



Five-year assessment of the Murray Darling Basin Plan: Response to DRAFT REPORT

Submission to the
Productivity Commission

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The draft report on the five-year review of the Basin Plan identifies issues with the Basin Plan that have been raised by stakeholders over the years. There are significant risks ahead for communities if the implementation of the Basin Plan proceeds without due consideration of many of the issues raised by the Productivity Commission and issues raised in numerous public submissions by Southern Riverina Irrigators (SRI)

SRI provides the following comments to the Productivity Commission in response to the release of the Draft Report on the five year review of the Murray Darling Basin Plan.

Summary

There must be no further water recovery of productive water.

Almost 30 percent of the productive water from the NSW Murray region has been transferred to environmental accounts since the early 1990s. The impact of this water recovery is being exacerbated in the current drought scenario and the region is at tipping point. While our farmers have taken steps to increase efficiency and accountability, environmental water managers and river operators do not have the same obligations.

The Basin Plan was conceived at a time of extreme drought but was never going to be the antidote to drought. Recent evidence to the South Australian Royal Commission into the Basin Plan indicates the recovery target was decided without thorough process and the Basin Plan was then designed to achieve that target.

SRI continues to question the science, modelling and the emphasis on water recovery in the Southern Basin that underpins the Basin Plan.

The MDBA at the time also made assumptions that rules would be changed (pre-requisite policy measures) without modelling current operational conditions or establishing what the impact of rule changes would be on other water holders. To add insult to riparian landholders, the MDBA also assumed they could flood land at any time to deliver the level of flows they were using to underpin their models.

The process was wrong and communities are suffering as a result.

At the 11th hour, the then Government acquiesced to demands by South Australia for more water without consideration of issues and whether flows alone are the solution. The South Australian Government must be held accountable for environmental issues at the lower lakes. Just as upstream states are looking at system management as a tool to improving environmental outcomes, so too must South Australia. For too long, South Australia has claimed the victim status, yet they are the only state with virtually guaranteed inflows and the capacity to consistently manage their river from a known base. After seven years of good system flows (three of which were devastating flood years upstream), if there are still issues at the Lower Lakes and Coorong, it proves the solution is not flows. As we again enter a dry phase, South Australia must be held to account for their own patch as other States take responsibility for theirs.

The solution must be to halt all further water recovery. Constraints management has not been resolved. Constraints management targets have changed. Pre-requisite policy measures have not been finalised. The MDBA must model what can actually be delivered under current operating conditions. If that work is undertaken, the likely outcome is that the Government has enough water.

The Social and economic impacts of the Basin Plan in the NSW Murray Valley are serious and require urgent strategies to enable the Basin Plan to allow innovative mechanisms to achieve environmental outcomes with less water to be recovered from agriculture.

The Murray Darling Basin Authority's Regulatory Impact Statement (2012) described the impacts of the Basin Plan as 'modest'. In the NSW Murray Valley, the Regulatory Impact Statement is not consistent with what is already evident to date. This is reflected in both revised assessments undertaken by the Murray Darling Basin Authority (MDBA) and by community initiated consultancies.

Questions should also be raised about continued merits of the MDBA focus on water recovery driven by volumetric targets from the NSW Murray. This ignores the low yielding nature of NSW Murray General Security entitlements and thus calls into question how the continued emphasis on water recovery as opposed to direct investments in environmental infrastructure.

While the Productivity Commissions terms of reference are quite specific, SRI encourages the Commission to focus on major deficiencies in the Basin Plan

C3. Recovering water for the environment

SRI welcomes the recognition by the PC that environmental water recovery commenced well before the Basin Plan, however, we note that the focus of the chapter is on held environmental water meaning inadequate consideration of the totality of the environmental portfolio and its management. SRI believes that the PC recommendation (11.4) to formalise the role of the Southern Connected Basin Environmental Watering Committee will lead to better integration of environmental water management across all held and planned environmental water accounts in turn leading to better environmental outcomes.

We also note that while the rhetoric surrounding the need for the multiple water reforms has been to "address overallocation"¹, the practice of purchasing and transferring ownership of allocated entitlements to the environment does little to reduce the over-allocation. While we agree that with the Federal Government's recognition of property rights and recognition for efficiency investments to recover water, the Southern Basin in particular NSW Murray and Northern Victoria have incurred the majority of social and economic impacts from the Basin Plan water recovery strategies.

