



DEPARTMENT OF PLANNING, INDUSTRY & ENVIRONMENT

Coastal Harvestable Rights Review Discussion Paper

Coastal Council Submission



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Coastal Council Submission, 4 May 2021.

Summary

The NSW *Department Planning Industry and Environment 2020 Coastal Harvestable Rights Review* (review) considers increasing the proportion of rainfall run-off that landholders can capture as a harvestable right, allowing dams to be built on larger tributaries, or doing both of these within NSW catchments that drain to the coast.

It is the Coastal Council's view that there should be **no** increase in the water take in coastal catchments.

Uncertainty about the current harvesting of water and absence of reliable information on the amounts being taken, where from and by whom, underlines a potential for significant negative impact on catchments, their estuaries and the marine estate if water harvesting is increased

About the NSW Coastal Council

The Coastal Council (council) was established under the NSW *Coastal Management Act 2016* (CM Act) to provide independent expert advice on coastal issues to the Minister administering the CM Act (see CM Act Part 4).

The CM Act commenced in April 2018 as part of a new Coastal Management Framework. The framework draws clear connections between the responsibilities of all levels of government in managing the coast, has strong links to the land use planning system via State Environment Planning Policy (Coastal Management), drives coordination via local council planning instruments, and seeks to support local council strategic and long-term management of their coastal zone through coastal management programs.

Coastal Council comment on the Coastal Harvestable Rights Review Discussion Paper

The council's submission on the review focusses on the potential impact of changed harvestable rights on coastal catchments, their estuaries and the marine estate.

As indicated above, the council does not support an increase in water take in coastal catchments, as proposed in the review discussion paper. The following points detail council's concerns with proposed changes to coastal harvestable water rights:

1. Council strongly supports an integrated approach to the management of water resources in the state's coastal rivers, including estuaries, coastal lakes and lagoons (ICOLLs), consistent with objects of the CM Act (e.g. s 3(j)).
2. The review is timely as the current framework is both a dated and unsophisticated approach to balanced water sharing for individual catchments. The use of a harvestable water right based on percentages of average annual regional rainfall run-off captured in farm dams to lower order streams is a blunt instrument. It does not consider potential impacts on the health of waterways and estuaries of coastal catchments of different geomorphic type (river flood plain, drowned river valley, ICOLL, etc.).
3. Council notes coastal harvestable water rights are the sole State Government recommended option for coastal catchments. There appears to have been no consideration of reducing harvestable rights so that there can be better management of water take through the water licensing system. It is not clear why the summary of options

on page 24 does not include an option to 'reduce harvestable rights' and replace them with licences that are tradable.

4. There is uncertainty about the current harvesting of water in the absence of reliable information on the amounts being taken, where from and by whom. Changes to such discretionary rights should be based on sound evidence of current and future uptake.
5. There should be no action that increases the amount of water that is captured and used outside the licensing (and associated compliance) regime (i.e. where farm dams/harvestable rights are not to be licensed). The discussion paper (Page 20) notes that providing more access to water outside the licensing system would reduce the availability of tools for the Natural Resources Access Regulator to address compliance issues. This is a major concern which diminishes the ability to impose conditions on licences and approvals in relation to the times, rates and circumstances around water extraction to achieve balanced water sharing.
6. Council recommends applying water sharing plans at a catchment scale when determining environmental flows to different types of estuaries along the NSW coast. These plans would factor in potential impacts of climate change and consequent extended periods of drought (e.g. Page 9 of Discussion Paper: 'Coastal climates are largely shifting towards decreased winter rainfall and more intense extreme rainfall events' [CSIRO and Bureau of Meteorology, 2020]). In view of this, there needs to be an explicit reference to and consideration of harvestable water rights in the department's new regional water strategies. Water harvesting would then be considered in the context of climate change, the impacts on coastal catchments generally and particular estuary types (e.g. bays, lakes, lagoons, harbours, inlets and river mouths) and entrances (i.e. entrances either permanently or episodically open to the sea). The cumulative impacts of harvestable rights would be tracked via ongoing monitoring under the regional water strategies.
7. Freshwater flows to estuaries offer many advantages for the ecological health, economic activity and social wellbeing. Determining harvestable rights based on simple statewide percentage take off amounts denies a necessary consideration of individual catchment characteristics in determining appropriate levels of catchment water storage. The potential impacts will be different for different coastal systems depending on current and future uptake of harvestable rights. How river flows change in response to different harvestable rights limits appears to vary considerably between catchments and depends on a range of local factors.
8. Increasing in harvestable rights may result in individual catchments experiencing changes in the frequency and duration of different flow events. This cumulative impact may significantly affect the number of days and duration of low flows and small freshes, and the total annual flow during drier years. The threat of increased salinity of coastal waterways during drought periods could be exacerbated by attempts to retain more freshwater on farms noting that this threat is also being affected by sea level rise due to climate change.
9. Coastal sections of different catchments are areas of relatively population concentration. NSW Government expects more urban growth around estuaries of all types in the future. In these locations higher levels of water harvesting can adversely impact local water quality, commercial and recreational fisheries, ecological resilience and entrance opening regimes. This has the potential of further complicating the efforts of state and local authorities in managing these complex systems. It must be noted that ICOLLs, in particular, are highly sensitive to reduced inflow, affecting their water quality creating algal blooms, and allowing sand blocking at the mouth.
10. Increasing harvestable rights has the potential to introduce a range of catchment-wide impacts on the estuaries (e.g. waterway health, economic activity, recreation) with no benefit beyond landholders being able to capture more water. Socialising the impacts of

additional extraction outside of the water licensing system and in the absence of 'reasonable use guidelines' cannot be supported.

11. Council recommends consideration of matters raised in its independent research and annual surveys of coastal practitioners in state and local government (see published annual surveys for 2018, 2019 and 2020) concerning the risk of individual agencies pursuing discrete policy priorities and missing the benefit of whole of government collaborations in delivering catchment-to-sea scale outcomes. For harvestable water rights, changes in catchment water storage in farm dams without collaboration with other state agencies and local governments on their programs for managing coastal systems are a missed opportunity and contrary to coastal and marine legislation. This strongly suggests the need for partnership in delivery of outcomes through integrated programs.

Council welcomes the opportunity to clarify or elaborate on the matters raised above in relation to its comments on the Review.

Annelise Tuor
Chair
NSW Coastal Council

4 May 2021