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SUBMISSION

Murray-Darling Basin Plan: Five-year assessment

Introduction

The Inland Rivers Network (IRN) is a coalition of environment groups and individuals that has been advocating for healthy rivers, wetlands and groundwater in the Murray-Darling Basin since 1991.

Members have been closely engaged in the various iterations of water reform processes over the past 25 years and longer. The first recognition of environmental water needs occurred with the Macquarie Marshes Management Plan in 1986.

The ongoing decline of significant environmental assets and ecological services across the Murray-Darling Basin has been a key concern. The Basin Plan was originally celebrated as a very positive move forward, although based on considerable compromise in regard to environmental outcomes.

However, the implementation of the Plan to date has caused serious wind back of environmental benefits and unassessed financial gains for the irrigation industry.

IRN welcomes the opportunity to participate in the five-year assessment process.

This submission will respond to some of the key information requests outlined in the Issues Paper released in March 2018, including the SDL adjustment, Northern Basin amendment, development of WRPs, environmental water management and institutional and governance arrangements.

Some of these responses include information relevant to other areas of request.

Recommendations

IRN calls on the Productivity Commission to recommend that:

1. The SDL adjustment projects meet the 12 criteria required in the Basin Plan
2. The 450 GL 'up water' is enshrined in legislation
3. The 1500 GL cap on buybacks is lifted
4. Planned and held environmental water is protected by rules in Water Resource Plans (WRPs)
5. Metering of all unregulated water take, licencing of floodplain harvesting in NSW and water sharing rules in WRPs result in no growth in development since 2004
6. The establishment of Environmental Water Advisory Groups (EWAGs) across all water sources in the Basin
7. Government agencies related to water management undertake institutional reform to clearly separate the roles of operator, regulator and manager and that these roles are not directly influenced by industry.

These recommendations are drawn from information supplied in the following response to information requested in the Productivity Commission Issues Paper

Response to information requests in issues paper

1. Approach to assessing the Basin Plan

IRN supports the approach taken by the Commission in assessing the Basin Plan. The establishment of a balanced Stakeholder Working Group, release of an issues paper, regional public forums and clear consultation process provides a range of accessible community engagement opportunities. This helps to engender confidence in a rigorous assessment process.

2. Achieving the SDL

2a) SDL adjustment package

One key risk for the SDL adjustment projects is that no business plans or environmental impact assessments have been developed to judge the level of cost, physical impediments or the environmental and cultural impact of on ground engineering works.

The Koondrook-Perricoota project, now implemented, is a salutary lesson on the ecological & cultural heritage damage that these types of engineering 'solutions' can cause.

The assessment & consultation process run by the Murray Darling Basin Authority (MDBA) in regard to the Sustainable Development Limit (SDL) adjustment projects was very poor with major doubts raised about the suitability of the hydrological modelling and the uncertainty around the environmental equivalence assessment process.

IRN lodged a detailed submission to the various technical reports. The SDL adjustment reports were on exhibition for only one month (3 October to 3 November 2017). The proposed amendment from the MDBA went up to the Minister in under two weeks after the close of the public exhibition, on 15 November.

The MDBA published a summary of public feedback on 8 December, however, none of the issues raised in submissions were addressed.

Some of our key objections to the proposed amendment include:

- The reduction of environmental water by 605 GL is outside the limits of change for the adjustment mechanism
- The lack of testing of this reduction against the Basin Plan objective to keep the Murray Mouth open for 9 out of 10 years
- The extent of the environmental trade-off through the supply or 'offset' projects was not clearly identified or rigorously assessed
- Equivalent or better environmental outcomes from supply projects have not been demonstrated
- Six locations across the Basin will breach the limits of change and have increased ecological risk under these projects
- There is a high level of uncertainty and limitation in the modelling and Ecological Elements method's scoring and the final modelling outcome was not available at the time of the consultation
- The independent review of the hydrological model and the Independent Expert Panel expressed a number of reservations about the modelling process

The expert panel report commissioned by the Victorian and NSW Government into the environmental equivalence or 'offsets' process advised in October 2017 that:

- The offsets method is complex and not very transparent, as it is not easy to understand and requires a high level of expertise to apply.
- Historically, there has been too much focus on the prescriptive details of the offsets method, potentially at the expense of Basin Plan environmental outcomes.

