

# *Peel Valley Water Users Association Inc*

*The only organisation that represents the Irrigation Industry in the Peel Valley*

PO Box 952, Tamworth NSW 2340

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Mr Mick Keogh  
Deputy Chair  
Australian Competition & Consumer Commission  
GPO Box 3131  
Canberra Act 2601

13<sup>th</sup> December 2019

Dear Mr Keogh

Re: The ACCC Murray–Darling Basin water markets Inquiry

Thank you for the opportunity to attend your Inquiry Hearing in Narrabri on 21<sup>st</sup> November 2019.

As you are aware, the Peel Water Sharing Plan is currently under review, and the Namoi Water Resource Plan (which includes the Peel Valley) is also currently in the process of finalisation – as is the Namoi Long Term Water Plan.

We have taken the liberty of attaching a copy of our submission to the NRC on the review of the Peel Water Sharing Plan, and also a copy of our submission on the draft Namoi Water Resource Plan, because there are comments in both of those submissions relating to the treatment of temporary water trading out of the Peel Valley into the Namoi Valley downstream. There is no trade possible into the Peel Valley, as the Peel Valley is at the headwaters of the river system.

We hope that you can make use of some of the comments in the attached submissions, and if you have any queries at all, please contact us.

Kind regards

Jannine Miles  
Joint President

Tom Wollaston  
Joint President

Attachments: (a) Submission on the Peel Water Sharing Plan  
(b) Submission on the Namoi Water Resource Plan

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## **Submission to the Natural Resources Commission**

### **on the Review of the**

## **Peel Valley Regulated, Unregulated, Alluvial and Fractured Rock**

### **Water Sharing Plan**

October 2019

## Contents

Peel Valley Water Users Association .....	4
Aim.....	4
Introduction.....	4
Excessive influence of current, extraordinary conditions .....	4
Primary Recommendations .....	5
Recommendations and supporting arguments.....	6
1. Establish a valley-specific advisory group.....	6
2. Clearly isolate current adverse production conditions from the planning review process.....	6
3. Review the General Security Surface Water Long-Term Annual Average Extraction Limit. ....	6
4. Review the Peel River Environmental Contingency Allowance of 5000 ML.....	6
5. Ensure the new plan furnishes administrators with transparent, unambiguous operational protocols and rules that provide water users with surety and security.....	7
6. Establish a set volume of water in Chaffey Dam for the exclusive use of Tamworth Regional Council. ....	8
7. Establish transparent rules that clarify the role and authority of Tamworth Regional Council with specific regard to Council’s access to water from Chaffey Dam. ....	8
8. Reinstate intervalley temporary trading of General Security Surface Water between the Peel and Namoi valleys.....	10
9. Review the combined extraction limit modelling for the Namoi/Peel Valleys. ....	10
10. Introduce carryover facilities for fractured rock water sources.....	11
11. Commission an extensive scientific examination of the actual level of connectivity between Peel Alluvial Groundwater and surface water in the Peel Valley.....	11
12. Issues in the Cockburn Valley tributary must be addressed as part of the review of the Peel Water Sharing Plan.....	11
13. Delay the review of the Peel Water Sharing Plan until the rules relating to access to the water in the new Dungowan Dam announced on 13 <sup>th</sup> October 2019 are made public. Alternatively, fully review the Peel Water Sharing Plan again as soon as all of the relevant information has been released to all stakeholders. ....	12
Conclusion .....	12

## Peel Valley Water Users Association

The association is a non-aligned entity representing the interests of about 400 irrigation licence holders in the Peel Valley.

### Aim

This submission highlights a number of issues that should be resolved before the finalisation of the Water Sharing Plan for this Valley.

### Introduction

The Peel Valley is a comparatively small valley within Tamworth Regional Council local government area. Production includes but is not limited to irrigated lucerne hay, dairy, and irrigated fodder for livestock and the increasing demands of an equine industry bolstered by the relatively recent construction of a \$60 million Australian Equine and Livestock Events Centre.

Chaffey Dam regulates the supply of water in the Peel River. The dam has now has a capacity of 102 GL after a 2016 upgrade from 62GL.

The Association has extensive data, statistics and stakeholder expertise in support of this submission. The department is strongly encouraged to seek access to that additional information.

### Excessive influence of current, extraordinary conditions

At the time of preparing this submission, the current drought in this region has been described as being the worst on record. The department must ensure that current conditions do not lead to a plan that fails to service the more favourable 10-year production conditions for which the Valley is renowned.

