

Basin Plan Inquiry
Productivity Commission
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Dear Professor Doolan & Mr Madden,

Re: Murray-Darling Basin Plan Five-year assessment initial submission

Thank you for the opportunity to provide input into the Productivity Commission's Murray-Darling Basin Plan Five-year assessment.

This document provides our experience and concerns going forward from the perspective of landholders who have been significantly affected by, what is in our opinion, poor implementation of the Murray-Darling Basin Plan. This document is set out with some general comments regarding the Lower-Darling region and our experience of the Murray-Darling Plan, and then specifically addresses the consultation questions as set out in the issues paper.

Importantly, we strongly support in principle the vision of the Murray-Darling Basin Authority, which is a healthy, working Basin through management of water resources. The aim of Plan is to: "... ensure water is shared between all users, including the environment, in a sustainable way. It does this by managing the basin as one system." (MDBA) However, unfortunately experience demonstrates that this has not been achieved since the introduction of the Plan.

We own three properties totalling 500,000 acres on the Lower Darling, approximately 50 km south of the Menindee Lakes. Tolarno Station sits on the Darling River, and all three properties depend on the Darling for livestock and domestic purposes. The properties have a rich history spanning 160 years, and today run merino sheep, cattle and rangeland goats.

Background on the region:

The Lower Darling, a 500km stretch of river which includes the Menindee Lakes, is integral to the social, cultural and economic livelihood of the communities of Menindee, Pooncarie, Ellerslie and Wentworth, as well as providing critical water to the township of Broken Hill. It is the traditional lands of the Barkindji Nation, who have a continued connection to the river and country.

The Lower Darling is a profitable agricultural community with predominantly pastoral production, including sheep, cattle and rangeland goats. There is also a strong citrus production industry. The area has a long and rich history in this industry, dating back to the 1820s. The industry requires a healthy, sustainable river system for economic viability, with properties dependent on pumping small quantities of water for stock and domestic purposes or

permanent plantings, either directly from the river or from groundwater replenished by the river.

It has only been in the last 15 years that the viability of the Lower Darling and Menindee Lakes has been in question. As shown in Table 1, dating back to 1940, there were only two occasions when the river had ceased to flow prior to 2002. Since 2002, there have been 15 cease to flow events, which have had a significant impact on the economic, social, psychological and physical health of the communities.

Table 1: Cease to flow events on the Lower Darling at Burtundy
(~180km south of Menindee Lakes)

Year	Month	Duration (days)
1946	September – November	89
1947	January	19
2002	August – September	19
	September – October	19
	October – November	26
	December	10
2004	January – February	48
2005	November	10
2006	September	10
	September – November	42
2007	July – September	67
2007-2008	October – January	103
2009	July	9
2009	October – November	14
2015	February	3
	March	21
2015-2016	April – August	~500

The Lower Darling is also some of the most valuable habitat in the Southern Murray-Darling Basin. The Menindee Lakes are a vital spawning and recruitment site for Golden Perch, with 60-80% of all of this species in the Basin originating from this stretch of the River and Lakes. The Lower Darling is also home to one of the strongest populations of Murray Cod in the Basin, due to the traditionally reliable and naturally occurring flows. The ecological importance of this stretch of river for the whole Murray-Darling Basin is only now just being understood by scientists. The Menindee Lakes are also an important site for wildlife, particularly waterbirds, being the home of a number of threatened and endangered species local and migratory birds.

The Lower Darling catchment has minimal runoff and is entirely dependent on the Northern Basin. The Lower Darling catchment is fed directly by the Barwon-Darling catchment, of which 99% of flows are generated in upstream catchments (MDBA). The Lower Darling is the only connection between the Northern Basin and the Southern Basin. We recognise that the Lower Darling sits within the Southern Basin however it is our opinion that the Lower Darling should be included in the Northern Basin, and not the Southern Basin.

Recent experiences on the Lower Darling

In 2013/2014 the decision was made to use water stored in Menindee Lakes at the first source of water to fulfil requirements for flows to SA. At the time, there were concerns made by both landowners and bureaucrats alike across the Murray-Darling Basin about the pressure this decision would place on the Menindee Lakes. These calls were ignored.

As a direct result of minimal inflows into the Menindee Lakes and Lower Darling and excessive released from the Menindee Lakes, in 2015-2016 the Lower Darling saw an unprecedented environmental disaster.

