



## Environment Victoria submission to the Productivity Commission's Five Year Assessment of the Murray-Darling Basin Plan Draft Report

Environment Victoria is the state's peak non-government, not-for-profit environment organisation. Our Healthy Rivers Campaign is dedicated to working with government, communities and business for the restoration and protection of our state's great river systems. Our vision is for a future where healthy rivers sustain abundant life and prosperous communities, providing us with good food, clean water and places to love and enjoy.

We have campaigned for increased flows in northern Victoria's rivers for 15 years and have been following the development and implementation of the Murray-Darling Basin Plan since 2007. Environment Victoria holds the position that the Plan should be implemented as agreed on time and in full, with the recovery of the full volume of environmental water, that is 3,200 GL, by 2024.

We welcome the opportunity to make a submission to the draft five year assessment of the Murray-Darling Basin Plan.

### Introduction

Environment Victoria warmly welcomes many of the Productivity Commission's (PC) draft findings and recommendations, particularly its founding premise that the best way to restore community confidence in water management in the Basin is to go back to the basics of good management. These include clarity about roles and responsibilities, effective processes for collaboration, transparency and accountability for decisions and actions, meaningful community engagement including with Traditional Owners, and adequate reporting, monitoring, evaluation and review processes in place.<sup>1</sup>

We strongly support the Commission's critique of Basin Governments' lack of commitment to the Basin Plan as a whole. We agree that they have lacked candour and that the 'management of the basin is prone to poor credibility created by decades of States promoting their own interest in negotiations and a recent history of over promise in commitments on the Plan'.<sup>2</sup> We strongly endorse the statement that 'the MDB Ministerial Council must set a much clearer tone of firm commitment *to the Basin itself, not just to their own patch*, with unmistakable collective direction for delivering on commitment'<sup>3</sup> and recommend that Draft Recommendation 14.1 be made more explicit on this point.

We also support many of the Commission's findings on pre-requisite policy measures (PPMs), water resource plans (WRPs), supply projects, efficiency and constraints measure and share their concerns

---

<sup>1</sup> Overview Draft Report p15

<sup>2</sup> Overview Draft Report p15

<sup>3</sup> Overview Draft Report p21

about the various projects being completed in a transparent and accountable manner, on time and within budget. However these problems should not be used as an excuse not to recover water for the environment, particularly the 450GL of upwater which is an essential part of the Plan and critical to achieving the enhanced environmental outcomes.

While constraints management projects are undoubtedly difficult, these projects are essential to realising the benefits of the upwater. Many of them are also supply projects and further contribute to the outcomes of other supply projects, such as the hydro-cues measure. Constraints projects are therefore an essential part of the 605 GL offset package, in addition to their vital contribution to the enhanced environmental outcomes. They are too important to be consigned to the 'too hard' basket, and landholder negotiation should not be regarded as an insuperable barrier.

The Commission does not include buyback as a water recovery tool in its 'no regrets' approach to upwater recovery (DR5.2), despite outlining the need for a 'coherent water recovery strategy' that demonstrates how socio-economic impacts will be mitigated. This is a remarkable omission considering that the PC has consistently been a strong proponent for buyback as an equitable and efficient response to the structural change of water recovery for the environment, most recently in its 2017 assessment of progress on National Water Reform.<sup>4</sup> Including buyback as a tool would take a lot of pressure off the 2024 deadline for water recovery, in addition to relieving budget pressures given its cost-effectiveness compared to infrastructure projects. We suggest the PC makes a recommendation to lift the 1500 GL cap on buyback to enable the achievement of water recovery targets and SDLs in the Basin Plan in a timely manner.

We have concerns about some of the recommendations on environmental water planning and management, which do not address Basin Plan requirements to give effect to international agreements and protect Ramsar listed wetlands. They also fail to take into account the impact of an adjusted SDL on environmental watering objectives, particularly for floodplain outcomes. We reject the recommendation to remove a salt export target and are dismayed by the lack of recommendations for meaningful engagement with Traditional Owners, particularly on WRPs and supply projects.

