. The plans are valid for 10 years from their start date. Towards the end of this time the Natural Resources Commission (NRC) completes a review of the plan, and its' effectiveness, and either recommends the plan be replaced or, that it continues for another 10 years without any changes. If the NRC recommends replacement they also generally recommend an extension of the plan for up to 2 years to allow time for the department to create a replacement plan.

In 2025, the NRC completed its review of the Brunswick 2016 plan and recommended its replacement. The Minister for Water approved the extension of the plan in May 2026. A copy of the NRC report is available from the [publications pages of the NRC website](#).

The department has drafted a new draft Brunswick 2027 plan. When finalised, this will replace the 2016 plan.

The process for changing water sharing plans

The department publicly exhibits the draft Brunswick 2027 plan to get feedback on the proposed changes to the plan. During this time, we are seeking submissions from the public through online submission forms and emails and holding information sessions to inform the public of the details of the proposed changes. The draft replacement plan is made available on our website, along with a variety of documents that provide information on the background of the plan and the proposed changes, information on how to make a submission and details of the public information sessions.

The department will then consider submissions and other information received during the public exhibition period. Where issues raised during this time are within the scope of the WSP replacement, they may prompt changes to the draft Brunswick 2027 plan.

More information

To read the draft Water Sharing Plan for the Brunswick Unregulated & Alluvial Water Sources 2027 and supporting information, or to make a submission, visit the department's [public exhibition website](#).