



I N L A N D
R I V E R S
N E T W O R K

PO Box 528, PYRMONT NSW 2009
ph 0428 817 282
email inlandriversnetwork@gmail.com
web inlandriversnetwork.org
ABN 34 373 750 383

Productivity Commission
GPO Box 1428
Canberra City ACT 2601, Australia
basin.plan@pc.gov.au

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SUBMISSION
Draft Report
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. We have followed the implementation of the 2012 Basin Plan and have engaged in consultation where invited.

IRN welcomes the opportunity to participate in the five-year assessment process. We lodged a detailed submission to the Issues Paper released in March 2018.

The IRN submission called for the following seven key recommendations from the five-year assessment of the Basin Plan. 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.

We are encouraged that the Draft Report has identified some of our key concerns with the slow process of Basin Plan implementation. This submission outlines areas of the draft recommendations that we support and also highlights some key issues with the direction taken by the Commission.

Comments on the Draft Report

1. Support for some draft recommendations

IRN fully supports twelve of the draft recommendations in the Draft Report. The supported recommendations are listed in Appendix A.

1.1 Extension of time for WRPs

We particularly support Draft Rec 6.1 because the accreditation of credible WRPs is a critical element of Basin Plan implementation. Our understanding is that WRPs are perpetual and are only subject to change after a 10 year review of the Basin Plan. Therefore it is very important that these integral plans will achieve the necessary outcomes in each water source.

The NSW Government has not completed the estimation of take through floodplain harvesting, rules in water sharing plans have not been finalised, particularly in regard to protecting environmental water, and consultation with Aboriginal communities has been less than desirable.

An extension of time for WRPs is essential for the achievement of Basin Plan outcomes. It is unacceptable that WRPs may be considered for accreditation when essential basic input is missing.

2. Comments on key concerns with direction taken in the Draft Report

IRN has a number of key concerns in regard to omissions, some draft findings and errors presented in the Basin Plan Draft Overview.

2.1 Draft finding 3.1

The Commission has misrepresented the outcome of the SDL adjustment by not accounting for the 5% limit to change.

The SDL Adjustment Mechanism allows a net adjustment of Basin-wide surface water SDLs by up to five per cent, or 544 GL.¹

¹ Water Act 2007 s 23A(4)

The adoption to increase the SDL by 605 GL is outside this limit. The additional 62 GL needed to meet the 5% limit must be added to the volume required to be recovered. This volume is 2137 GL not 2075 GL as stated in draft finding 3.1 and throughout the document. It has been recognised that an additional 62 GL must be recovered by 1 July 2019. However, this volume is additional to the 2075 GL. This misrepresentation needs to be rectified.

The information provided under Water recovery to *bridge the gap*² is incorrect.

2.2 Lack of recognition of international agreements and key environmental objectives

The Commission fails to recognise the 16 internationally listed wetlands in the description of the environmental values in Box 1.³

The *Water Act 2007* has a number of key environmental objectives:

‘to give effect to relevant international agreements (to the extent to which those agreements are relevant to the use and management of the Basin water resources) and, in particular, to provide for special measures, in accordance with those agreements, to address the threats to the Basin water resources’

‘to protect, restore and provide for the ecological values and ecosystem services of the Murray-Darling Basin (taking into account, in particular, the impact that taking of water has on the watercourses, lakes, wetlands, ground water and water-dependent ecosystems that are part of the Basin water resources and on associated biodiversity)’

IRN considers that the current direction taken by the Basin Plan implementation will fail to meet these objectives. The Commission has not recognised that the adjusted SDL and current restrictions placed on economically efficient recovery of water will cause the failure of the Basin Plan to address the environmental impacts of over-allocation and extraction.

2.3 Calculation of costs

The Draft Report provides a very strong case for lifting the 1500 GL cap on buybacks.

The reference to \$480m in additional costs if Basin Plan implementation fails is based on very restricted economic considerations. It fails to include the lower cost of a buyback option.

Appendix B of the Draft Report (Analysis of the cost of recovering water for the environment) identifies that buyback from willing sellers is \$1.9b less expensive than other proposed measures for the public purse to bridge the gap in water recovery for the environment.