An independent report published by the Wentworth Group of Scientists recommended that the 37 recommended SDL adjustment projects be measured across 12 key criteria, as required by the Basin Plan.

They found that only one project met all the criteria.

IRN considers that the MDBA used a very complex and non-transparent process to arrive at the very convenient volume of water already acquired for environmental flows in the Southern Basin. The outcome of the SDL adjustment mechanism process was that no more water would be acquired from extractive users.

The serious doubts around the deliverability of equivalent environmental outcomes and the acknowledged environmental trade-offs in the process, let alone the ability to have the projects completed by 2024, is of major concern.

IRN strongly supports the disallowance of the proposed SDL adjustment amendment to the Basin Plan unless the projects are adjusted to meet the 12 criteria in a publicly available transparent manner.

2b) Efficiency measures

IRN is deeply concerned that while there was a concentrated effort on getting ‘supply’ measures on the table and up to Parliament, there has been no corresponding effort to identify ‘efficiency’ measures that would supply the agreed 450 GL of ‘up water’.

This was an important element of the SDL adjustment compromise in the Basin Plan.

There is currently no guarantee that this volume of water will be generated for the purpose of meeting Basin Plan targets, such as keeping the Murray Mouth open for 90% of the time.

A key problem with the efficiency measures approach is that most of the easy measures have already been adopted. There is also the key problem of the measurement and accounting for loss of flow back into the system. Efficiency measures will capture current water leakage back into the system, this must be accounted for when calculating environmental gains from the measures.

Another problem is the appropriate use of public funding on private land. The alleged fraudulent use of public money invested in a so-called efficiency project at a Norman Farming property near Goondiwindi raises concerns about transparency and accountability with this type of investment of Basin Plan funds.

While the Ernst and Young report on efficiency measures demonstrated that it was feasible to find an additional 450 GL of environmental water with neutral or improved socio-economic outcomes, the political pressure against this approach is rendering it very difficult to achieve.

Even with a new definition of neutral or improved socio-economic outcomes, as suggested in the Issues Paper, there would have to be willingness by individual licence holders to enter into an efficiency measure arrangement that would actually achieve additional water for the environment.

Environmental water gains need to be audited and reported publicly.

Transparency and accountability are key issues for the management of efficiency measure funding.

IRN strongly supports the disallowance of the proposed SDL adjustment amendment to the Basin Plan unless the 450 GL is assured in legislation as a component of the overall package. We consider that the purchase of licences is the most efficient method of achieving this outcome.

There are also opportunities of retrieving some of this volume with no impacts on current licence holders through the management of floodplain harvesting extraction in northern NSW. This issue is outlined later in the submission.

2c) Buybacks

The success of the Basin Plan has been seriously hindered by the cap of 1500 GL on the purchase of water licences. Buyback is the most economically efficient means of achieving the SDL.

Meanwhile, there have been a number of economically inefficient purchases made for political purposes, lacking in transparency and accountability, and resulting in no measurable environmental gain. The purchase of the Tandou licences in the Lower Darling is a case in point.

Targeted purchase of licences that will return water to the environment at an efficient cost, with accompanying structural adjustment or regional development packages, is the most efficient way of meeting the Basin Plan SDL by 2024.

The process for distributing regional funding has been a scattergun approach that does not necessarily match up with the extent of any socio-economic impacts in particular towns and regions.

A planned approach for targeted buyback with associated structural adjustment implemented in a highly transparent and accountable process is the fairest, most cost efficient method of achieving Basin Plan outcomes. This would require an amendment to reverse the 1500 GL cap.