In 2015-2016, the Lower Darling at Tolarno Station was completely dry for a period of 8 months. The dry river period in 2015-2016 was longer and had greater economic, social and health impacts than any dry river period during the 2000s drought.

During this period, there were significant and long-lasting social and economic impacts to the community. On our properties alone, we experienced significant loss of land, stock and production. Over 200,000 acres of land was lost to production due to loss of property borders (the river is a natural boundary between properties) and no potable water for stock or domestic use. The water quality in the remaining water hole was so poor, the water became toxic and was unsafe for use. In time, the bore supply also reduced in quality and supply.

The impact on the community was significant. Agricultural businesses across the region experienced similar issues with toxic water supplies, loss of property boundaries, and death of stock. The cost of new bores and additional infrastructure was substantial, and no government support was received. The township of Poongarrie (population approximately 100) relied on trucked water for at least 3 months. At least 3 children developed staphylococcal infection which is highly resistant to antibiotics caused by exposure to the toxic river water.

In the lead-up to the dry river event of 2015-2016, the catchment had received average rainfalls over the preceding 12 months, and in our opinion the event was a direct result of over-diversion upstream in the Northern Basin, specifically:

- mismanagement of water resources in the Murray-Darling Basin by NSW Government and the Murray-Darling Basin Authority.
- significant changes made to the Barwon-Darling Water Sharing Plan by NSW Government in 2011.
- the use of Commonwealth-owned environmental water for irrigation purposes.

In March/April 2016, DPI Water senior bureaucrats visited the affected community of Pooncarie. This was the first and final visit to affected communities during the extended period the Lower Darling was dry. At this meeting NSW DPI Water were asked that:

- all water below Bourke currently available should be immediately prioritised for the purpose of returning water to the Lower Darling River below Menindee Lakes.
- An embargo be placed on irrigation extractions, to return water to the Menindee Lakes and the Lower Darling for the environment, and to provide safe access to town and stock and domestic water licences (higher priority than irrigation licences).
- immediate grants be made available to landholders no longer able to access water for human, domestic and stock purposes, to support infrastructure costs.
- there be full environmental impact study undertaken prior to any pumping of shallow bores at Menindee Lakes for the purpose of water supply to Broken Hill, to understand the long-term consequences.

There was no action taken by NSW DPI Water on any of these points. We were told by a senior bureaucrat that, categorically, there would be no embargoes placed to support return of flows to the Lower Darling. Senior bureaucrats committed to return to the affected communities and see firsthand the impact in the following 2 months. They did not return to visit, or make any response to repeated attempts to contact him regarding the matter during the period that the river was dry.

Despite repeated calls for an embargo, no embargo was placed on flows in the Barwon-Darling to return flows to the Lower Darling. It is believed that if an embargo had been in place, the Lower Darling would have seen flows return in early 2016. Senior DPI Water bureaucrats acknowledged in Pooncarie in March/April 2016 that small flows had not been embargoed, and that if they had been it was likely that there would be water in the Lower Darling.

Flows returned to the Lower Darling in August 2016, a result of unseasonal floods in Queensland and northern NSW. If this unseasonal event had not occurred, it is uncertain when water would have returned to the Lower Darling, if at all.

The Menindee Lakes were at full capacity in December 2016. The community again called the for the NSW Government and MDBA to improve management of the Menindee Lakes storage to prevent the lakes and Lower Darling going dry. We argued that draining the Menindee Lakes as first preference of supply is not sustainable, and that the justification on the basis of high evaporation rates was not valid over having a connected river system and water in the Lower Darling. Despite repeated calls, use of the Menindee Lakes storage commenced in December 2016, including release of environmental water. In December 2017, the 480 GL drought trigger for handover of management from MDBA to NSW occurred. In early 2018, large stretches of the Lower Darling and Menindee Lakes experienced blue-green algae events, putting people and livestock again at high risk. WaterNSW model that the Lower Darling will cease to flow in December 2018.

Given the lack of protection of low and medium flows in the Barwon-Darling, the Menindee Lakes and Lower Darling will be dependent on the next flood to return water to the river. This may not occur for many years.

Issues paper information request

The Commission welcomes feedback on its approach to assessing the Basin Plan.

We support the Commission's approach to assessing the Basin Plan.

