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Comments on Draft Murrumbidgee Surface Water Resource Plan

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.

IRN welcomes the opportunity to provide comments on the Draft Murrumbidgee Surface Water Resource Plan (draft WRP).

Background

IRN submitted substantial comments to the Status and Issues Paper on the Murrumbidgee Surface Water Resource Plan released in 2017.

We noted that the Murrumbidgee River system supports very important wetlands and ecological values in the Basin including 16 wetlands listed on the Directory of Important Wetlands and 2 wetlands listed under the Ramsar Convention. Many of these environmental assets have considerable significance in providing habitat for migratory bird species protected under international agreements.

The WRP area also supports a significant number of threatened animals, fish and ecological communities. Many are listed for protection under the Federal Environment Protection and Biodiversity Conservation Act 1999 and the IUCN Red List.

The draft WRP fails to recognise the obligations of the NSW and Commonwealth Governments under international treaties to provide adequate water for Ramsar listed wetlands and migratory water bird breeding events.

We raised the issue of significant risks to key environmental assets and ecological function.

These included:

- medium to high risk of damage to ecological values on the regulated system from water take and regulation across a broad range of flow conditions.
- medium to high risk in the unregulated systems. It was noted no adequate data was provided on the impact of consumptive extraction on unregulated rivers in the WRP area.
- high risk from cold water pollution, elevated turbidity, elevated phosphorus, increased dissolved oxygen and algal blooms.

The draft WRP does not adequately mitigate these key risks.

We also noted that the objectives and strategies for the WRP will not achieve the necessary outcomes required by the Basin Plan.

Risk Assessment

The risk assessment for the draft WRP identifies an alarmingly high level of risk to the availability of environmental water and capacity to meet environmental watering requirements in the regulated Murrumbidgee River and many in the unregulated system.

The risk assessment identifies that many high risks will not be mitigated. This is a failure of the WRP process.

These include high risk to water available for the environment downstream of Burrunjuck Dam:

- Base flow or low flows – no change can be predicted due to dam operations
- Fresh flows – no change can be predicted due to consumptive water ordering
- High and infrequent flows, bank full - volumes of PEW available as transparent, translucent or EWA are insufficient to mitigate risk.
IRN does not support the conclusion that this risk is tolerable because the ability to mitigate the likelihood is low. An increase in EWA should be a recommendation of the risk assessment.

Medium risks have also been identified for larger bankfull high and infrequent flows downstream of Burrunjuck Dam. Again, these risks are identified as tolerable due to low ability to mitigate river regulation, water ordering patterns, and third party inundation risks. IRN does not support this conclusion.

It is noted under current critical mechanisms that CEWH and NSW OEH held environmental water entitlements are discretionally used for environmental flow outcomes. A recommendation for constraints management should be included as a key mitigation tool.

We note that high and medium risks have not been adequately mitigated for all flow characteristics at:

- Tumut River at Oddys Bridge
- Murrumbidgee River at Wagga
- Murrumbidgee River at Narrandera
- Murrumbidgee River downstream of Yanco Weir
- Murrumbidgee River at Darlington Point
- Murrumbidgee River downstream of Maud Weir
- Murrumbidgee River downstream of Balranald

- Beavers Creek at Mundowey
- Old Man Creek at Kywong (Topreeds)
- Yanco Creek at offtake
- Yanco Creek at Yanco Bridge for zero flows, base flows, freshes
- Billabong Creek at Darlot for some flows

We also note that many of the unregulated streams have been assessed as low risk and that a number of the high risk areas have been identified as not tolerable with a recommendation to review strategy during the WRP development.

IRN considers that all high risk to environmental outcomes is not tolerable and all should be reviewed during the WRP development process.

We note that all high and medium risks associated with water quality are referred to the Water Quality Management Plan (WQMP).

Water Quality

IRN does not consider that the WQMP adequately manages the identified medium and high risks of water quality degradation in the Murrumbidgee WRP area.

We note that the key water quality objective, WQ1, Protect, maintain or enhance water quality to ensure it is fit for purpose, is to be managed entirely through the regulated and unregulated Water Sharing Plans (WSP). The emphasis on minimal change to the WSP rules in the draft WRP raises key concerns that the high and medium risks to water quality will not be adequately mitigated.