While this is the preferred method of ensuring no impact to the accessibility or reliability of entitlements, we believe the commentary must evolve to accept that entitlements in the Basin, by their very nature, respond to water availability through variable allocation (dependent on product) which is appropriate management of a highly variable resource.

SRI welcomes comments suggesting that surface water recovery under the Basin Plan is all but complete pending the delivery of SDL adjustment supply projects, however SRI is concerned there many risks in the final phase of water recovery and finalisation of the Basin Plan which remain unresolved. We also

¹ Murray-Darling Basin Plan five-year assessment draft report, Productivity Commission, August 2018, p70

agree that there needs to be a mechanism to address any over-recovery noting that the NSW Southern Basin is 47.6GL² over-recovered if all adjustment projects are realised. We agree with **Draft Recommendation 3.1** that Basin Governments must agree on a method to address over-recovery and, where appropriate, agree on a method to return the over-recovered volume to the consumptive pool.

SRI remains concerned that the review of cap factors will not only reduce the over-recovered volume but will have implications for future water recovery if needed. We are of the view that the Basin Plan was developed in line with a set of assumptions and those assumptions (including cap factors) should be maintained for the duration of its implementation. Further, we are concerned that only NSW has published the results of their cap factor review and therefore it is unclear if all States are operating to the same set of principles which may influence the veracity of proposed changes to cap factors.

SRI has long held concerns that water being recovered for the environment under the original open-tender 'no regrets' approach failed to recognise what environmental priorities needed to be addressed and what constraints to achieving those priorities existed. By the time the MDBA acknowledged the need to address constraints in the system (introduction of constraints management strategy late 2012) the majority of water purchases in the Southern Basin had occurred (2008-2011). We welcome **Draft Recommendation 3.2** to ensure that water recovery aligns with environmental requirements, noting that this should have been the policy from the outset. In saying that, SRI is of the view that the water recovery targets have been met, with the realisation of supply measures, and there should be no need for further water recovery.

SRI encourages the Productivity Commission to recognise the benefits of infrastructure to achieve environmental water objectives. The Living Murray Program established major infrastructure programs to deliver environmental water to relevant sites. This created efficiencies in use of environmental water and was a mechanism to achieve environmental outcomes with less water.

This strategy developed within the Living Murray Program now appears to be overshadowed by policies within the Murray Darling Basin Plan that seek to recover water on a much greater scale without recognition of more efficient methodologies to achieve equivalent environmental outcomes

SRI welcomes the PC's practicality when considering submissions referring to the impact of irrigation efficiencies on return flows. Proponents of the view that efficiency programs should not be pursued because of the impact on return flows make the naïve assumption that irrigators would not seek to improve efficiency regardless of the availability of Government programs. With the increasing value of water on both the permanent and temporary water markets, irrigators are rightly seeking ways to maximise their on-farm productivity. Further, we concur with the NIC that the issue of impact on return flows is complex and entirely dependent on the unique characteristics of individual projects including soil and crop type and infrastructure.

C4. Supply measures

As mentioned in our original submission, the SDL Adjustment Mechanism (SDLAM) supply measures are a crucial component of the Basin Plan. While we support the principle of the SDLAM supply measures, we share the concern of many that consultation and transparency of many of the projects has been

² (above reference) Table 3.1, P77

lacking and has led to scepticism and distrust within the communities likely to be most impacted by the projects.

We share the concern of the PC whether the supply measures can be delivered by the 2024 deadline and support **Draft recommendation 4.2** to extend the deadline for them where it would allow the full benefits of a project to be delivered within credible timeframes. While such extensions should be the exception rather than the rule, the flexibility to apply for an extension will ensure the best outcomes can be achieved for the environment and the communities. Importantly, it will allow the MDBA and Basin Governments to take an adaptive management approach to ensure adequate community engagement and the realisation of the full offsets envisaged. Further more we recommend a more adaptive approach to the SDLAM, which would allow new projects to be included if other current projects are deemed unachievable.

Further some of the projects have zero financial burden, yet the value of the outcomes can offset the cost of another project that requires significant spending). The funding design ensures that the cost to taxpayers is limited to the entirety of the offsets (per ML) across all projects and not subject to individual variances that risk over-spend and budget blow-outs.

We support the **Draft recommendation 4.3** for a robust reconciliation of supply measures against environmental equivalence; however, any such evaluation must also recognise land tenure and environmental value. The example of the Koondrook-Perricoota forest project³ is an example whereby the outcomes within the National Park should be of higher value than the loss of environmental watering capacity on the adjacent private land that is now protected by a constructed levy.