It is important that the effectiveness, cost-effectiveness and technical efficiency are all considered. It is acknowledged in the issues paper that there has previously been a lack of focus on outcomes measures (page 32). This review must carefully consider the measurable environmental outcomes of the Basin Plan, which should include basin-wide connectivity. Basin-wide connectivity, in other words having one connected eco-system, has been lost from the original intent of the Plan of "managing the basin as one system" (MBDA), and has resulted in many issues we observe today on the Lower Darling.

It is important to note that following allegations by the Four Corners story "Pumped" on 24 July 2017, and subsequent allegations, there are a number of investigations underway. It is important that the Commission's Review:

- Acknowledge that there are severe allegations of failure to effectively implement the Plan laid against a range of bodies involved in its implementation, included but not limited to the Murray Daring Basin Authority (MBDA), NSW Government, Federal Government, and Queensland Government.
- Acknowledge that these allegations raise significant community concerns about the implementation of the Plan, and that due to these allegations there is distrust in the processes that have and are currently taking place to implement the Plan.
- Work with the investigations that have been completed and are currently underway to ensure that the Commission's work: does not result in a duplication of work; is consistent with other findings, and; builds on the findings of targeted investigations to consider the technical efficiency, cost effectiveness and effectiveness of the Basin Plan.
- Consider how the implementation of the Basin Plan can be recovered to ensure that the original objectives are achieved, and that there is trust regained in its implementation.

Sustainable Diversion Limits and Adjustments:

The Commission is seeking information on:

a. risks that may prevent Basin States from successfully implementing SDL adjustment projects

We have many concerns regarding the SDL adjustment project, which have not yet been approved by the Federal Parliament. Given the limited information available, there are significant flaws in the overall SDL Adjustment Mechanism process put forward by the MDBA in their consultation paper in 2017, these include:

1. The lack of any mechanism to guarantee that SDL adjustments proposed beyond the 5% limit of change are fully offset by additional environmental flows secured through the efficiency measures.
2. Issues such as climate change, and the changing geographical pattern of irrigation demand has not been taken into account in the current proposal.
3. Accounting for projects in the proposed SDL adjustment 2019, before they are completed and their outcomes assessed in 2024.

4. A failure to provide any detail of the supply measure projects. The brief description provided is not adequate for stakeholders to provide informed feedback on any of the individual measures. This significantly inhibits appropriate scrutiny.
5. The timing of consultation less than two months from the date of final determination indicates that this consultation is only lip service and that the MDBA have no intention of addressing or integrating consultation feedback. The length of time for consultation provided limited opportunity to review the complex and far-reaching set of measures.
6. There is a failure to ensure that environmental water is shepherded when crossing state borders.
7. It is proposed that SDL adjustment projects must be implemented by 2024. Projects implemented in 2023 and 2024 will be impossible to evaluate in terms of yield if 2024 is the measurement year.
8. Recent allegations of compliance raise concerns of Basin-wide processes and systems to prevent inappropriate or illegal activities by individuals or governments.

In addition to these concerns, there are real questions regarding the quality and integrity of some of the projects proposed. The "Structural and operational changes at Menindee Lakes" project (the Menindee Lakes project) is one such project. In the case of this project:

- The MDBA's own analysis of this project highlights significant concerns with the project, including:
 - the absence of an environmental impact statement,
 - failure to address potential risks and impacts to downstream users, including reliability of supply, water quality and interactions with planned environmental water,
 - the potential for adverse ecological impacts given the filling regime of the Lakes will be much dryer than natural occurrences,
 - failure to address mitigation measures,
 - potential loss of habitat of the Golden Perch nursery (this nursery's significance across the Basin discussed above),
 - questions about the environmental outcomes previously achieved through other projects undertaken by the NSW Government, in particular the Great Darling Anabranch Pipeline project,
 - the project is outside the MDBA's framework for testing environmental equivalence,
- No information has been made publicly available by NSW Government on the project;
- There has been no consultation process with communities regarding the structural and operational changes, or the impact on lake levels and permanent flows down the Lower Darling;
- The NSW and Commonwealth Governments are undertaking a number of associated projects/actions which will impact this project. There has been no information released on the alignment or combined impact of these projects.

- Changes to the Barwon-Darling Water Sharing Plan made in 2011, which undermine the Murray-Darling Basin Plan, have not been reversed, and the impacts of this on the Menindee Lakes project fully investigated.
- It is alleged that documents specifically related to this project were confidentially released to a select group of irrigators by NSW Government employees. All investigations relating to this matter, and other allegations related to flows into the Menindee Lakes and Lower Darling should be completed, and issues resolved, prior to progression of this project.
- The community has significant doubt on the integrity of this project, particularly given the finding of systemic issues (Matthews Report, 2017) which have led to a failure of the NSW Government to implement the Plan.