We also question the lack of emphasis on the *benefits* of water recovery to society as a whole, compared to what has become an all-too-common and narrow focus on impacts on irrigators only.

These and other issues are explored in more detail below. We follow the structure of the Overview report 'Findings and recommendations' section.

### *Recovering water for the environment*

There is a fundamental misunderstanding of the water recovery target post SDL adjustment. The PC states that the 'Australian Government is required to recover 2075 GL of surface water and 40.4 GL of groundwater by 1 July 2019.' In fact the Australian Government is required to recover 2137 GL of surface water by 1 July 2019. This figure includes the 62GL to be recovered through efficiency measures that is required to meet the Basin Plan limit on SDL adjustment to 5% of the overall SDL.<sup>5</sup> To exclude the 62 GL from the water recovery target is misleading and reinforces the perception that the upwater is additional to Basin Plan requirements rather than an essential part of the plan. The 62 GL must be contracted by 1 July 2019 along with other remaining water recovery as outlined in DF3.1. All references to a 2075GL water recovery target should be changed to 2137 GL.

---

<sup>4</sup> Productivity Commission (2017) Draft Report on National Water Reform p423

<sup>5</sup> Basin Plan s 7.19

We question DR3.1 on over-recovery. As the PC describes elsewhere in the report, there is considerable uncertainty about the supply projects and the final volume of offsets that can be achieved. In the northern basin the situation is further obscured by uncertainty over cap factors and changes to the floodplain harvesting regime. Any consideration of over-recovery should be delayed until these issues have been resolved and until after the Basin Plan reconciliation in 2024 when the genuine contribution of supply projects is known.

We agree with DF3.3 that the overall impact of improved irrigation efficiency on water resources is not precisely known. Many experts are concerned that reductions in return flows due to irrigation efficiency projects (both on and off-farm) have not been taken into account<sup>6</sup>, leading to an over-estimation of environmental water recovery. We therefore suggest that the PC recommends an audit of environmental water savings to date to ensure that all water recovery is genuine.

We support DF 3.5 on the lack of value in strategic water purchases and the premium paid for water recovery through infrastructure projects. This finding should lead to a recommendation that buyback be reinstated as a means of equitable and efficient water recovery and that the 1500 GL capon buybacks be lifted.

#### *Supply measures and Toolkit*

Environment Victoria has been calling for rigorous assessment of supply measures for many years. We have proposed that the 12 criteria for approval described by the Wentworth Group of Concerned Scientists<sup>7</sup> be written in to the Commonwealth Water Act to ensure the projects provide genuinely equivalent environmental outcomes and meet appropriate standards for governance, risk management and value for money. We therefore support DRs 4.1, 4.3 and 4.4 that resolve outstanding issues and improve the rigour of assessment of these projects.

We question DR4.2 on extending the timeline for supply projects. If existing issues cannot be resolved over a 5 year period, in addition to the 7 years to 2019 that proponent governments have spent working on them since the Basin Plan was made, then there must be something seriously wrong with the projects in terms of meeting assessment criteria. A timeframe that extends beyond 12 years cannot be described as 'credible' in the context of these projects that have already been on the table for several years, and governments have been aware of the risks since an initial 'stocktake' report published in 2015.<sup>8</sup> The recommendation should be withdrawn.

We support DR 4.5 on toolkit measures. This recommendation should be strengthened by requiring legislative change to ensure the toolkit measures deliver an equivalent environmental outcome to 70 GL of water.