## Primary Recommendations

The water sharing plan should not be finalised until these recommendations are addressed:

1. Establish a valley-specific advisory group.  
This group would comprise members of this association, other stakeholders as self-identified and departmental staff with relevant local knowledge.
2. Clearly isolate current adverse production conditions from the planning review process.  
There will be temptation for interest groups to apply current extraordinary conditions to long term planning as the regional norm.
3. Review the General Security Surface Water Long Term Annual Average Extraction Limit.
4. Review the Peel River Environmental Contingency Allowance of 5000 ML.  
Examine the data that justifies the quantum of this allowance.
5. Ensure any new plan provides clear administrative parameters that lead to water user security.  
The current Plan is open to loose interpretation leading to inconsistent administrative decision making which deprives members of this association and other water users with the year to year security to operate their enterprises with surety.
6. Establish a specific volume of water in Chaffey Dam for the exclusive use of Tamworth Regional Council.
7. Establish transparent rules that clarify the role and authority of Tamworth Regional Council with specific regard to Council's access to water from Chaffey Dam.
8. Reinstate intervalley temporary trading of General Security Surface Water between the Peel and Namoi valleys.
9. Review the combined extraction limit modelling for the Namoi/Peel Valleys.
10. Introduce carryover facilities for fractured rock water sources.
11. Commission an extensive scientific examination of the actual level of connectivity between Peel Alluvial Groundwater and surface water in the Peel Valley. This work would determine fact from fiction and help to heal a schism that has developed between the Tamworth urban community and regional producers who underpin the local economy.
12. The Association supports the submission of the Cockburn Valley Water Users Association as part of the review of the Peel Water Sharing Plan.
13. Delay the review of the Peel Water Sharing Plan until the share of costs of construction and the ownership of and access to the water stored in the new Dungowan Dam announced on 13<sup>th</sup> October 2019 are made public. Alternatively, fully review the Peel Water Sharing Plan again as soon as all of the relevant information has been released to all stakeholders.

## Recommendations and supporting arguments

### 1. Establish a valley-specific advisory group.

#### Supporting argument

- The inaugural Peel Water Sharing Plan came into effect in 2010 after minimal consultation with stakeholders.
- A failure to appropriately interrogate the Department's Integrated Quantity-Quality Modelling led to a dramatic reduction in the extraction limit for irrigated agriculture. *If a revised plan is to be respected for its integrity it must have been created with the benefit from the genuine contributions of those whose anecdotal, lived, operational and environmental knowledge of the valley is without peer.*

### 2. Clearly isolate current adverse production conditions from the planning review process.

#### Supporting argument

- The current extraordinary conditions should help to provide operational trigger points that will provide equity, surety and security to all users
- The advisory group should create formal check-steps to ensure that the revised plan services average, not worst-case production conditions

### 3. Review the General Security Surface Water Long-Term Annual Average Extraction Limit.

#### Supporting argument

- The annual extraction limit for Regulated Licence Holders in the Peel Valley is 6.1 GL from a total entitlement of 31GL thus Licence Holders are restricted to a mere 20 percent of their entitlement each year.
- The current limit was created from IQQ modelling that generated results inconsistent with other valleys and lived experience. The Association has been advised that IQQ modelling has been subsequently discredited as unreliable.
- A full review of the Peel Valley Long-Term extraction limit will relieve the disadvantage imposed on local stakeholders for the last decade.
- For a more detailed synopsis of the LTAAEL is provided on an earlier Association submission accessible [here](#)