C5. Efficiency measures

SRI represents irrigators within the Murray Irrigation footprint but a number of these businesses also have land in the areas recognised under the constraints management strategy such as the Yarrawonga Weir to Wakool Junction reach. We have always held concerns about the value of recovering water from upstream of Yarrawonga with a view to delivering it downstream under current operating conditions. We refer the PC to our original submission to the five-year review.

Without addressing constraints, it is not possible to manage environmental watering events of the magnitude identified in the original Basin Plan modelling (2,750GL Basin Plan), let alone the higher target of 3,200GL under the relaxed constraint model. Pursuing further water recovery without ensuring targeted flow rates can be achieved without negative or mitigated impacts is a poor use of taxpayer funds that may be better spent on environmental infrastructure or complementary measures such as cold-water pollution mitigation or structures to support fish passage.

Given the lack of any meaningful consultation on constraints management issues, and no consultation at all since 2016, we agree with the PC that constraints projects are unlikely to be operational by 2024. We also note that through the initial consultation, targets for easing of constraints have been reduced to address community concern about the cumulative impacts of increasing flow volumes. However given the lack of clarity and transparency on unresolved issues including the targeted flows downstream of Yarrawonga Weir, there remains considerable risk

³ (Above reference) Box 4.4, p116

The purpose of the Efficiency measures is to achieve enhanced environmental outcomes as described in Schedule 5 of the Basin Plan. Of the seven identified targets, five are relevant only to the Coorong Lower Lakes and Murray Mouth and therefore dependent not only on upstream flows, but also management and operation of the barrages, the south-east drainage scheme and other factors solely within the control of the South Australian Government. SRI has previously raised concerns about linking salinity targets downstream of Morgan to water management upstream. We are also concerned about linking dredging the Murray Mouth to water recovery given current practice of keeping the Lower Lakes well above the 0.4 meter limit as per Schedule 5 – according to MDBA weekly river reports the level at the lower lakes has averaged 0.7 meters and has not fallen below 0.5 meters – has failed to, all contributed to, the need to continue dredging the Murray Mouth.

SRI is of the view that volume alone is not the solution to the CLLMM issues identified in Schedule 5 and as such agree with **Draft recommendation 5.3** for a review of the costs and benefits of pursuing the outcomes in Schedule 5 be pursued, however, we would submit that this review should be brought forward and should commence prior to the scheduled 2021.

SRI encourages the Productivity Commission to include recommendations in its final report on the need for localised infrastructure to address localised needs for the Coorong, Lower Lakes and Murray Mouth and that such investments should offset the need for continued water recovery from upstream states.

We commend the MDB Ministerial Council for agreeing to review the test for social and economic neutrality prior to pursuing large recovery volumes under the Efficiency measures program. We would suggest there should be **no efficiency measure recovery over the required 2019 target of 62GL** until the above review of Schedule 5 outcomes is complete and a program and timeline for constraints management has been agreed.

Representing irrigators operating in a joint scheme, we understand all too well the reality of the flow-on impacts of water recovery and we have long argued that individual participation⁴ is an inadequate test of social and economic neutrality.

Notwithstanding the inadequacy of this test, the current design of the efficiency measures program does not allow for the reality of the impact of increasing water recovery on the value of water entitlements. The EY report rightly identified a risk to the program of increasing costs of water entitlements and the risk the budget if the full target is to be achieved. This is further acknowledged by the PC⁵. Another key financial factor is the true costs of addressing constraints. Impacted communities have long made the point that \$200million would be grossly inadequate for the task at hand.

SRI agrees with the concerns raised in **Draft finding 5.2** and the proposals for updated modelling as per **Draft recommendation 5.1**.

We believe a true evaluation of the cost benefits of easing constraints and the ability of volume alone to achieve the outcomes outlined in Schedule 5 would find that there is little or no added benefit. SRI is concerned by the ‘no regrets’ approach proposed by the PC, particularly if water recovery is not specifically dependent on achieving relaxed constraints due to the failure for volume alone to adequately achieve environmental benefit.