IRN strongly supports the disallowance of the proposed SDL adjustment amendment to the Basin Plan unless the 1500 GL cap is removed from legislation.

3. Northern Basin SDL

IRN has major concerns around the process used to review the Northern Basin SDL.

The proposed amendment to reduce 70 GL from the Northern Basin environmental flows was not based on modelling released in the original options paper. The socio-economic modelling did not analyse communities on the Darling River below Burke and the engagement with Aboriginal communities was highly criticised.

The Northern Basin Advisory Committee did not support the final outcome and the majority of community submissions lodged in the consultation process supported more water to be returned for river health, not less.

The 'toolkit measures' proposed as a replacement for flows are unenforceable and should be implemented regardless of changes to the Basin Plan eg protection of environmental flows.

There is a great deal of concern in the community that the MDBA engaged more regularly with the irrigation industry than with other stakeholder groups and the broader community.

The amendment included a reduction in environmental water licences currently held by the Commonwealth Environmental Water Holder (CEWH) in both the Macquarie and Gwydir River systems. These catchments contain Ramsar listed wetlands that support a wide diversity of water birds in the Northern Basin and have suffered major degradation over time. These rivers also provide connectivity flows to the Barwon Darling and on to the Lower Murray.

No scientific justification was given for this proposed hand back of environmental water licenses. The argument was put up by the Northern Irrigator Alliance based on 'cap factors' that are yet to be defined. This issue is outstanding and has not yet been resolved.

IRN strongly objects to the proposed reduction of held environmental water in both the Gwydir and Macquarie river systems.

IRN fully supported the disallowance of the Northern Basin amendment because it was a very poor outcome towards the achievement of Basin Plan objectives.

We continue to maintain that the 390 GL SDL is already a compromised outcome for environmental improvement in the Northern Basin and should not be reduced.

The additional 70 GL could be found from currently unlicensed floodplain harvesting extraction across the Border Rivers, Gwydir, Namoi, Macquarie and Barwon-Darling River systems with no socio-economic impact on existing licence holders.

The return of small, medium and large flood flows to these northern inland river systems is an essential environmental outcome.

The growth in use of water in the Northern Basin since the implementation of water sharing arrangements from 2004 and the adoption of the Basin Plan in 2012 needs to be urgently addressed.

Any gains through purchased environmental water may have been seriously compromised by growth in unlicensed floodplain harvesting and lack of metering in unregulated river systems in northern inland NSW.

3a) Floodplain Harvesting

Under the National Water Initiative 2004, NSW has been required to account for and licence the extraction of water taken by floodplain harvesting works.

This water is currently still freely accessed in NSW with no monitoring or metering, no environmental assessment and no licencing. There has been no attempt to date to include this water take in WRPs or develop rules for water sharing.

Floodplain harvesting is a major form of water take in the Northern Basin across five key river systems in NSW that report to the Darling River.

When the Basin Plan was made in 2012 an estimate of 210 GL was included for all floodplain harvesting across the entire Northern Basin.

The MDBA Compliance Review published in November 2017 identified that there was high uncertainty about the accuracy of that estimate. Take by floodplain harvesting is not yet fully incorporated in annual accounting for water take in the Basin.

A consultation paper on floodplain harvesting released by the NSW Govt in March this year identified that 614 GL was eligible for licencing in the Gwydir River catchment alone, with 211 GL assessed in the Border Rivers. The volume of this form of take in the Namoi, Macquarie and Barwon-Darling is still being assessed.

The NSW Floodplain Harvesting Policy finalised in 2013 allows for 500% carryover. This is far greater than any other form of water take in NSW.

In 2014, the NSW *Water Management Act 2000* was amended to give compensable rights to supplementary water licences and to floodplain harvesting licences that are yet to be granted.

How these very large volumes of water extraction will meet SDLs once committed through compensable licences is a major concern.