### 4. Review the Peel River Environmental Contingency Allowance of 5000 ML.

#### Supporting argument

- The Peel Valley Water Sharing Plan is one of the few that includes an annual Environmental Contingency Allowance. The ECA was raised from 1,600ML to 5000ML after the augmentation of Chaffey Dam in 2016.
- Under normal circumstances, the entire length of the Peel River is wet from Chaffey Dam releases and as a result, the river is environmentally healthy.
- Peel River users and Council extract less than 5% of the long-term average annual end of stream flow out of the Peel River. This leaves 95% for the environment, therefore negating the need for such a large Environmental Contingency Allowance. No other river in the NSW portion of the Murray Darling Basin contributes as much end of stream flow to the environment.
- In addition to the ECA the Commonwealth Environmental Water Holder has acquired a further 1,257ML in the Peel Valley, bringing the annual total of environmental water to 6,257ML, compared to the extraction limit for irrigators of 6,100ML annually. There is a clear imbalance between the environmental and productive water volumes.
- Adding to stakeholder frustration is a belief that e-water is released regardless of the need or justification. In recent years there appear to have been several end of season e-water releases simply because it is available. And if it is not used in a 12-month period it cannot be carried over to the next water year.
- The calculations, justification and adverse environmental outcomes of excessive annual e-water stocks of 6,257ML should be made available to stakeholders if the new plan is to enjoy widespread ongoing support.
- One area of significant angst is a situation where ECA in the Peel Valley only retains that characteristic whilst it remains in the Peel River. Once the ECA flows into the Namoi it is no longer treated as environmental water, and instead is available for extraction by Namoi Valley water users. Environmental water is just that; it cannot be one thing for 50 kilometers of river and then allowed to transform into productive water which favours one valley's operations over another. It is exactly this type of inequity which has divided the industry and set valley against valley.

5. Ensure the new plan furnishes administrators with transparent, unambiguous operational protocols and rules that provide water users with surety and security.

#### Supporting argument

- The current start of season rules for the Peel Valley's Available Water Determination are loose and subject to differing interpretation by administrators. This practice does not provide stakeholders with surety and security. For example, after an initial eight years applying rules and protocols one way, in 2018 a new administrator announced his decision to interpret the rules differently dropping an anticipated 54 percent allocation to 38 percent. "Previous interpretations were incorrect," he insisted. This approach indicates a dispassionate disregard for the commercial realities of agriculture in the context of the value and production potential of water.
- The new Water Sharing Plan must be drafted in a way that provides surety and security and removes any scope for punitive interpretation.

## 6. Establish a set volume of water in Chaffey Dam for the exclusive use of Tamworth Regional Council.

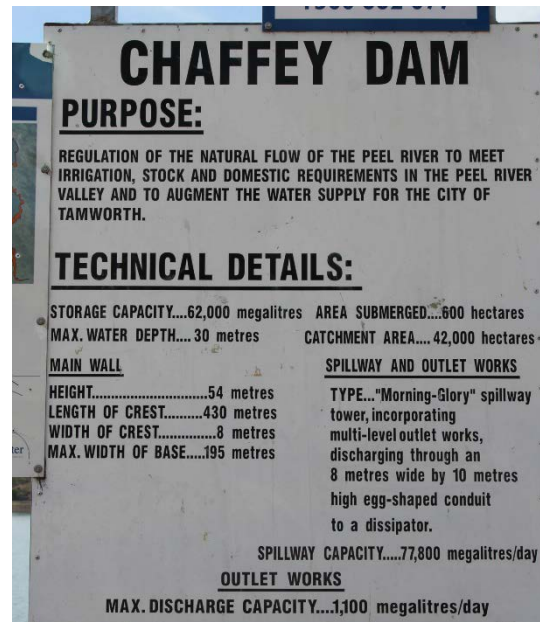
### Supporting argument

- The current Water Sharing Plan describes the volumes of water available to licence holders such as Tamworth Regional Council, the irrigation industry, and the environment.
- In 2018, Tamworth Regional Council requested the (then) Minister for Water amend the Water Sharing Plan so that a greater proportion of water be stored in Chaffey Dam for council use.
- If successful however, the effect of the proposed amendment would have been a reduced entitlement from 38 percent to six percent. Such a reduction would lead to unsustainable agriculture enterprises and a severe loss of flow-on income to the region.
- Although the Minister denied the application any new plan should remove the potential for any stakeholder to cannibalise the volume of another. *Water has organic and production values that must be respected.*

## 7. Establish transparent rules that clarify the role and authority of Tamworth Regional Council with specific regard to Council's access to water from Chaffey Dam.

### Supporting argument

- The new water sharing plan must ensure that the control of Chaffey Dam continues to be vested in WaterNSW and not subject to the undue influence of Tamworth Regional Council.