Knowledge gaps have been identified for the assessment of elevated pesticides, other contaminants and pathogens. The WQMP fails to recommend a strategy to measure these possible significant impacts on water quality in the Murrumbidgee River system.

Also there is a knowledge gap for the protection, maintenance or enhancement of connectivity between water sources to support downstream processes including priority carbon and nutrient. There is no strategy measure provided to improve this knowledge.

The WQMP states that *'It is not the intent of this plan to propose the use of environmental water to address water quality issues. However, the release of environmental water for designated purposes may provide additional water quality benefits for the Murrumbidgee. These include breaking up stratification in pools, diluting salts and making conditions less favourable for harmful algal bloom development'*. (p 21)

However, many of the management strategies outlined in Table 4-3 (p 22) consider the use of environmental water to improve water quality risks:

- WQ2 turbidity, nitrogen and phosphorous at 3(d), 4 (a) and (b), 5
- WQ4 dissolved oxygen and PH at 2 (a) and (b)
- WQ5 black water at 1 (a)
- WQ6 algal blooms at 3 (a), (b) and (c)
- WQ10 connectivity to support downstream processes at 2 (a) and (b), 3 (a), 4 (a)
[NB the table has a numbering anomaly for this WQ measure]

WQ7 cold water pollution is identified as a high risk downstream of Burrunjuck and Blowering Dams and for 300kms downstream in the Tumut River. The NSW Cold Water Pollution Strategy is identified as a management plan. However, reports on the implementation of this strategy do not appear to include updates on activities related to Burrunjuck and Blowering Dams. The multiple fixed level offtake at Burrunjuck Dam should be implemented to improve the risk of cold water pollution from this water storage

The proposed objectives in the WQMP will not be met under the proposed WSP rules.

Proposed WSP Rule Changes

1. Prerequisite Policy Measures (PPMs)

1.1 Clause 77

IRN notes that a new clause 77 under Part 10 Division 5 General system operation rules has been included to allow for the establishment of environmental flow reuse and piggybacking operation rules (PPMs)

Clause 77 (1) refers to the *NSW Prerequisite Policy Measures Implementation Plan* (PPMIP) We note that in the PPMIP, NSW has made a commitment that PPMs will only be implemented to the extent that third party impacts relating to water supply reliability can be negated, offset, or are acceptable to the community.

IRN strongly objects to this far reaching restriction on the use of environmental water under the Basin Plan. The use of environmental water must be based on science and outcomes that improve the health of the river, wetlands and aquifers.

The undue emphasis in NSW on third party impacts is creating an unbalanced approach to the implementation of the Basin Plan.

1.2 Draft WRP Appendix D: PPMs Procedures Manual

The PPMs Procedures Manual (the manual), outlines the processes for implementing the Murrumbidgee PPMs under Clause 77 subclauses (2), (4) and (5).

IRN considers that the manual has a built in bias towards extractive users. It allows for a number of restrictions on the use of PPMs through decisions by the river operator (NSW Water) that create an imbalance between environmental water licence holders and extractive licence holders.

The manual allows for the river operator to reject an environmental water order. There needs to be more descriptive examples of when this may occur to demonstrate that all water orders would be equally affected eg works program on water storages.

IRN considers that all licence holders, whether environmental water or extractive licences, should be treated equally by river operators when making water orders. It is inappropriate for the river operator to have sole responsibility for accepting or rejecting orders placed through environmental water licences.

The manual outlines that a more conservative or higher loss rate will be applied to the use of environmental water to ensure no detrimental impacts to reliability for licensed water users.

IRN considers that all licence holders, whether environmental water or extractive licences, should be treated equally by river operators when calculating delivery losses.

The manual requires the river operator to consult with licensed water users or their representative groups prior to submitting the Annual Environmental Releases River Operations Report. The river operator should also be required to consult the Environmental Water Advisory Group (EWAG)

The manual also requires the regulator (DoI-Water) to consult with licensed water users or their representative groups regarding any proposal for change to the agreed actions, or to implement any new trial actions. The regulator should also be required to consult the EWAG.