The impacts on downstream water users, key environmental assets, the health of the Darling River system and connectivity to the lower Murray are major issues that need to be addressed before the licences are granted.

4. WRPs and NSW Govt engagement in Basin Plan processes

The current NSW Government got off to a very poor start by cutting \$20 m from MDBA funding in 2012 thereby inter alia causing the demise of the Murray-Darling Native Fish Strategy.

There has been a very slow, stop – start process in the development of WRPs, the bulk of which are in NSW. Political interference has hindered a clear and measured approach to the planning requirements under the Basin Plan over the past 5 years.

The key emphasis in all policy development regarding Basin Plan implementation in NSW has focussed on third party impacts, over and above all other considerations.

The various inquiries since the 2017 Four Corners program exposing institutional corruption, particularly the Matthews Report, have identified the major failings in water management in NSW.

There is now a very rushed and inadequate process of finalising water sharing plans as part of the WRP process. While Stakeholder Advisory Panels have been established in some catchments since 2015, many of the decisions are being made at a state level through Govt Agencies.

IRN has no confidence in the MDBA's proposed accreditation process for WRPs and believes this needs to be very closely reviewed. While NSW has agreed to the policy of no net reduction in planned environmental water in WRPs, the growth in use since 2004 needs to be dealt with, particularly before any floodplain harvesting licences are granted.

If the NSW Govt chooses to walk away from the Basin Plan, the MDBA can take over the development of WRPs.

A clear process of community consultation needs to be developed if this occurs.

5. Delivery of Environmental Water

IRN member groups have been involved in the management and use of environmental water in NSW since the development of the Water Management Plan for the Macquarie Marshes in 1986.

The establishment of statutory Environmental Water Advisory Groups (EWAGs) in some inland rivers in NSW, managed by the Office of Environment & Heritage, has facilitated joint planning and decision-making processes involving CEWH, NSW water managers and community stakeholders.

This is a good model that should be replicated across the Basin.

The use of the current volumes of held and planned environmental water has been effective in slowing the demise of key environmental assets and ecological functions.

Additional water up to 3200GL, as agreed in the Basin Plan, is the minimum requirement needed to achieve the targets and objectives across the Basin to return the system to some level of health. This is particularly important in the face of climate change impacts.

It is critical in NSW that held and planned environmental water is protected from extraction through clear rules in WRPs. This can only occur through 100% metering of all water take in inland river systems and an easily accessible Public Water Register with information about water access licenses, as recommended by the Matthews Report.

The implementation of Pre-requisite Policy Measures, including shepherding of environmental water in Southern Basin catchments, has been hindered by the NSW Govt emphasis on third party impacts. This position fails to recognise that in the absence of the environmental flow, the opportunity to pump would not have existed.

Complementary measures cannot be used as a replacement for flows in degraded river and wetland systems, as has been proposed in the Northern Basin amendment.

There have been various iterations of Catchment Action Plans over at least the last 20 years to better manage natural resources and catchment impacts on water sources. These have had intermittent funding and monitoring programs that fail to demonstrate consistency and improved outcomes.

Natural resource management is a state government responsibility that should have resulted in much better on ground outcomes than are currently evident. Funding and management of natural resources should not come from investment in the Basin Plan or trade of Commonwealth held environmental water.

The purpose of the Basin Plan is to address the over-extraction of water over a long period of time. Resources and attention must not be distracted from this key objective to return water to the riverine ecology and its dependent species.

6. Current institutional and governance arrangements

It is essential that institutional reform separates the roles of operator, regulator and manager.

Having the MDBA subsumed under the Federal Department of Agriculture and Water Sources, and the NSW water managers now operating as Department of Industry – Water causes a major conflict of roles.

The influence of industry over water policy development and implementation has been very evident since these restructures have occurred.

Key governance arrangements facilitating the separation of powers should be the focus of responsible water management restructure taking into account the public and national interest.

For more information about this submission please contact:

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