The community is strongly opposed to this project, and are committed to ensuring that the project is either implemented in a transparent and honest manner, or is stopped. Given this is a significant project in terms of the SDL adjustment mechanism, and a major project for NSW Government, this brings into great uncertainty the full implementation of the SDL adjustment projects.

b. the extent to which adopting a different definition of 'neutral or improved socioeconomic outcomes' for efficiency measures to what is in the Basin Plan would affect the likelihood of projects being delivered on time and on budget

A neutral or improved socio-economic outcome is sought; however, the inference is that the socioeconomic outcomes are only for irrigation communities, and fails to acknowledge the potential improvement socioeconomic outcomes in returning water for all communities, including communities along the Lower Darling. There are many industries across the basin, including dry-land farming and tourism, which is lost in the debate. Any analysis of socioeconomic outcomes must include the broader community.

c. whether there are other novel approaches to recovering water for the environment, such as purchase of entitlement options, that may contribute to Basin Plan outcomes while achieving neutral socioeconomic outcomes.

We are unable to suggest any novel approaches which can achieve neutral socioeconomic outcomes. It is important to acknowledge that achieving neutral outcomes is unrealistic, as there will always be economic losers. The Basin Plan should seek a net neutral or improved socioeconomic outcome and environmental outcomes.

Northern Basin Review:

The Commission is seeking information on actions governments should now take to achieve SDLs in the Northern Basin.

The current 390GL SDL should be maintained. There are clear mechanisms for buy-back of water, which appears an obvious choice for achieving the SDL. This would require the cap on buy-backs to be lifted.

It should be noted that the NSW Government is currently implementing the NSW Floodplain Harvesting Policy, which has diversions that exceed those estimated under the Basin Plan, and which pose a significant risk to the achievement of the SDL in the Northern Basin. Fundamental flaws in the implementation of the Plan are evident, particularly in the Northern Basin.

Constraints management

The Commission is seeking information on:

a. why progress to remove constraints has been slower than expected

Allegations over the last year have raised serious questions about the intent of the NSW Government in addressing constraints.

b. the implications of this slow progress

No comment.

c. what can be done to ensure that constraints are removed in a more timely manner while managing impacts on third parties

There is a need for a clear commitment by all Governments, with clear targets and measurables set in ensuring constraints are removed.

d. strategies that are, or could be, put in place to increase the extent to which Basin Plan objectives are met when constraints cannot be removed.

No comment.

Recovery of water for the environment

The Commission is seeking information on:

a. the extent to which the Australian Government's strategy to recover water in areas where gaps remain will be cost effective, align with the Basin Plan's environmental objectives, and be transparent

There is too great a reliance on the SDL adjustment mechanism projects to achieve the remaining recovery of water. As discussed above, there are serious concerns about the method of accounting for these projects. There is also question about the cost and timeline of these projects. Therefore, there is significant risk in achieving the Basin Plan's environmental objectives, and that these projects will be cost-effective.

As discussed above, the cap on buy-backs should be lifted to allow this mechanism to be used.

There is a need to increase transparency in all areas of water recovery, as there are significant concerns regarding both buy-back decisions and the SDL adjustment mechanism projects.

b. risks to achieving water recovery targets by 1 July 2019 and, where not already addressed under current arrangements, how any shortfalls may be resolved

As discussed above, there is significant concern regarding the accounting of the SL Adjustment Mechanism projects. There is a significant concern that the environmental outcomes will not be able to be assessed until after 2024, and therefore it will be unclear how much water will be

recovered by 1 July 2019. There is significant concern that there will not be budget available to make up any shortfalls in the SDL adjustment mechanism projects by the time that the environmental outcomes are reliably assessed and accounted for.

- c. examples of water recovery (both infrastructure projects and purchases) that have been either well implemented or had major deficiencies, including risks to securing contracted but not yet delivered water from water-saving infrastructure projects.*

As discussed above, there are clear deficiencies in the Menindee Lakes Scheme infrastructure project under the SDL adjustment mechanism.