IRN supports that both positive and detrimental effects of PPMs will be taken into account when considering any potential impacts and their mitigation measures to achieve an appropriate balance between allowing for the efficient and effective use of held environmental water licences to achieve the environmental outcomes and providing protection for other water licence holders.

The protection of environmental flows through PPMs is a requirement of the Basin Plan and must be implemented in a balanced manner that does not give undue influence to extractive users in the decision-making process.

1.3 Clause 46

IRN notes that clause 46 under Part 8 Division 1 Accounting for water allocation accounts has additional subclauses:

- (4) in accordance with Environmental Flow Reuse Procedures
- (5) in accordance with Piggybacking Procedures

IRN objects to the note under subclause (5) that: *‘A protocol may be developed to increase or decrease the amount of water to be debited, to offset the impact on reliability to other licence holders caused by the release of water under the Piggybacking Procedures.’*

As outlined above, IRN considers that water debiting should occur in the same or equal manner for all water licence orders.

1.4 Clause 86

IRN notes that clause 86 under Part 12 Amendments under this Plan allows for amendments to change debiting rules and operational rules for Environmental Flow Reuse and Piggybacking orders.

There appears to be no specific rules within the WSP other than reference to the procedures manual. The intention of this amendment is unclear.

2. Lowbidgee Distribution Rules

Clause 51 under Part 7 Division 2 Supplementary water events allows for the Lowbidgee Distribution Rules to be established across, or within any part of the Lowbidgee.

The fact sheet outlining proposed amendments to the WSP rules describes the removal of the Nimmie-Caira supply measure site from the Lowbidgee Distribution Rules.

It is unclear whether this will then increase the available supplementary water to the Redbank North and Redbank South areas of the Lowbidgee.

It is also unclear how the Nimmie-Caira supplementary water licences (381,000 shares) transferred to the Commonwealth to help 'bridge the gap' to meeting Sustainable Diversion Limits under the Basin Plan will be accessed if no longer covered by the Lowbidgee Distribution Rules.

Clause 51 is not explicit in regard to the Lowbidgee areas included in the distribution rules.

IRN has major concerns about the proposed ongoing management of supplementary water access in the Lowbidgee.

3. NSW South Inter-Valley Trade (IVT)

Clauses 55, 56 and 57 under Part 9 Access Licence Dealing Rules refer to the IVT Procedures established by the Minister while not including these in the WSP rules.

The fact sheet outlining proposed amendments to the WSP rules states that IVT procedures will be codified, in accordance with the principles or procedures.

IRN considers that specific rules in regard to IVT between the Murray and Murrumbidgee Rivers should be included in the WSP. These should consider the environmental impacts of IVT, particularly in dry times.

Tagged trading should not be permissible. The environmental and social impacts of this form of water use are too great and have not been assessed.

4. Trade within and between water sources (Access licence dealing rules)

The changes proposed to Clauses 53 – 57 under Part 9 Access Licence Dealing Rules are proposed to enable more effective use of tagged trades as the preferred method for trades between water sources.

IRN does not support the concept of tagged trading as stated above.

Clause 55 (4) (a) states that:

‘there is nor (sic) than minimal likelihood that environmental water, domestic and stock rights, native title rights and the reliability of supply to all access licences in the water source will be affected’

IRN maintains that water trade dealings should cause no impact on the reliability of supply for environmental water or other water rights.

There should also be stringent assessment of the environmental impacts of water trading on the river reach where extraction is to occur and on the river reaches where increased water transfers are required to meet the increased demand.

The issue of environmental impacts from inter-valley transfers is a key issue in the Murray River system with damage currently occurring in the Goulburn River Valley and within Ramsar listed wetlands.

Proposed rules under the Murrumbidgee Regulated WSP must take environmental impacts of IVT into account with a clear set of management rules.

It is impractical to remove all trade constraints if the outcome is to reduce reliability and cause environmental harm.

