



Stop Water Mining in Tweed Shire

Briefing Paper

Introduction

Water mining - the extraction of water for bottling or transport out of the shire by truck - is a growing industry with almost no redeeming features. It provides little or no employment, takes water from the community for private profit, depletes water sources, provides no revenue to the state or local council, costs council significant funds in road repair, reduces the amenity and safety of rural residential neighbourhoods, provokes conflict, and supports an industry that is energy and water intensive and that produces vast quantities of waste - which the broader community must pay for.

Water for livestock, crops and domestic landholders is long established in the shire and sustains the community. The water bottling industry is not part of the community in any way. There is no excuse for this industry.

Background

Since 2002, there have been seven approved Development Applications for extraction of groundwater for "water bottling" in Tweed Shire. (REF) Over time, four of these approvals have been modified to increase the storage capacity, and size and frequency of semi-trailer tankers to deliver water into Queensland. These increases have been simply

passed by TSC without considering the public interest or a proper consultation with local communities.

The scale of these operations has markedly increased while regulation and compliance has not been implemented to any significant degree.

The groundwater data on which these approvals have been based remains poor, with most data at a macro scale.

Of great concern is that any additional approvals for water will lead to an increase in licence and development applications as selling water is seen as easy money, with few restrictions, few costs and few risks for the licence holders. The risks and costs are borne by everyone else with possible compensation issues for local government should licences be withdrawn.

Water impacts

Since forming, the Tweed Water Alliance has heard numerous reports of bores and streams drying in the vicinity of these industrial bores. Licence holders dismiss these claims and indeed there appears to be virtually no legal remedy if a neighbour is deprived of their right to water – water which may be needed for domestic or food purposes – so that a single person can profit.

As climate change is already resulting in warmer weather, this means increased evaporation and more likelihood of drier periods. Allowing water to be removed from a Shire that is both dependent on water and proposing to build a new or bigger dam to meet future need, the export of water out of the community is not only senseless but will see our community bear significant costs in the future.

Virtually no information is available on the effects of reduced water in groundwater and streams on local flora and fauna. The Tweed Shire is the most biodiverse area in NSW and that is in good part because of water.

Community impacts

Communities receive no benefits from this industry. Roads are damaged, become more dangerous as large trucks become regular occupiers of the road, noise is greater and the amenity of neighbourhoods reduced. Restriction of truck movements to outside school bus movement times have not been consistently applied, and in one case imposed then removed. Council's duty of care in the usage of road networks in school zones is not being

adequately considered. Trucks have been seen in Uki before 6am at 9:30 pm and in Murwillumbah at midnight.

All of this creates conflict within communities. The TWA hears regular reports of breaches, few of which result in action by Council or the Office of Water. There are residents who are afraid and will not speak out because of threats or bullying. To date local communities have had little say in licence or development applications.

The American Association of State Highway and Transportation Officials (ASHTO) road tests, valid since the 1950s, demonstrated that heavier vehicles reduced the serviceability of roads in a much shorter time than light vehicles.

The damage caused by vehicles is related to the 4th power of their axle weight. In simple terms, this means that if the axle weight of a vehicle is doubled, it will cause sixteen times more damage to a road surface. While vehicle sizes vary, a reasonable explanation of this is that one 15m x 43 tonne laden water tanker will impact a road surface to the equivalent of many thousands of car movements.¹ Vehicles up to 25 metres are now being deployed.

Road contributions do not get even close to covering the costs associated with road damage by large water trucks.

Community benefits?

There is little to no employment in the local community resulting from this industry. If roads are upgraded so that larger trucks can be used, the upgrades will be paid for primarily by ratepayers not licence holders, and ratepayers will pay for all subsequent damage. Any road benefit will be offset by loss of amenity, noise, and more dangerous conditions.

While the new Water Act allows the State to charge for water, the current charge is one cent for a thousand litres. The cost to a local resident buying water from Tweed Shire to fill a water tank for essential home purposes is 150 times greater.²

Enforcement

In one case, Council allowed an increase in the size and frequency of truck movements, despite 36 breach complaints received by Council between 2012 and 2015, including operating out of hours and using trucks larger than permitted.³ It doesn't appear that all of these complaints were investigated. After only two Penalty Infringement Notices were

¹ See AASHTO - www.transportation.org

² Based on an approximate cost of 1.5 cents per liter for 7000 litres

³ Tweed Shire Council (2015) Report to Council, released under GIPA

issued in response Council voted in 2015 to stop investigating the numerous breach complaints made regarding the licence. The licence holder is now applying for permission for even larger trucks – up to 19 metres in length.