There are also queries about the cost-effectiveness of a number of purchases, these issues have been raised in the media over recent months. One such purchase is the Tandou water purchase. This water licence was a low-priority licence, and naturally availability of the licence was low. However, this water has now been purchased, at what we consider a very over-inflated price. This water will not provide environmental benefits in the region it is been purchased, and there are questions regarding what environmental outcomes this purchase will achieve.

Structural adjustment assistance:

The Commission is seeking information on:

- a. what specific assistance has been provided to help communities adjust to the Basin Plan*

There have been significant socioeconomic impacts on Lower Darling communities, including increased releases from Menindee Lakes. There has been no assistance provided to the community to help adjust to the greater periods of dry and decreased water quality. Despite repeated calls from support from the community, the MDBA continue to ignore the issue.

- b. the extent to which this assistance has supported particular industries or regions*

Regarding the proposed Menindee Lakes project, this project was a driving factor in the Tandou water purchase made by the Commonwealth in 2017. We believe other investigations have evidence that there was communication regarding the purchase and purchase price between the owner of the license and those negotiating the price, which should be investigated. This is one example of a lack of transparency in such purchases (discussed above).

- c. evidence that this assistance has facilitated adjustment that would not have otherwise occurred and has contributed to meeting the intended outcome of the Basin Plan, including more resilient industries and communities with confidence in their long-term future*

In contrary, we would say that the lack of assistance for the general community has significantly weakened the resilience of the community's confidence.

- d. whether future structural adjustment assistance is warranted, and if so, what lessons can be learnt from past programs.*

There is a need for transparency in the implementation of the Plan, including structure adjustment processes.

Water resource plans

The Commission is seeking information on:

- a. *the main risks to remaining WRPs being finalised and accredited by mid-2019*

There has been a lack of corporate capacity within NSW to achieve the WRPs by mid-2019, and it is our understanding that there is little scope for NSW to have all plans accredited by mid-2019.

- b. *how, and to what extent, recent measures to make the WRP accreditation process more efficient and streamlined have sped up the preparation of WRPs and whether there are opportunities to further streamline the accreditation process for WRPs*

No comment.

- c. *other ways WRPs or associated planning processes (e.g. consultation, modelling inputs) could be changed to better meet the objectives of the Basin Plan*

It is critical that there be an increased connectivity between WRPs. There is a need for community and environmental water requirements to be based on long term watering plans, and not current flawed models. It should also be noted that models using long term averages in the Northern Basin should not be used, given variability and change in irrigation practices in recent years.

- d. *how effective Basin States have been in consulting with all relevant stakeholders*

There has been limited communication with relevant stakeholders in downstream WRP regions regarding the impacts of upstream WRPs. There has also been limited communication with pastoral communities along the Lower Darling regarding the regions own WRP.

- e. *the main risks to planning assumption work being finalised on time.*

As discussed above.

Environmental water planning and management

The Commission is seeking information on:

- a. *how environmental water planning under the Environmental Management Framework is, or is not, facilitating achievement of the Basin Plan's environmental objectives within legislated timeframes, and what improvements should be made.*

There is a clear failure to protect low and medium, and environmental flows in the Northern Basin. Current agreements demonstrate the failure of having a systematic approach to protection of flows, operating on a case-by-case basis. Systematic protection of flows must be included in the WRPs.

It should also be noted that original stream gauges were not designed for informing environmental water management, and therefore fail to do this in the most effective manner. In many cases, the gauge location should be reviewed to consider best location for measurement of environmental water as well as water extracted for irrigation

- b. how effective and efficient the delivery of environmental water is — including through coordination among owners of held environmental water, managers of planned environmental water and other stakeholders — and how any barriers could be reduced*

There is a clear lack of systematic co-ordination in the delivery of environmental water. There needs to be systems in place which automatically protect environmental water flows, and which are not dependent on case-by-case negotiation. This will particularly be the case following 'full implementation' of the Plan.

- c. whether Australian and State Government objectives for the delivery of environmental water align, any examples of where this has not been the case, and how differences are resolved through the Environmental Management Framework*

There has been a lack of alignment in objectives for delivery of environmental water between NSW Government and the Basin Plan. This is demonstrated in the Barwon Darling Water Sharing Plan.

- d. the extent to which the Prerequisite Policy Measures (PPMs) assumed to exist under the Basin Plan will be in place by the target date of 30 June 2019, so that the Plan's environmental objectives can be achieved under the SDLs agreed by governments, and how any identified concerns should be addressed*

No comment.