#### *Efficiency measures*

We agree with the PC assessment that there is a significant risk that the 450 GL of upwater will not be recovered by 2024 and that constraints projects are way behind schedule and may not be achieved at all. This situation is the result of the lack of commitment and cooperation between partner governments noted by the PC and a refusal by them to agree and progress projects. The states are still attempting to block progress by insisting that water recovery should have no adverse impacts at any scale and by consistently ignoring potential benefits to communities of both

---

<sup>6</sup> Grafton, Williams et al (2018) in Science *The paradox of irrigation efficiency*  
<http://science.sciencemag.org/content/361/6404/748.full>

<sup>7</sup> Wentworth Group of Concerned Scientists (2018) *Requirements of SDL adjustment projects to ensure they are consistent with the Water Act 2007, Basin Plan 2012, MDBA policies and intergovernmental agreements.*

<sup>8</sup> Martin and Turner (2015) *SDL Adjustment Stocktake Report*

efficiency and constraints projects. Fortunately the Commonwealth is now taking a greater interest in the recovering the 450 GL. Minister Littleproud recently stated that ‘the outcomes of the Plan agreed in 2012 were always a 3200 equivalent plan including 450 GL for the environment and this has not changed’<sup>9</sup> and a new tender process for water recovery towards the 450 GL has been established.<sup>10</sup>

However this tender process is unlikely to recover the full 450 GL on time and within budget. DR 5.2 for a new strategy and ‘no regrets’ process will certainly help in meeting the target but is not a full recipe for success. The PC must recommend re-establishing buyback as a means of water recovery, in line with its previous support and analysis, and call for the lifting of the 1500 GL cap.

Meanwhile the states have not provided any detail on how they propose to achieve the initial 62 GL upwater that is required by 30 June 2019 as part of the SDL adjustment. This is becoming an increasingly urgent issue with the Victorian government due to enter caretaker period at the end of October. The social and economic neutrality criteria are scheduled to be agreed at the Ministerial Council meeting in December<sup>11</sup> but no draft document has been produced for public discussion, meaning time for comment is likely to run out before the Victorian government enters caretaker period. The PC is correct in finding that the criteria may rule out otherwise cost-effective projects (DF 5.1), but it does make comment on how benefits can be brought into the framework. The PC should make a recommendation on how the 62 GL can be achieved within the 1 July 2019 time frame, and on what the socio-economic neutrality criteria should look like from their perspective.

The PC should also make a recommendation on what is needed to ensure constraints projects can be achieved by 2024 rather than their current position of accepting that full implementation is unlikely, as suggested in DR 5.3. The 2021 independent review of the Special Account should be focussed on removing remaining barriers to achieving the enhanced environmental outcomes, not on whether they can or should be achieved (DR5.3).

#### *Water resource planning*

We support the Commission’s recommendations for an extension of time for the accreditation of water resource plans and more guidance from the MDBA on content and compliance (DRs 6.1, 6.2 and 6.3).

#### *Indigenous values and uses*

The draft report has two findings but no recommendations on Indigenous values and uses. This is because First Nation’s rights, interests and cultural obligations receive only a passing mention in the objectives and outcomes contained in the Basin Plan itself. The Productivity Commission has unfortunately mirrored this lack of focus and action required to support the Plan outcome of ‘sufficient and reliable water supplies that are fit for a range of intended purposes including...cultural use.’<sup>12</sup>

This failure is particularly apparent in two areas:

- Water Resource Plan (WRP) development and accreditation – the failure of some states to design and implement appropriate strategies for consultation with First Nations is a critical

---

<sup>9</sup> <http://minister.agriculture.gov.au/littleproud/Pages/Media-Releases/The-450GL-fact-and-fiction.aspx>

<sup>10</sup> <http://minister.agriculture.gov.au/littleproud/Pages/Media-Releases/Getting-on-with-delivering-the-Murray%E2%80%93Darling-Basin-Plan.aspx>

<sup>11</sup> <https://www.mdba.gov.au/media/mr/communique-murray-darling-basin-ministers-meet-canberra>

<sup>12</sup> Basin Plan s5.02 (2)(a)

risk to the timely completion and accreditation of WRPs. The PC alludes to this problem in DF7.1 but does not make any recommendation on how to resolve it.

- Supply projects - the prospect of these projects failing to meet predicted environmental outcomes, generating unintended environmental and cultural impacts and failing to meet conditions required in the Basin Plan, represents a major risk to successful implementation. MLDRIN is also concerned about the danger of unforeseen cultural heritage impacts.