Background:

- Chaffey Dam was principally constructed for the benefit of the irrigation industry, and to augment the water supply for the City of Tamworth which contributed about five percent of the dam's construction costs.
- Since its construction, Chaffey Dam has been the lifeblood of the region's irrigated agriculture industry.
- History demonstrates that TRC's water management decision making has in some instances been ad hoc, in what is a complex and specialist area.
- Council has long term plans to increase the city's population to 100,000 and to introduce water-intensive industries to the region. In the absence of other plans Council will increasingly cannibalise volumes of water earmarked for irrigated agriculture by relying on volumes from Chaffey Dam to underpin its aspirations.
- A more detailed synopsis of the role of Tamworth Regional Council in water issues is provided [here](#) and [here](#).
- Please also see Recommendation 13, which relates to the announcement which was made on 13<sup>th</sup> October 2019 regarding the construction of a new dam at Dungowan at a cost of \$480 million. No information is currently available regarding the entitlements to water in this new dam, but regardless of who has access to water in the new dam, it will have an impact on access to water from Chaffey Dam for all stakeholders, including Tamworth Regional Council.

## 8. Reinstate intervalley temporary trading of General Security Surface Water between the Peel and Namoi valleys.

### Supporting argument

- In September 2014, the (then) Minister for Water introduced temporary trading of water from the Peel to Namoi Valley; no water was traded for several years because of unfavourable conditions.
- In 2017 a relatively small volume of water was traded from the Peel Valley to the Namoi Valley until the facility was removed from the Peel Water Sharing Plan. The reasons for the amendment which removed temporary trading have never been verified.
- Temporary Water Trading is a market mechanism which under the right conditions improves the efficient use of water. Indeed, the Productivity Commission's 2017 report on national water reform found trading benefitted the community "by allowing water to move to higher value uses, creating incentives for water to be used more efficiently and enabling irrigators (and other water users) to better manage drought and other risks". The Commission said that trading was one of the "major successes" of national water reform, making the irrigation sector "more prosperous and resilient"<sup>1</sup>.
- The provision for temporary trading of water from the Peel Valley to the Namoi Valley should be re-instated as part of this review

## 9. Review the combined extraction limit modelling for the Namoi/Peel Valleys.

### Supporting argument

- The original Peel Water Sharing Plan rejected a proposal to create a single extraction limit for the entire Namoi/Peel river system.
- In the intervening years, the Murray Darling Basin Authority treats the Namoi/Peel as one valley for regulated surface water, and also for the purposes of the Water Resources Plan; there is therefore merit in examining the advantages and disadvantages of combining the two valleys for the purpose of setting one combined extraction limit.
- A more detailed synopsis of the effect of a combined Namoi/Peel extraction limit is available [here](#)

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<sup>1</sup> *The Australian*, September 2019

## 10. Introduce carryover facilities for fractured rock water sources.

### Supporting argument

- Unlike some other water sharing plans, the current plan does not permit carry over of water from fractured rock sources.
- The water take from the fractured rock water source is significantly below the total entitlement for that water source, irrigators with fractured rock entitlements are seeking a change to the Plan, such that ‘available water determinations combined with the carryover will enable license holders to use up to twice their water allocation in a year provided that over a consecutive three-year period they do not exceed the sum of their water allocations for those three years.’

## 11. Commission an extensive scientific examination of the actual level of connectivity between Peel Alluvial Groundwater and surface water in the Peel Valley.

### Supporting argument

- The existing Peel Water Sharing Plan includes an assumption of the extent to which the valley’s alluvial groundwater is connected to the surface water source. No formal studies have been undertaken to confirm this connection.
- It is essential that the level of connectivity is examined, because:
  - It is a source of considerable community angst
  - There is clear evidence that several licence holders have alluvial groundwater that is definitely not linked to the surface water source
  - Several groundwater users claim that their well site is higher than the river level
  - The level of connectivity or lack thereof appears to be based on hearsay, not scientific evidence
- The existing rules that are based on the assumed level of connectivity need to be re-evaluated.

## 12. Issues in the Cockburn Valley tributary must be addressed as part of the review of the Peel Water Sharing Plan.

### Supporting argument

- Any review of the Peel Water Sharing Plan should be done in concert with issues that exist in the Cockburn Valley, which is a tributary of the Peel River system.
- A separate submission has been lodged by the Cockburn Valley Water Users Association, and a copy of that submission [here](#).
- The submission clearly indicates that there are serious issues in the Cockburn Valley that require urgent examination as part of the review of the Peel Water Sharing Plan.

13. Delay the review of the Peel Water Sharing Plan until the rules relating to access to the water in the new Dungowan Dam announced on 13<sup>th</sup> October 2019 are made public. Alternatively, fully review the Peel Water Sharing Plan again as soon as all of the relevant information has been released to all stakeholders.