- e. any opportunities to better integrate environmental water planning and management with natural resource management programs and complementary works to facilitate achievement of the Basin Plan's environmental objectives.*

No comment.

Water quality and salinity management

The Commission is seeking information on:

- a. any inconsistencies between the various national water quality guidelines and the water quality management plan requirements in WRPs and whether these inconsistencies are being resolved and managed*

Since 2015, there have been clear issues with the quality of water in the Lower Darling. This has had a significant impact on communities and the environment. It is currently unclear whether these issues will be resolved and managed in the future WRP. Water quality has been directly associated with management decisions by the MDBA and NSW Government, including impacts of upstream WSPs.

- b. the adequacy of the actions of water managers to achieve the water quality objectives of the Basin Plan.*

In the Lower Darling, there has been a clear failure of water managers to achieve appropriate water quality, and a failure to recognise and address these issues going forward, as we have

seen a repeat of the same issues, and a failure of water managers to acknowledge and accept responsibility for the poor water quality.

Water trading rules

The Commission is seeking information on:

- a. whether the Basin Plan trading rules advance the water trading objectives and outcomes stated in chapter 5 of the Plan*

The Plan has not increased transparency in water trading information in NSW. A review of transparency is currently underway, however we are concerned having reviewed the consultation paper, that this will not reach recommendations of the Matthews Report.

- b. whether changes to state trading rules made to date as part of implementation of the Basin Plan adequately recognise and protect the environment and third party interests*

Downstream community and environmental impacts of low or no flows is not properly addressed. Focus is on the impact of flooding, when the greatest issues experienced on the Lower Darling are little or no water, and water of poor quality. These issues are closely associated with the trading and water management rules of the Barwon-Darling WSP.

- c. whether implementation of the Basin Plan has improved access to market information and what further actions Basin States, irrigation infrastructure operators or the MDBA might need to take*

As comment above regarding transparency.

Information that is currently available on NSW Government registers is not easy to locate or access, and restrictions in release of certain information significantly limits transparency. There is therefore a need for greater transparency. There is also a need for further information to be provided, including:

- information on the location of the licence;
- clear transparency on the owner of the licence;
- site use approvals;
- real-time quantity of extraction under each licence;
- historic pumping times, dates and river level;
- trading of licences within and across valleys, and both zero-value and costed trades;
- works approvals;
- storage capacity of all works; and
- a list of convictions against each water licence.

- d. whether processes for reviewing Basin State trading rules — including the roles of the MDBA and the water trade working group — are sufficiently transparent, evidence-based and consultative.*

As discussed above in regard to other points, there is a lack of transparency, decisions based on clear evidence, and wide consultation on water trading rules. The introduction of the Barwon-Darling WSP is a case in example for this.

Critical human water needs

The Commission is seeking information on:

- a. *risks to meeting critical human water needs (CHWN) under the Basin Plan, how the Plan addresses these risks, and what, if any, further measures are required*

There are significant concerns in meeting CHWN on the Lower Darling, which have increased since the introduction of the Plan and the 2012 Barwon-Darling WSP. It is important to note that several users extract water for stock and domestic use directly from the river, and that there are limited filtration systems available. This makes high-quality safe water in the river an important matter.

It is critical that CHWN of downstream users are prioritised in WRPs going forward. It is also important that the implementation of the Basin Plan re-focus on the importance of connectivity. This failure to prioritise connectivity (particularly in the Lower Darling) over efficiency of delivery of water by the MDBA (their primary priority as stated to us on many occasions) has led to serious risk of CHWN.

The Menindee Lakes SDL adjustment mechanism project will significantly increase risk to CHWN on the Lower Darling.

- b. *any concerns about provisions in WRPs relating to CHWN under extreme conditions.*

As discussed above, the CHWN of downstream users must be prioritised over irrigation extraction within the WRP region. This is currently not a provision that is evident in the WRPs.

Compliance

The Commission is seeking information on:

- a. *risks to the MDBA's ability to monitor and enforce compliance with the Basin Plan and WRPs from July 2019, and what, if any changes should be made to address these risks*

There is clearly a failure of the MDBA to monitor and enforce compliance, particularly in NSW. There has also been a failure of NSW Government to enforce compliance, associated with a systemic culture that compliance is not a priority. There are continuing concerns about NSW Government's commitment to effectively enforce compliance.

We have no confidence in either the MDBA or NSW Government to enforce compliance, now or into the future. The confidence lost over the last year will be immensely difficult to re-gain. The new Office of Compliance will need to act decisively and quickly to regain any trust or confidence.