We refer to MLDRIN's submission for suggestions on how to resolve these issues.

#### *Water quality*

We are pleased that the many years of effort dedicated to salinity management have been effective and that catchment targets are by and large being met. Measures to prevent salt from entering the river system are clearly important and should be maintained. However the success of these measures does not mean that the salt export target should be modified or abolished. As the PC notes, there is only one way to actually discharge salt and that is through the Murray Mouth. Setting a target for export is the best way of making it happen.

The PC notes a potential conflict between site-specific salinity targets and the salt export objective during periods of low flow (DF8.1). The reality is that the export target is an average and most export will occur during years of higher flow when there is less conflict with upstream objectives. Constraint remediation is critical to achieving the higher flows required for the export target to be met. The way forward is to manage the constraints, not to abolish the target. DR8.1 should not be recommending abolition.

Water quality in the Lower Darling is a major concern and its impacts on residents and water users has been well documented.<sup>13</sup> Water quality declines precipitously when flows are low or absent, and the frequency of low flow events has increased dramatically in recent years due for three reasons – climate change, the provisions of the Barwon-Darling Water Sharing Plan (WSP) and the operation of Menindee Lakes. The increased volumes of extraction upstream permitted by revisions of the WSP in 2012 are particularly concerning. The PC should make a strong recommendation that water sharing arrangements should return to the pre-2012 WSP to protect water quality in the Lower Darling.

#### *Critical human water needs*

No comment

#### *Water trading rules*

We agree with DF10.3 on the impacts of water trade on third parties and the environment. We are particularly concerned about the delivery of increasing volumes that have been traded downstream to Sunraysia to meet growing demand. Because of capacity constraints in the Murray, much of this water is delivered via the Goulburn River which is being forced to flow at damagingly high levels during summer. These high flows are drowning out instream vegetation which had been re-established using environmental water, eroding the river banks and impacting on recreational opportunities – favourite sand banks are now submerged and swimming holes made dangerous by the high flows. These are unacceptable impacts of water trade but no-one has so far taken responsibility for addressing them. DR10.2 should allocate responsibility for avoiding damage to rivers as a result of trade. A limit on downstream water delivery should be set to prevent irreversible damage to rivers and to avoid undermining the benefits of environmental watering.

---

<sup>13</sup> Summarised in The Australia Institute (2018) *The Basin Files*

### *Environmental water planning and management*

A primary objective of the Basin Plan as a whole is 'to give effect to the relevant international agreements through the integrated management of Basin water resources'.<sup>14</sup> The PC does not make any findings on how well this objective is being achieved nor the more detailed objectives set out in Chapter 8 of the Basin Plan, including whether the ecological character of Ramsar listed wetlands is being maintained.<sup>15</sup> This is a notable omission that must be rectified in the final report.

In addition the PC ignores the impact of the SDL adjustment on the environmental outcomes of the Plan. It does not discuss how the 'equivalent' outcomes of the supply projects should be factored in to environmental water planning, nor does it assess if the equivalent outcomes are capable of achieving overall environmental objectives, particularly for floodplains and lateral connectivity.<sup>16</sup> Again this is a notable omission that must be rectified in the final assessment.

DF11.1 recognises the risk that Pre-requisite Policy Measures (PPMs) may not be in place by 30 June 2019. The PPMs are essential to ensure protection of environmental flows, particularly in the northern basin, and must be in place if the SDLs are to operate as planned. The PC must recommend action to ensure their implementation by the time as WRPs come into effect.

DRs 11.1 and 11.2 concern the Basin-wide environmental watering strategy (BWEWS) which is the key document that guides environmental watering across the Basin and sets targets for environmental condition. Given the limited volume of environmental water available, it should not be required to set secondary social and cultural objectives (DR11.2). These should be dealt with through separate processes, in particular through meaningful engagement with First Nations, the identification of cultural assets and the provision of cultural water.

There is no parallel discussion of the need for consumptive water managers to take social and cultural considerations into account in the delivery of water to their customers.