#### Supporting argument

- No details have been released yet about the entitlement to water in the new \$480 million dam, any potential impact on Council's current entitlement from Chaffey Dam, the environmental watering requirements after completion of the dam, the costs of water supplied to Council and other stakeholders, etc
- It is inappropriate to review the existing Peel Water Sharing Plan while this data remains out of the public domain
- Therefore, the two alternatives are:
  - (a) Delay the review of the Peel Water Sharing Plan until all of the relevant information is made public, or
  - (b) Fully review the Peel Water Sharing Plan again, as soon as all of the relevant information has been released to all stakeholders

#### Conclusion

- The Peel Valley Water Sharing Plan is key to the survival of irrigated agriculture in this district. The industry employs hundreds of people directly and indirectly, and injects substantial revenue into the local economy.
- The future development of Tamworth Airport as a regional international freight hub will generate new opportunities including but not limited to the large-scale production of vegetables for markets in Asia and counter-seasonal opportunities in food markets in Europe the Americas.

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## **Submission on the Draft Namoi Water Resource Plan**

Prepared in November 2019

## Contents

1. Introduction	Page 3
2. General comments	Page 4
3. Comments related specifically to the Peel Valley	Page 5
4. Conclusion	Page 7

## **1 Introduction**

Peel Valley Water Users Association is a non-aligned, not-for-profit entity representing the interests of about 400 irrigation licence holders in the Peel Valley.

The Peel Valley is a comparatively small valley within Tamworth Regional Council local government area. Production includes but is not limited to irrigated lucerne hay, dairy, and irrigated fodder for livestock and the increasing demands of an equine industry bolstered by the relatively recent construction of a \$60 million Australian Equine and Livestock Events Centre.

At the time of preparing this submission, the current drought in this region has been described as being the worst on record. The department must ensure that current conditions do not lead to a plan that fails to service the more favourable conditions for which the Valley is renowned.

Section 2 of this submission highlights a number of issues that are general in nature, while Section 3 highlights a number of issues that are specific to the Peel Valley.

## 2 General comments

It is acknowledged that a considerable amount of effort has been invested in the development of the Draft Namoi Water Resource Plan.

The following general comments are intended to be a positive contribution to the development of the Plan.

### 2.1 Limited Consultation

A few members of the Peel Valley Water Users Association participated in the Stakeholder Advisory Panel process. However, the level of detail in the draft Water Resource Plan far exceeds the details that were discussed at the Stakeholder Advisory Panel meetings.

### 2.2 Amount of documentation

The Draft Namoi Water Resource Plan, Schedules, and Appendices total around 1,000 pages. It is unreasonable to expect comment from stakeholders on the contents of the whole Draft Plan, so the comments in this submission are restricted to cover only a few of the major points of concern.

### 2.3 The Purpose of the Water Resource Plan

Section 1.1 of the Plan states: *'The purpose of the Namoi Surface Water Resource Plan (this Plan or Namoi Surface WRP) is to set out how NSW will meet its obligations under the Murray–Darling Basin Plan 2012 (Basin Plan) in the Namoi Surface Water Resource Plan Area (Namoi Surface WRPA).'*

Therefore, it always needs to be acknowledged that the Water Resource Plan is not designed as a plan to determine how water is shared amongst stakeholders in the valley, which instead remains the function of the Water Sharing Plan, and the Water Sharing Plan has separately been defined as the primary legal instrument for managing water resources in NSW.



### 3 Comments related specifically to the Peel Valley

#### 3.1 Unsatisfactory process involved in formulating the Water Resource Plan

Some of the process involved with the formulation of the Namoi Water Resource Plan was less than satisfactory. Examples of the unsatisfactory process include the following (please note that this is a comment on the process, not the staff involved):