A key aspect associated with compliance is a consistent set of rules across all states in terms of measurement and metering, which is clearly not the case. The 2017 Matthews Report found NSW Government had very weak measuring and metering, and had clear recommendations. In the recent consultation paper, it is uncertain whether the recommendations of the Matthews

Report will be followed, in particular the introduction of no meter, no take rules. If the recommendations of the Matthews Report are not implemented by NSW, there will be ongoing concerns regarding compliance and consistency across states.

b. the extent to which non-compliance with the Basin Plan will be addressed by recent changes to compliance and enforcement announced by governments

As discussed above, we have no confidence now or into the future, the recent changes to compliance and enforcement are yet to be shown to be effective at addressing significant concerns.

c. any further changes that should be introduced to increase water take compliance across the Basin.

Many changes are discussed above. In addition to this, the MDBA must work with the NSW Government and Queensland Government to address the issues.

Monitoring, evaluation and reporting

The Commission is seeking information on:

a. how well current arrangements for monitoring, evaluation and reporting support the delivery of the objectives of the Basin Plan; and how they could be improved to increase the likelihood of the objectives being met

As discussed above, there is a need to have an increased focus on measuring the environmental objectives of the Basin Plan.

b. whether there is a clear delineation of responsibilities for monitoring, evaluating and reporting on the Basin Plan, and, if not, how it could be improved

There is not clear delineation of responsibilities in practice, which results in shifting of blame, a lack of responsibility taken, and a lack of transparency in processes.

There is a need to re-state and clarify responsibilities, and to ensure that each body is transparent in reporting their responsibilities. If individual bodies fail to do this, the overarching body needs to provide transparency in the lack of action by individuals, but not actually undertake monitoring, reporting and evaluation.

c. the usefulness of the MDBA's Framework for Evaluating Progress and its recent application in evaluating the Basin Plan

The Framework is in place, however it is clear that the Framework is not being used to assess and make decisions regarding the Plan. An example is the MDBA's own assessment of the Menindee Lakes project, which fails to meet the criteria of the Framework, but is still included in the SDL adjustment mechanism. See previous comments.

d. how data and information obtained through monitoring, evaluation and reporting could be made more useful for decision making and evaluation of the Basin Plan (including how to make this data and information more outcomes-focused)

Reporting of monitoring and evaluation should be timely, transparent, easily available and well communicated. This is currently not the case.

e. the general information required to provide confidence to communities and others that the Plan is being implemented well and is achieving its objectives

Reporting of monitoring and evaluation should be timely, transparent, easily available and well communicated. This is currently not the case. There is currently a lack of confidence that the Plan is being implemented effectively. This is in part due to the complexity of bodies involved in the implementation of the Plan and the constant shifting of blame between bodies in the current short-comings of the Plan.

There must be one body which has the power to oversee full implementation of the Basin Plan, and there must be transparency in this body. In our opinion, currently the MDBA lack both the capacity or will to use their powers and the transparency to provide confidence in their actions.

f. whether processes are in place to monitor key risks to the continued availability of Basin water resources.

In our opinion, there are not adequate processes in place to transparently monitor and evaluate risks to water resources or the Plan.

Basin institutional and governance arrangements

The Commission is seeking information on:

a. whether current institutional and governance arrangements provide for sufficient oversight of the plan and support engagement with the community

As discussed above, the current complexity of the institutional and governance arrangements of the Plan compromise transparency, proper oversight and community engagement. It is too complicated to comprehend, and there is constant blame shifting between bodies. It is difficult as a landholder and community member to engage with. This is complicated by a lack of transparency and unbiased consultation processes by the NSW Government and the MDBA (matters discussed previously)

b. whether there are risks to the achievement of the objectives of the Plan that arise from the current institutional and governance arrangements

The risks discussed above risk the achievement of the Plan's objectives.

c. what improvements can be made to ensure that institutional and governance arrangements are fit for the next phase of implementing the Plan.

It is critical that the arrangements be simplified and that there be clear responsibilities for each body. These should be clearly delineated and communicated to the community.

In our opinion, the MBDA's Board is biased towards irrigation interests. There are a range of stakeholders who have interests in the Plan's success, and there is a need to have broader representation.

We again thank you for the opportunity to comment on the NSW Water Reform currently underway, and are happy to be contacted regarding this submission.

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