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Submission to Review of the *Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011*

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

Member groups include the Australian Conservation Foundation; the Nature Conservation Council of NSW; the National Parks Association of NSW; Friends of the Earth; Central West Environment Council; and Healthy Rivers Dubbo.

Introduction

IRN welcomes the opportunity to participate in the Natural Resources Commission (NRC) review of the *Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011* (the WSP).

It is noted that various changes have occurred to water planning in the Murray and Darling catchments since this WSP was gazetted in 2011. These are associated with the making of the Murray-Darling Basin Plan in 2012.

The development of Water Resource Plans (WRP) under the Basin Plan has separated this WSP into two different plans:

- The Murray-Lower Darling Surface WRP
- The Darling Alluvium WRP

The WSP under review was also amended through an amendment order dated 29 June 2020. It is unclear which version of the WSP is being reviewed by the NRC.

A key issue for water management in these water sources is connectivity between surface flows and groundwater.

An audit of the WSP conducted in 2019 found that following provisions were not being given effect to:

- Part 2 Vision, objectives, strategies and performance indicators, cl. 10 Performance indicators used to measure the success of the WSP strategies to reach the objectives of the WSP
- Part 6 Limits to the availability of water, cl. 29 Compliance with the long-term average annual extraction limit for the Lower Murray-Darling Unregulated Water Sources.

And that a number of provisions were only partially given effect to. ¹

A range of commitments in the plan should have been completed by now. These are all associated with gathering baseline information and range from identifying high priority Groundwater Dependent Ecosystems (GDEs) to identifying a cultural water allocation. The lack of commitment to researching this information has affected the achievement of key objectives and performance indicators in the WSP.

IRN does not consider that the WSP provided a balance for environmental, social and economic benefit. The lack of compliance compounds this regulatory failure.

This is in keeping with the recent findings of the Independent Commission Against Corruption that : *'the rights of productive water users were given priority over the rights of other stakeholders and that there was a clear alignment between the department's strategies and goals and those of the irrigation industry.'* ²

Environmental Health

Risk to Lagoons: The risk assessment to key environmental assets remains underestimated. For example the plan lists three significant lagoons (schedule 3): Neilpo, Boeil, and Peacock Creek. Work by Southern Cross University and MDBA ³ has found some of these areas have:

- i) high acidification risk
- ii) medium contaminant mobilisation risk, and
- iii) high de-oxygenation risk.

¹ Alluvium, October 2019. *Audit of the Water Sharing Plan for the Lower Murray-Darling Unregulated and Alluvial Water Sources 2011*

² ICAC, Nov 2020. *Investigation into complaints of corruption in the management of water in NSW and systematic non-compliance with the Water Management Act 2000* p 9

³ Ward J, Nicholas et al. 2011. Assessment of acid sulfate soil materials (phase 2) Boeill Creek/Lagoon Wetland Complex

If not managed appropriately, the acid sulphate soil materials have the potential to present a serious risk to the environmental values of both the wetland and adjacent waters.

Under the rules of the WSP these lagoons can be drawn down below 50%. This is an environmental threat.

Groundwater dependent ecosystems: The Murray-Lower Darling River system supports very important wetlands and ecological values in the Basin including 10 wetlands listed under the Ramsar Convention and the Directory of Important Wetlands. Many of these environmental assets have considerable significance in providing habitat for migratory bird species protected under international agreements.

The Darling Alluvium is dominated by the vegetation GDE communities of River Red Gum woodland wetlands, Lignum wetlands, freshwater wetlands, Black Box woodlands, Canegrass swamps, Coolabah-River Coobah-Lignum woodland wetlands and chenopod shrublands. These communities are characterised by having endangered ecological communities, DIWA/Ramsar wetlands (Paroo wetlands and associated Menindee wetlands), extensive connected riparian corridors and basin target vegetation species of Black Box, Lignum and River Red Gums.

Schedule 7 of the plan states *"High priority groundwater dependent ecosystems (hereafter GDEs) are currently under investigation and some may be identified during the term of this Plan and that the full list of potential GDEs will be identified on the Departmental GDE Register. If it becomes verified as a high priority GDE, this Schedule will be amended to include the GDE."*

Clearly this has not been resolved as the text remains the same as when the plan first gazetted. Other work has found the saline groundwater systems in the region support a number of GDEs, and they are likely to support various terrestrial vegetation ecosystems.