- Major issues affecting the Peel Valley were ruled as being ‘out of scope’ at the time comments were invited on the Status and Issues Paper, thus limiting the outcomes from the process for the Peel Valley
- Temporary trading of water from the Peel Valley to the Namoi Valley was removed from the Peel Water Sharing Plan during the formulation of the Namoi Water Resource Plan – without consultation with stakeholders, against the will of Peel Valley stakeholders - and full discussion of the topic was not permitted at the SAP meetings. Peel Valley stakeholders have still never been provided with the details of the ‘third party impacts’ that were supposed to be so severe that the change to the Peel Water Sharing Plan was urgently required.
- There was limited and insufficient discussion on the segregation of unregulated water, alluvium groundwater, and fractured rock groundwater out of the Peel Water Sharing Plan as a requirement of the Namoi Water Resource Plan.
- One of the original objectives of the Murray Darling Basin Plan was to establish a sustainable diversion limit for each valley in the Basin. The Namoi/Peel Water Resource Plan effectively rolls over the existing Pre-Basin Plan figures for the Peel Valley. The establishment of a Sustainable Diversion Limit for the Peel Valley should have been a core function of the Water Resource Plan process, but that was not the case.
- The original IQQM modelling results in the Peel Valley were discredited at the time that the Peel Water Sharing Plan was developed in 2010, but the completion of the Peel Water Sharing Plan did not allow sufficient time to challenge the results because Government funding would have been lost had the deadline for completion been missed. Apparently the reviewer of the revised calibration of the IQQM model *‘concluded the model to be sufficiently robust and unbiased, and recommended it could be used to estimate annual and long term diversions. The model was Cap approved by the Commission as fit for purpose.’* How can that possibly be a transparent and acceptable practice when none of the Peel Valley representatives from the Stakeholder Advisory Panel were either informed about the revised IQQM model being used, or involved in any analysis of the outputs of the revised modelling? To this day, no consultation with representatives from the Peel Valley has taken place on this matter.

#### 3.2 Release of peak environmental flows

In Table 3-1 – ‘Strategies to address risks in the Namoi Surface WRPA’, Item 9 states: ‘Protect the regulated river sections of the WRP area from rapid increases and decreases in flow following releases from Chaffey, Split Rock and Keepit Dams.’

Page ii of the Risks Assessment document Strategy 9 also states 'Protect the regulated river sections of the WRP area from rapid increases and decreases in flow following releases from Chaffey Dam'

This strategy is not being followed currently, with the peak releases of the Environmental Contingency Allowance approaching minor flood levels, often during very dry conditions. For years, stakeholders in the Peel Valley have unsuccessfully pleaded for ECA flows to be released gradually rather than rapid increases to peak flows, to avoid significant damage to the riverbanks.

### 3.3 Justification for the volume of environmental water in the Peel Valley?

There is a need to scientifically review the justification and the need for 6,257ML of environmental water in the Peel Valley annually. The Peel Valley is an environmentally healthy river system; the Council and the irrigators (combined) use less than 5% of the long term average annual flow so the environment receives 95% of the flow, and the Environmental Contingency Allowance of 5,000ML annually is no longer treated as environmental water once it flows into the Namoi Valley.

### 3.4 Currently evolving issues that must be considered in this Plan

At the time of writing this submission, there are several issues that must be considered, as they will have impacts on the Plan, and the impacts are unknown at this stage:

- A new Pipeline is being built between Chaffey Dam and Dungowan, which will alter the flow in the Peel River between those locations
- A new 22.5ML (?) Dam will be built upstream from the village of Dungowan, and the impacts of this new dam on the local streams are unknown
- As part of the total cost of constructing the new dam, a new pipeline will be built between the new Dam and Tamworth City, with unknown impacts locally
- There is no knowledge as to whether any form of ECA will be required from the proposed new Dungowan Dam
- As a short term measure, partially treated effluent water will be released into the Peel River from the Tamworth Regional council effluent works. No scientific knowledge of the short/medium/long term impacts of this decision is available
- As a short term emergency drought measure, flows in the Peel River will be blocked by a temporary weir at Dungowan, causing the cessation of flows in the Peel River downstream from that point. There is currently no knowledge about what impacts the above will have on the environment

## 4 Conclusion

- To date, the people of Australia have invested thirteen thousand million dollars in the creation of the Murray Darling Basin Plan. Australia is the driest continent on earth, and has developed the Murray Darling Basin Plan with the principal outcome being sending more water out to sea in South Australia.

Other than adding another layer of complexity to an already complex water topic, it is not clear what significant or beneficial improvement the Water Resource Plan for the Peel and Namoi Valleys actually contributes for the Peel Valley area

- There is an underlying conflict between the Water Sharing Plans, the Water Resource Plans, and the Long Term Water Plans. Although the current policy states that the Water Sharing Plan is the primary legal instrument for managing water resources in NSW, the risk remains that any one of the Plans may be used as a basis for making rules in future regarding the allocation and sharing of water. The potential for confusion and conflict as a result of having three similar but separate Plans covering exactly the same water is significant.