At present, environmental water managers are forced to prioritise in-stream assets and connected wetlands because they are limited by constraints and cannot consider out-of-channel watering. This is a really serious concern as it limits the range of objectives that are achievable and is the reason why a constraints management strategy was originally proposed. The PC recommends that Long Term Watering Plans consider what is achievable within existing constraints (DR11.2). Taking this approach will not achieve the Basin wide objective for environmental water set out in the Basin Plan and the focus should instead be on removing the constraints so that the full range of objectives can be achieved.

We support DR11.4 on formalising the role of the Southern Connected Basin Environmental Watering Committee and establishing a northern basin equivalent. These groups could work together on achieving outcomes for the Basin as a whole, such as meeting salt export targets and keeping the Murray Mouth open in 95% of years.

The Environmental Watering Advisory Groups (EWAGs) that operate in some NSW catchments have provided a very useful forum for engagement and consultation on watering decisions. The establishment of EWAGs in all water resource areas would provide the engagement processes for the CEWH envisaged in DR11.5.

---

<sup>14</sup> Basin Plan s 5.02(1)(a)

<sup>15</sup> Basin Plan s8.05(2)(a)

<sup>16</sup> Basin Plan s8.06

DR11.6 has some merit but using environmental water for cultural purposes is not a substitute for designated cultural water owned and managed by First Nations. Requiring environmental water to deliver social and cultural outcomes risks the achievement of environmental outcomes as outlined above.

Complementary measures to enhance the benefits of environmental watering such as riparian restoration and feral animal control are the responsibility of the states. They are really important, but are definitely not a substitute for water recovery. The PC should make this distinction clear and strengthen DR 11.7 to include a separate funding stream for these measures.

#### *Compliance*

We welcome the PC's recommendations to improve compliance. We particularly appreciate the PC's commitment to reviewing the effectiveness of compliance reforms by the states as part of their next assessment in 2023.

#### *Reporting, monitoring and evaluation*

We strongly endorse DF13.1 and DR13.1 on inter-governmental agreements to implement the Basin Plan. Partner governments must be held to account for their actions (or lack of action) and clearly defined milestones are an essential tool. Independent assessment of whether milestones have been reached and full transparency and disclosure are essential to restoring public confidence in the Basin Plan.

#### *Institutions and governance*

We strongly endorse DF14.1 on the shortcomings of current institutional and governance arrangements and agree that these have had really serious consequences for Basin Plan implementation. We acknowledge the need for Basin Governments to demonstrate strategic leadership and take joint responsibility for the implementation of the Basin Plan (DR14.1).

However we are less convinced by the recommendations for achieving this outcome. Enhancing the role of the Basin Officials Committee risks undermining the independence of the MDBA. The functions of the MDBA are clearly spelt out in the Commonwealth Water Act<sup>17</sup> and the Authority was established as an independent expertise-based statutory authority designed to take the heat out of inter-jurisdictional disputes. Whether it has been successful is arguable, but handing back control and responsibility for implementing the Plan to the BOC and ultimately the states is not necessarily the best way forward.

We support the need to separate the compliance/regulatory functions of the MDBA from its river management and Basin Plan implementation roles to avoid conflicts of interest (DR14.2). However again we believe the proposed model could be improved. Our preferred solution would be to establish a federal Environment Protection Authority which would conduct monitoring, compliance and enforcement actions, including compliance with the Murray-Darling Basin Plan, in addition to transparent environmental assessments and inquiries. The MDBA would then continue to manage the river system on behalf of the partner governments and to provide independent leadership in Basin Plan implementation. DR14.3 is a threat to that independent role and should be deleted.

For further information regarding this submission, please contact:

Juliet Le Feuvre  
Healthy Rivers Campaigner

---

<sup>17</sup> Water Act 2007, Part 9

Environment Victoria,  
Level 2, 60 Leicester St,  
Carlton VIC 3053  
Phone: 03 9341 8106 or 0428 770 019, email [j.lefeuvre@environmentvictoria.org.au](mailto:j.lefeuvre@environmentvictoria.org.au)