Breaches of licence conditions imposed by NSW Water are ubiquitous. These are legally binding but TWA is not aware of a single enforcement action by the Office of Water. In fact, the current licence holder in Rowlands Creek has breached at least 5 significant conditions of his licence for over 12 years.

TWA is also hearing of regular breaches of development consent conditions imposed by Council, particularly trucks operating out of legal hours. These complaints also suggest that extraction rates may be exceeding what is permitted.

The law

A domestic bore for home and land use is considered a right in NSW.

An irrigation licence must be issued by the Office of Water. Historically, these appear to have been granted virtually automatically based on cursory assessments made by applicants and claims that were never verified by the Office of Water. There has been little or no enforcement or monitoring.

New licences are presumably assessed under Water Sharing Plans. There are two for this Shire⁴ and while they claim to be for the purposes of protecting the environment, they are designed to facilitate the business of buying and trading water. The plans give no right to communities to act to protect their water. Many of the provisions in the Plans are self-regulatory – i.e. useless.

NSW Water imposes mandatory conditions on all licences, either domestic or industrial. Details on proximity to other bores, boundaries, contaminated sites and metering/log book recording of extractions are attached to every licence approval. However, site inspections are not carried out, basic matching of information with close bore locations, and annual returns, are not requested or recorded. Self-reporting of non-compliance is appended to the conditions.

⁴ The Tweed River Area Unregulated and Alluvial and the North Coast Fractured and Porous Rock Aquifer water sharing plans. <http://www.water.nsw.gov.au/water-management/water-sharing/plans-commenced>; Report cards and water sharing plan background documents can be found at <http://www.water.nsw.gov.au/water-management/water-sharing/plans-commenced/water-source/tweed-river>

The purpose of meters and annual reports is to acquire a clear picture of trends and conditions of local aquifers in order that local management decisions can be taken as required. That detailed local information is not part of the Water Sharing Plans. The failure to adhere to licence conditions by licencees or to enforce conditions by the Office of Water means this information, which the Office of Water recognises as critical to proper groundwater management, doesn't exist.

The Tweed Water Alliance is aware of one hydrology report prepared for a Tweed licencee. It is misleading, inaccurate and provides none of the studies or data recommended by CSIRO in their guide to assessing and understanding fractured rock aquifers.⁵

In order to bottle water on site or have trucks take water off site in bulk, licence holders must get development approval from Tweed Shire Council.

Local Council has limited jurisdiction over water, but they do have some significant powers. The Statement of Environmental Effects that must be submitted with the Development Application (DA) requires applicants "show how the proposal will deal with ALL aspects of soil and water management."⁶ Council is also required to consider the public interest.⁷

Councils can certainly refuse a DA on the basis of road and traffic impacts but are not powerless - as has been claimed - when it comes to water management and water policy.

Currently, there is, however no policy regarding water mining in the Tweed.

The situation is untenable and inequitable.

The science

Without mandatory reporting of water extraction levels by licence-holders being enforced, NSW Water can provide no meaningful data on availability or reduction of any groundwater source.

Currently the only source of local and real time information is anecdotal information from nearby landholders. Information on creek and groundwater flows is currently being collected by the TWA and will be published by June 2017.

⁵ EcoLogical (2016). Groundwater Assessment 477 Urliup Rd, Bilambil (available on request); Cook, P. (2003). A Guide to Regional Groundwater Flow in Fractured Rock Aquifers. CSIRO Land and Water

⁶ Tweed Shire Council, Development Application Guidelines, section 4.8

⁷ Environmental Planning and Assessment Act 1979, s. 79C

Despite two water sharing plans for this area there is little data regarding any local aquifer. For example, at Rowlands Creek, there is no information on the aquifers in the catchment, the recharge or discharge points, hydraulics, no information on flow rates, actual extraction rates, no data on river flow trends or acknowledgement of anecdotal information in the absence of any other data. This appears to be the norm.

The Water Sharing Plans are macro and are based on estimates of total water entering the river systems and estimating extractions based solely on licence allocations. It does not account for domestic bore extractions, illegal extractions and extractions from surface water without licence.

Cease pumping provisions, which apply during dry periods, are self-regulated. (ie useless)

Recommendations

- Council immediately implement a policy prohibiting any new or amended development consents associated with water extraction in Tweed Shire
- Council call on the State Government for more rigorous, accurate mapping of aquifers for purposes of improving water management in Tweed Shire
- Vigorous enforcement of existing conditions
- Vigorous and transparent investigation of all complaints
- Full cost recovery for road damage
- Full liability of licence holders for impacts on community water rights