⁴ Basin Plan, MDBA, 2012, Chapter 7, Section 7.17(2)

⁵ Murray-Darling Basin Plan five-year assessment draft report, Productivity Commission, August 2018, p138

C6. Water resource planning

SRI is a member of the NSW Murray and Lower Darling Stakeholder Advisory Panel for the development of the Water Resource Plan (WRP). We hold similar concerns as the PC with regard to the ability for the State Government to finalise all WRPs by the 2019 deadline.

We agree with **Draft recommendation 6.1** to enable Basin Governments to negotiate an extension to WRPs to ensure adequate stakeholder consultation and policy development. Such extensions need not preclude the ability for the jurisdictions to meet the SDL, however, will allow adequate time for the development of the suite of policies required to fall under the WRPs including long-term environmental watering plans, salinity management and water quality plans and water sharing plans. It will also ensure adequate consultation on the pre-requisite policy measures which, if not developed cautiously, have the potential to impact on the accessibility and reliability of water entitlements.

C8. Water quality

As mentioned in our original submission, SRI believes water quality should be measured at Morgan in line with the Basin Salinity Management Strategy. It is not possible for up-stream flows to address any differences in salinity or water quality between Morgan and the Lower Lakes or Coorong. If the salinity target at Morgan is being consistently met, yet there are water quality issues downstream, that would imply the issue is caused downstream.

We support **Draft recommendation 8.1** to review the Basin Plan salt export objective, particularly in line with relatively consistent salt loads recorded at Morgan and the relationship between salt export and the management of the Barrages.

C9. Critical Human Need

The allowance for Critical Human Need in the Basin Plan are relevant and adequate; however, from a community point of view, more transparency around when special accounting may apply under Tier 1 conditions is needed. This has become especially apparent in this year as we again face record low inflows and, in the NSW Murray, zero water allocation for general security water holders. In dry scenarios such as this, a clearer line of sight regarding water sharing arrangements in the shared storages would significantly reduce speculation and mis-informed opinion. South Australia carrying over their permanent high security is just not allowed! It goes against the reason for having high security and is taking up space in the dam for NSW water even when we are on zero!

C10. Water trading rules

SRI acknowledges there are some concerns about restrictions to trade, however, we caution taking the utopian approach to allow free and unrestricted trade without understanding the potential impacts to existing water entitlements.

For example, the Murrumbidgee inter-valley trade restriction exists to ensure that water entitlements in neither the Murrumbidgee or Murray are compromised through excessive trade that must then be delivered in a valley from whence it does not originate. Further, the restriction of the Barmah-Choke represents a recognition that the physical constraint restricts the ability to deliver larger flows.

The Barmah Choke restriction is particularly relevant to **Draft finding 10.3** whereby growth in trade has resulted in increased demands on delivery capacity.

As mentioned in our original submission, the water market has had positive and negative outcomes for irrigation regions. The shift of water from established irrigation districts with associated infrastructure to greenfield sites without consideration for deliverability within the operational system has increased the risk of the need for water delivery restrictions when downstream demand exceeds operational capacity.

Further, established districts such as the NSW Murray Irrigation region and the Victorian Goulburn-Murray Irrigation Districts are vulnerable to large-scale developments of the cheaper land in the greenfield sites leaving stranded assets.

While we agree with the proposal for a work plan as per **Draft recommendation 10.2**, we question the effectiveness of appointing the MDBA responsible for managing risks related to changes in water use and trade in connected systems. We submit that the issue requires attention by state agencies and encompasses land-use planning, development applications as well as water trade.

C11. Environmental water planning and management

A key concern for SRI is the multiple layers of environmental water management. Contrary to what we believed the original intent of the Basin Plan was – to develop a holistic Basin water management regime – there are still multiple agencies across all jurisdictions with roles and responsibilities for environmental water management. All of these agencies have different reporting requirements and operational protocols. Even the way the largest environmental water holder – the CEWH – differs across jurisdictions. In NSW the CEWH works through the NSW Office of Environment and Heritage whereas in South Australia they have entered into private contracts with entities to deliver water to specific targets.

To that end, SRI agrees with **Draft recommendation 11.4** to formalise the role of the Southern connected Basin Environmental Watering Committee as a mechanism to both streamline environmental water planning and use and maximise the efficiency of the whole portfolio of both planned and held environmental water across all jurisdictions. This will also assist to achieve Draft recommendation 11.5 to ensure that event-based environmental watering decisions are undertaken through consultation with the jurisdictions. Further mechanisms should be devised to ensure landholder and stakeholder consultation, particularly with relation to high-flow events.