The analysis of the cost of failure of the supply measures to meet the adjusted SDL is based on current Government policy to cap buybacks at 1500 GL. Even so, this method of achieving environmental outcomes appears to be less expensive than the supply measures themselves. (Fig B1 p 326). There is no analysis of the savings gained by recovering all the water through buybacks.

² Overview p 8

³ Overview p 4

The costs analysis also identifies that the recovery of the 450GL – an integral part of the SDL adjustment agreement – will be over budget if gained solely through infrastructure projects.

The Draft Report has not considered the advice of the National Audit Commission handed down in 2014:

‘Commonwealth funding is also provided to meet the public benefit of recovering environmental water for the Murray-Darling Basin. Water recovery is funded through a range of different measures including buying water entitlements and funding private infrastructure that will return water to the river system. The Commission considers that the Government should focus on maximising public benefits and achieving value for money in its water recovery, not on providing industry assistance. This means moving away from infrastructure funding, which is significantly more expensive and which provides substantial private benefits to landholders.’⁴

The Commission itself has also supported purchase of water entitlements:

‘The purchase of water entitlements from irrigators is an equitable and efficient response to the structural change arising from the recovery of water for the environment. Sales are voluntary and the use of market mechanisms ensures a reasonably consistent treatment of irrigators and supports an efficient allocation of water resources.

Water efficiency programs have been beneficial for irrigators but have arguably delivered less equitable outcomes than water purchases.’⁵

IRN considers that the Draft Report has not demonstrated proper independence but rather just accepted current Government policy, therefore failing to recommend the most cost effective means of achieving the environmental objectives of the Basin Plan and the *Water Act 2007*.

We consider that the more economically efficient recovery of environmental water through the direct purchase of water entitlements will free up the necessary finances to remove the key constraints for the delivery of environmental flows and to provide economic assistance to the most directly impacted communities.

IRN does not consider that the \$189 million structural adjustment program to support communities to adjust to reduced water availability has been well managed or adequately evaluated. It is highly debatable that this money has gone to the right communities for the right projects. We concur with the Draft Report findings 3.6 and Draft Rec 3.3

The money saved through lifting the cap on buybacks would help to solve a number of the regional development and transition issues.

2.4 Progress towards implementing Basin Plan elements

The analysis of timing and risk to the implementation of the Basin Plan as set out in Table 1 p13 Overview Report includes a number of key issues.

⁴ National Audit Commission 2014 *Towards Responsible Government*, Appendix Volume 2 p10

⁵ Productivity Commission (2017) *Draft Report on National Water Reform* p423

2.4.1 Resetting the Balance

IRN does not concur that water recovery for the environment is on schedule or that the risk of it meeting its objectives are low. The failings identified in the implementation of the adjusted SDL through supply and efficiency measures puts the recovery of environmental water at a very high risk.

The risks to budget have not been adequately addressed by the Draft Report and the recommendations do not solve the problem of the high risk of the Basin Plan failing to meet its environmental objectives.

The implementation of the Northern Basin toolkit is a high risk and is not a substitute for the return of over extraction.

IRN has major concerns that the implementation of the Basin Plan is completely off track and is bound to fail in its current form.

2.4.2 New management arrangements

The development of WRPs in NSW are at a high risk of meeting their objectives. NSW is still in the process of estimating actual water take through floodplain harvesting. This work is unlikely be completed for the Northern Basin in time for the commencement of WRPs in July 2019. Work on estimated floodplain harvesting take in the Southern Basin has not yet commenced.

The concept of over recovery in either the Northern or Southern Basin is not yet conclusive until such time as all take has been adequately identified.

The issue of water quality management and salinity targets is of great concern. IRN does not support Draft Rec 8.1 that the salt export target be abolished.

The flushing of salts through the system is a key consideration related directly to volumes of flow. The failure of the Basin Plan to improve unnaturally extended periods of low flow in the Lower Darling and Lower Lakes/Coorong systems needs to be addressed.

The abolition of the salt export target will not address the problem.

IRN considers that failure to implement pre-requisite policy measures (PPMs) has a high risk of not meeting environmental objectives. We do not agree that the implementation is on schedule and no information has been provided to demonstrate this. The PPMs were an integral input in the supply measure adjustment model. While the Draft Report has identified a high consequence risk there are no recommendations to the MDBA or state governments to rectify the lack of PPM implementation.