5. Crediting & debiting rules for Provisional Storage Volume 1

IRN has no position on this proposed rule change other than to comment that the environmental water allowance rules for the Murrumbidgee Regulated Water Source appear to be extremely and unnecessarily complex.

6. Trade between regulated and unregulated water sources (Part 9 Minister's note)

IRN strongly opposes the proposal to allow the conversion of regulated river (high security) entitlements from downstream regulated river water sources to access licences in connected upstream unregulated water sources.

This will cause a net reduction of planned environmental water in unregulated streams and reduce volumes of supplementary flows and inflows into storages.

The environmental impacts on the river reaches where converted access licences are to be extracted will be too great and too difficult to regulate.

This proposal also occurs under Part 10 of the unregulated WSP where it specifies conversions above Burrunjuck and Blowering Dams.

Increased extraction above these water storages will have a direct impact on inflows and access to planned environmental water under the rules dealing with transparent, translucent and EWA releases in the regulated WSP.

7. Compliance assessment advisory committees

IRN strongly objects to the role of compliance assessment being placed in the hands of Water NSW Customer Advisory Committees (CAGs). Both Water NSW and its customers have a major conflict of interest in the operation of WSP rules.

Compliance assessment, particularly compliance with the extraction limit, must be undertaken by a state-wide independent body such as the Natural Resources Access Regulator or the Natural Resources Commission. This will improve the transparency and trust in the process.

8. Mandatory requirement for EWAG

Clause 70 should include the mandatory requirement to establish an EWAG in the Murrumbidgee SW WRP area with a clear list of community and government agency representation.

Other Issues:

1. Climate variability

Clause 13 under Part 3 Bulk access regime claims that the WSP recognises the effects of climatic variability on river flow in the water source.

However, Clause 71 (1) under Part 10 Division 5 General system operation rules states that ‘the period of lowest accumulated inflows to the water source is identified by flow information held by the Department prior to 1 July 2004.’

This is a high risk approach to water management in the context of climate change.

This clause fails to recognise the climate variability caused by the Millenium Drought and the current drought now impacting on rainfall and inflows to the water source.

For Clause 13 to be met, Clause 71 (1) must be amended so that the most recent drought of record or worst period of inflows (actual lowest accumulated inflows on record) are used to determine water supply.

2. Floodplain Harvesting (FPH)

2.1 Regulated WSP

In Clause 30 the calculation of the average annual extraction limit is based on development that existed in the 1999/2000, basic landholder rights on 1 July 2004, WSP rules as at 1 July 2004 and the level of development for plantation forestry on 30 June 2009.

There is no recognition of the occurrence of FPH in the Murrumbidgee regulated water source. The NSW Government has not undertaken any work to identify or assess FPH works in this WRP area.

Clause 87 allows for amendments to be made to the WSP to include rules for the management of FPH.

IRN strongly objects to this amendment rule and recommends its removal from the WSP. We do not support the issuing of FPH licences in this water source. All FPH activities should be rendered illegal under the draft WRP.

2.2 Unregulated WSP

Clause 31 (c) allows for an estimation of water take under FPH and the issuing of FPH licences in the extraction management zones (EMU).

FPH is not currently included in the calculation of the total annual extraction in each EMU. As above there has been no assessment work undertaken for FPH activities in this water source.

Clause 94 allows for the unregulated WSP to be amended to include rules for the management of FPH in these water sources.

IRN strongly objects to this amendment rule and recommends its removal from the WSP. We do not support the issuing of FPH licences in this water source. All FPH activities should be rendered illegal under the draft WRP.

3. Protection of Held Environmental Water (HEW) in the unregulated water source

There is no reference to the existence or protection of HEW in the Murrumbidgee unregulated system.

Clause 94 allows for amendments to the unregulated WSP to allow for rules for shepherding water. However, there is no specific reference to the protection of HEW.

The WSP needs to include specific rules to protect HEW so that it will meet the objects of the Basin Plan.

Conclusion

IRN does not consider that the draft Murrumbidgee Surface WRP will meet the requirements of the Basin Plan.

The proposed water sharing plan rules will not adequately protect planned or held environmental water, achieve management of risk, or improve water quality.

For more information please contact:

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