The fact that no GDES are identified for inclusion in the Schedule is more a result of lack of assessment than lack of GDEs.

Fish Kills: The scientists involved in developing the MDBA Native Fish Recovery Strategy concluded that Murray cod are now worse off than they were prior to this plan taking effect.

The Vertessy Report outlined that the region is getting hotter and drier. Climate change is now making it manifest that even greater pressures are present than understood when the Plan was agreed in 2011.

Better management of unregulated inflows and connectivity events into the Lower Darling water source will help improve threatened fish habitat. As will better protection of natural pools, lagoons and lakes as significant drought refuge.

Floodplain Harvesting (FPH)

The WSP has a provision under Clause 26 (2) (d) that allows for the *'estimated annual extraction of water averaged over the period from July 1993 to July 1999 by floodplain harvesting activities for which floodplain harvesting access licences were later issued in the Lower Murray-Darling Unregulated Water Source.'*

We note that these licences have not yet been granted and that the assessment of the allocation of shares to FPH licences is still being undertaken.

While it is maintained that the volume of water extracted by FPH in this water source has already been included in the volumetric conversion of unregulated water access licences, there is the possibility that additional FPH licences will be granted.

It is imperative that the NRC review takes note of the environmental impact of FPH on the landscape, groundwater recharge and the health of rivers.

IRN is very concerned about the lack of consideration of the cumulative environmental impact of FPH and the poor record of NSW Government's ability to manage water

Climate Change

Climate change is having a major impact in managing the health of the river and the aquatic fauna going forward. Major droughts during the lifespan of the WSP have demonstrated problems with current water sharing rules. Predicted reduction in rainfall and rainfall runoff will impact on the frequency of flows in unregulated streams.

Response to Review Questions

1. To what extent do you feel the plan has contributed to environmental outcomes?

The WSP has failed to meet its environmental objectives to:

'protect, preserve, maintain and enhance the important river flow dependent and high priority groundwater dependent ecosystems of these water sources,'

No changes were made to water access rules that were carried over from the *Water Act 1912*.

Lagoons listed under Schedule 3 and Thegoa Lagoon are permitted to be drawn down below 50% while other lagoons, natural pools and lakes can be drawn down below 100% under the exemptions at Clause 41 (9)

These water bodies provide critical drought refuge for threatened aquatic species, especially native fish populations and food sources.

Compliance with the long-term average annual extraction limit (LTAAEL) is the key provision in the WSP protecting environmental water. This provision has not been met.

There is no recognition of the GDEs in the WSP area or reporting on the protection of 80% of annual average rainfall recharge as the key source of environmental water in the alluvium.

2. To what extent do you feel the plan has contributed to social outcomes?

The WSP has failed to protect, preserve, maintain and enhance the Aboriginal, cultural and heritage values or to protect basic landholder rights.

The carryover provisions for unregulated access licences and lack of protection of flows for downstream use has caused a failure to achieve social outcomes.

3. To what extent do you feel the plan has contributed to economic outcomes?

The key intent of the WSP was to have negligible impacts on history of use. This has contributed to economic outcomes at the expense of balanced water sharing.

4. To what extent do you feel the plan has contributed to meeting its objectives?

As found in the Alluvium audit, the WSP has failed to meet its objectives including a contribution to the environmental and other public benefit outcomes identified under the Water Access Entitlements and Planning Framework in the *Intergovernmental Agreement on a National Water Initiative (2004)*

5. What changes do you feel are needed to the water sharing plan to improve outcomes?

In the context of the development of WRPs under the Basin Plan, the current MDBA accreditation process and amendments made to the WSP in June 2020 it is very difficult to track the current status of this WSP.

Rules must be strengthened to protect the integrity of lagoons, natural pools and lakes in recognition of their importance in the landscape

Concerted research efforts into GDEs and the health of important naturally occurring water bodies in the landscape must be given high priority to inform a more balanced approach to water sharing under this WSP.

The provision of cultural flows and water allocation is also a high priority.

Conclusion

IRN looks forward to recommendations from the NRC that will inform the making of new WSPs for the Lower Murray-Darling water sources.

It is hoped that a clearer understanding of the status and future of water planning for this area will be provided in the NRC report.

The recommendations must provide strong guidance to the NSW Government so that the approach to water sharing is undertaken without the current bias towards the extractive industries.

Yours sincerely

Brian Stevens
Secretary