2.5 Chapter 11 Environmental planning and management

IRN is concerned that the Commission has failed to recognise that the adjusted SDL and problems with the implementation of supply measures and efficiency measures will cause the Basin Plan to fail to meet its environmental objectives.

The recommendations in this section of the Draft Report are contradictory and fail to address the key problems. The emphasis is on prioritisation of environmental assets, connectivity and maximising environmental outcomes while expecting to do so under existing constraints and also achieve secondary social & cultural benefits.

It is important that environmental water is not used to replace cultural flows. It is also important that social outcomes do not override environmental objectives in the use of environmental allocations.

There is a contradiction between Draft Rec 11.1 *‘achieving the overall environmental objectives of the Basin Plan’* and Draft Rec 11.2 that the Basin Wide Environmental Watering Strategy (BWEWS) has *‘realistic long-term objectives to be achieved from the available environmental water portfolio through watering activities within current operational constraints’*

The findings and recommendations fail to recognise the relationship between the Long Term Water Plan, WRPs and the MDBA accreditation process.

We strongly disagree with Draft Rec 11.3 to remove the MDBA annual watering priorities.

This recommendation should be to improve the process so that:

- Annual basin wide watering priorities are produced in a timely manner in conjunction with key environmental water managers. This recognises the MDBA role as co-ordinating body.
- Rolling multi-year plans reflect annual priorities
- Annual priorities work towards the achievement of the 5 year BWEWS

IRN supports the intent of Draft Rec 11.4 in regard to connectivity watering but it should be extended so that:

- The Southern Connected Basin Environmental Watering Committee is formalised
- A Northern Basin Environmental Watering Committee is formed and formalised
- A mechanism is established for the two committees to work together for achievement of Basin Plan objectives and targets in regard to salinity and Murray Mouth

We consider that Draft Rec 11.5 would be best achieved through the IRN recommendation that Environmental Water Advisory Groups (EWAGs) be established across all water sources in the Basin. This would provide the best mechanism for CEWH consultation.

2.6 Lack of recommendations on key issues

The Commission has recognised some key issues in the draft findings and general overview but failed to provide draft recommendations on a number of these.

Chapter 7 Indigenous values and uses

Draft findings 7.1 and 7.2 highlight the slow progress in meeting the Basin Plan requirement to consider Indigenous values and uses in WRPs and cultural flows.

The Draft Report fails to provide any recommendations on these key issues. The proposal to extend the time for the development of WRPs should be reiterated to enable more time for inclusiveness of Traditional Owners and their views.

The implementation of PPMs should also have a high priority, as outlined above. The Commission acknowledges that PPMs were included in SDL modelling and this allowed for a higher SDL. Also, if PPMs are not implemented, SDLs may be recalculated.

PPMs enable the efficient use of environmental water. The Draft Report identifies that implementation is at risk by June 30 2019. A recommendation should include the implementation of PPMs or recalculation of the SDL by this date.

2.7 Recommendations on governance role of MDBA

IRN cannot support Draft Rec 14.2 that the MDBA be broken into the Murray-Darling Basin Corporation acting as an agent of the Basin Governments and a separate Basin Plan Regulator as an independent statutory authority.

We consider that the regulation of the Basin Plan should be undertaken by a newly formed Commonwealth Environment Protection Authority and that the MDBA be maintained as an authority, not as a corporation, to fulfil all other roles.

We also do not support all of Draft Rec 14.1. We agree that Basin Governments should demonstrate strategic leadership and take joint responsibility while participating collaboratively in the implementation of the Basin Plan. We also agree that the politicians in the Ministerial Council should play a lesser role. However, we consider that the independent role of the MDBA as an expertise-based statutory authority should not be over-shadowed by giving more control to the Basin Officials Committee. The implementation of the Basin Plan must be encouraged to be a collaborative process.

Conclusion

IRN considers the Draft Report to contain significant gaps and a poor understanding of the environmental objectives of the Basin Plan.

While we fully support a number of the draft recommendations there are areas of omission, error and weak response that need to be rectified.

We trust that the Final Report on the 5 year review of the Basin Plan will strengthen the Commission's response to a process that must be greatly improved to avoid failure.