SRI agrees that environmental watering can achieve multiple benefits and every effort should be used for environmental water managers to work with communities to seek opportunities for collaboration. One such example is to time environmental water releases around peak tourism opportunities or to work with indigenous communities to time flows around culturally significant times as per **Draft recommendation 11.6**.

C12. Compliance

SRI supports the use of effective measurement and metering to improve resource management and underpin public confidence in our river management. The NSW Murray is a leader in metering compliance with a long history of doing so. Within Murray Irrigation, irrigators have state-of-the-art automated, telemetric meters that can be viewed live and controlled from the head office. At any time,

Murray Irrigation operators can look at any site to see how much water is flowing through a landholders meter or how much water is flowing in the channel system. Outside Murray Irrigation, WaterNSW replaced irrigators river pump meters with up-to-date meters with telemetric capabilities and automatic data loggers.

Not only should metering standards be consistent, but so too should water accounting and practice. Revelations this year that South Australian irrigators could exploit a loophole in that State's regulations to effectively irrigate without water and pay it back later⁶ while all other states are moving to real time water use monitoring is concerning. And while upstream states are actively moving towards remote monitoring of water use, South Australia continues to rely on irrigators reading their own meters outside of irrigation trusts. Recognising the Basin States are responsible for water take compliance, the MDBA must take oversight to ensure consistency across jurisdictions.

Reconciling water use is key to ensuring compliance with the SDLs. SRI has reviewed the proposed SDL compliance process provided to stakeholders by the MDBA. At a high level, the process appears sound, however, more information regarding issues such as the reasonable use provisions must be provided.

We agree with **Draft recommendation 12.1** for the MDBA to transition all Basin Plan compliance functions to an Office of Compliance

C14. Institutions and Governance

SRI agrees with the PC finding that the MDBA is conflicted in its dual responsibilities of both implementing and enforcing the Basin Plan. SRI has long had concerns about the MDBA marking its own homework.

SRI supports changes to the structure and management of the MDBA that will increase transparency of river operations, storage management and Basin Plan implementation and compliance. With regard to river and storage management, increased transparency will lead to better management of the systems. If stakeholders have better visibility of system operations including losses associated with operations, they can ensure that the MDBA is accountable for the management decisions being made. Currently, if the MDBA operates the system with increased losses, it is irrigators who wear the consequences through reduced allocations. The MDBA must be held to account for unnecessary losses.

SRI agrees in principle with **Draft recommendation 14.2** - the proposal to separate the MDBA into:

- The Murray-Darling Basin Corporation – as an agent of Basin Governments and incorporating River Murray Operations; and
- Basin Plan regulator – as an independent authority to ensure ongoing compliance with the Basin Plan.

However, SRI does not support any structure that will see costs associated with delivering the Basin Plan passed onto irrigators.

⁶ <https://www.weeklytimesnow.com.au/news/national/irrigation-loophole-south-australias-leaky-water-regulations/news-story/e26e67bd619aa7942be231999b66a2e8>

The Basin Plan was sold to Australia as reform undertaken in the “National interest” and was a federal government commitment. NSW has continued to take the position that all projects undertaken in the name of the Basin Plan should be funded by the Federal Government.

In NSW, the majority of State contributions to the MDBA for river operations and joint programs are recovered through charges passed onto irrigators. It would be unacceptable to irrigators if new institutional arrangements led to increased charges to fund Basin Plan programs. Any restructuring of the MDBA would need to ensure clear line-of-sight of programs and accountability to ensure States are not subsidising the Federal program that is the Basin Plan.

In restructuring the MDBA, SRI agrees with the intent of reviewing the statutory appointment for a Basin Plan Regulator Board as per **Draft recommendation 14.5**. In doing so, it must be made clear what skills are being sought. The mix must include agricultural knowledge and expertise as well as science and hydrology to maximise the capacity for the regulator to understand all stakeholders and respond to the range of issues that will arise.

Other matters:

SRI encourages the Productivity Commission to consider the broader financial risks to the Australian taxpayers and irrigators.

The Commonwealth of Australia is now the largest irrigation entitlement holder in Australia. There is no transparency how the Commonwealth Environmental Water Holder (CEWH) will source revenue to pay its annual fees and charges. The CEWH under the current legislative framework has little capacity to generate revenue.

The CEWH is also required to pay operational costs to the Murray Darling Basin Authority (MDBA), fees that are subject to incremental fees rises through IPART pricing determinations