For more information about this submission please contact:

Anne Reeves
Secretary
inlanddriversnetwork@gmail.com

Appendix A

Supported Draft Recommendations

Draft Rec 3.2 The Department of Agriculture and Water Resources should ensure that water recovery aligns with environmental requirements and its processes for doing this are transparent.

To ensure accountability, it should publish all advice provided by the Commonwealth Environmental Water Holder (including advice on strategic purchases) once transactions are complete.

Draft Rec 3.3 If provided, the Australian Government should target any further assistance to communities where substantial adverse impacts from water recovery have been identified. This should:

- have clear objectives and selection criteria
- be subject to monitoring and evaluation.

Any support for regional development should align with the Productivity Commission's strategies for transition and development, set out in its report on *Transitioning Regional Economies*.

Draft Rec 4.1 Basin Governments must resolve governance and funding issues for supply measures. They should develop an integrated plan for delivering supply projects to improve understanding and management of interdependencies within the package of supply projects within 12 months.

Draft Rec 4.4 The Department of Agriculture and Water Resources should establish a review process to determine if projects offer value for money and to determine credible timelines before final funding is approved.

Draft Rec 4.5 Northern Basin Governments should put in place transparent and accountable governance arrangements for implementing the Northern Basin Toolkit. These arrangements should include:

- a mechanism to establish clear milestones to ensure the Toolkit measures are implemented within reasonable timeframes
- an independent assessment by the Murray-Darling Basin Authority, as Basin Plan Regulator, of progress and effectiveness in implementing the measures.

Draft Rec 5.1 The Murray-Darling Basin Authority should immediately update and publish its modelling to establish the environmental benefits of additional water recovery with the current proposals for easing or removing constraints.

Draft Rec 10.2 Basin Governments should set and publish a work plan within the next 12 months that describes how delivery capacity and constraint issues associated with changes in water use and trade will be investigated and managed. The work plan should specify responsibilities, timeframes and how this information will be communicated to the water market.

Basin Governments should assign the Murray-Darling Basin Authority (as an agent of governments) responsibility for identifying and managing risks related to changes in water use and trade in connected systems.

Draft Rec 12.1 As a transitional measure, the Murray-Darling Basin Authority should house its Sustainable Diversion Limit and Water Resource Plan compliance functions within the Office of Compliance, before its compliance role comes into full effect in July 2019.

Draft Rec 12.2 Basin States should consider the role, costs and benefits of consistent metering policies including the role of metering standards.

Basin Governments should work with Standards Australia to formally revise standards to ensure quality and cost effectiveness in water measurement.

The new metering implementation plans being developed by Basin States should be supported by publicly available business cases.

Draft Rec 12.3 Enforcement of illegal water take is the responsibility of Basin States.

The Murray-Darling Basin Authority (MDBA) should publicly report instances where Basin States are not effectively responding to concerns of illegal water take.

In instances where public reporting is ineffective, the MDBA should use system-wide enforcement levers such as Sustainable Diversion Limit accounting compliance mechanisms to enforce limits on water take.

Draft Rec 13.1 Given deficiencies in past agreements, for any future intergovernmental agreements relating to the implementation of the Basin Plan, the Australian Government should ensure:

- the roles of the Australian Government and Basin States are clearly identified
 - specific performance milestones are identified, and that clear responsibility is assigned for the delivery of each milestone
 - where milestones are linked to payments, that these payments are disaggregated with a payment per milestone to provide a genuine incentive for implementation
 - reporting on the progress of Basin Governments in meeting milestones is timely
 - independent assessment of the progress of Basin Governments is undertaken
- advice provided by relevant agencies, such as the Murray-Darling Basin Authority or the Commonwealth Environmental Water Holder, that is used to inform assessments of progress is published in full.

Draft Rec 13.3 Basin Governments should develop a Basin Plan monitoring and evaluation strategy to implement the evaluation framework. This should describe the process by which the information needed to answer the evaluation questions set out in the framework will be collected. This includes:

- outlining what information will be collected and by whom
- identifying any information gaps, who will be responsible for addressing them and the process by which they will be addressed
- establishing the arrangements for sharing the costs of monitoring and evaluating the Plan between Basin Governments.

This implementation strategy should be developed by Basin Governments, supported by the Murray-Darling Basin Authority (as the agent of governments).

The strategy should be made publicly available and be published no later than 2019.