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Productivity Commission
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Email: Basin.plan@pc.gov.au

Date: 19th April 2018

**Re: Submission to the Productivity Commission's inquiry into the implementation of the
Murray Darling Basin Plan**

Dear Sir or Madam,

WWF-Australia welcomes the opportunity to provide the following comments regarding the Productivity Commission's (the Commission) inquiry into the implementation of the Murray Darling Basin Plan (the Basin Plan). Please note the comments in this submission are primarily focused on our knowledge of the Basin Plan's implementation in Queensland.

Our response to the questions in the Issue Paper are as follows:

1. Commission's approach

Along with the matters outlined in the Issues Paper, other Basin Plan objectives and outcomes that need to be assessed to determine if they are being effectively implemented includes:

- Increasing flow dependent species and ecosystems resilience to climate change as required under s5.03 (1) (a) of the Basin Plan,
- Maintaining the ecological characteristics of internationally significant wetlands (Ramsar) as required under s5.02 (1) (a) of the Basin Plan and,
- Protecting Indigenous values and uses of water as required under part 14 of Chapter 10 of the Basin Plan

As they are critical elements of the Basin Plan, it is essential that the above aspects of the Basin Plan are included in the Commission's review of the Basin Plan's implementation.

2. Sustainable Diversion Limits and Adjustments

Following analysis by the Wentworth Group last year, it appears that only one of the 36 projects which state governments claim will deliver equivalent environmental outcomes to 605 GL of water meets the required criteria in the Water Act and Basin Plan.

As the majority of the proposed SDL Adjustment Mechanism projects do not meet the required criteria, there is a significant risk that spending \$1.3 billion of public money on the current suite of proposed projects will not deliver any of the environmental outcomes required under the Basin Plan.

Due to the uncertainty about whether they will deliver any Basin Plan environmental outcomes, the SDL Adjustment Mechanism process should be halted until each of the current proposed projects has undergone detailed analysis to prove they meet the required criteria, deliver required environmental outcomes, provide value for money and supports maintaining Indigenous cultural values and uses of water.

3. Northern Basin Review

As it will increase the risk of water quality degradation, reduce flow dependent species and ecosystems resilience to climate change and will also adversely affect Indigenous cultural values, the proposal to reduce the volume of water recovered for the environment in the northern part of the Basin by 70 GL is contrary to the Basin Plan's objectives and outcomes.

Furthermore, the MBDA's claim that equivalent environmental outcomes to 70 GL of water can be delivered by the proposed infrastructure and policy toolkit measures cannot be substantiated because:

- The effectiveness of the proposed infrastructure measures to deliver equivalent environmental outcomes has not been assessed
- The policies to protect environmental water are not in place in all basin states
- Of the uncertainty about who pays for the required infrastructure upgrades

In addition to the above, other issues regarding the MDBAs proposal to reduce the water recovery target in the northern part of the Basin include its failure to adequately consider:

- The adverse impacts that will occur to Indigenous cultural values by reducing the volume of water that is returned to the environment, which will affect the social cohesion of Aboriginal communities.
- The socioeconomic benefits that are provided by restoring the health of the river systems by returning 390 GL of water to the environment

Due to the above, the MDBAs proposal to reduce the volume of water that is returned to the environment in the northern part of the Basin should not proceed.

4. Constraints management

It appears the reason for the slow progress in removing the identified constraints is due to a combination of complex issues, which includes the uncertainty about who pays to remove the constraint, providing fair compensation to affected property owners, meeting local, state and commonwealth government planning and approval requirements and how to manage impacts that may occur to third parties.

By far the most significant implication of not removing the constraints is the impediment it presents to environmental water managers being able to effectively deliver water to intended ecological assets.

Key measures that are required to speed up the removal of constraints and to ensure Basin Plan objectives can be achieved if constraints cannot be removed includes:

- Significantly increasing funding to relocate roads, bridges and other affected infrastructure
- Establish flood easements by buying back affected properties and,
- Investigating other ways to achieve required outcomes if constraints can't be removed

5. Recovery of water for the environment

Key issues affecting the recovery of water for the environment to date includes:

- **Poor outcomes from existing governance arrangements** – Currently, the Commonwealth Department of Agriculture and Water Resources (DAWR) is responsible for deciding the location, type and how much to pay for water that's purchased for the environment. As it does not have environmental water management expertise, there is a significant risk that water DAWR has purchased for the environment may not provide much, if any environmental benefits. Given its expertise in managing the Commonwealths water holdings, the Commonwealth Environmental Water Holder (CEWH) should be responsible for deciding the location, type and price of water purchased for the environment, which will ensure that water purchased for the environment delivers tangible Basin Plan outcomes
- **Value for money** - Highlighted in the media¹, it appears that DAWR has paid significantly more than market value for water it purchased from the owners of the Tandou property in NSW. As it paid nearly double the market value for this water, DAWR's purchase does not represent value for money. Along with not providing value for money, the water that DAWR purchased is unlikely to provide much, if any environmental benefits because the water is largely unavailable due to ongoing drought conditions and the extraction of water by other water users upstream.
- **Failure to follow due process** - Revealed in The Australia Institute (TAI) report², DAWR apparently has not followed due process when it recently purchased water in the Warrego as the water isn't required to meet the Warrego's recovery target. Furthermore, DAWR's intention to count the water purchased in the Warrego towards the water recovery target in the Border Rivers cannot legally occur unless s6.05 of the Basin Plan is amended, which has not occurred. In addition to not following due process, it appears that DAWR also paid significantly more than market value for the water it purchased in the Warrego, which is another example of DAWR not ensuring that water it purchases for the environment is value for money.

¹ <https://www.theguardian.com/australia-news/2017/oct/26/78m-spent-on-darling-water-buyback-nearly-double-its-valuation>

² <http://www.tai.org.au/sites/default/files/P495%20Moving%20Targets.pdf>

Due to these and other irregularities, it is essential that all water which has been purchased for the environment to date is forensically audited to determine whether the public funds that have been spent on water buy backs to date provides value for money and delivers the environmental outcomes required under the Basin Plan.

6. Water Resource Plans

With the accreditation of the Warrego, Parroo and Nebine Water Plan by the MBDA and recent release of draft water plans for the Condamine – Balonne and Border Rivers – Moonie regions for public consultation, strongly indicates that the Queensland Government is on track to finalizing its water plans by the required time under the Basin Plan. In comparison, it appears the NSW Government is unlikely to meet the required deadline as it is yet to finalize any of the 20 water plans that it must prepare.

As it will affect the implementation of the Basin Plan, it is essential that state governments finalise their water plans on time. Measures that should be introduced to ensure state governments finalise their water plans on time include:

- Introducing stringent financial and other penalties, which are applied when state governments fail to meet the deadline and,
- Strengthening the MBDAs powers to oversee the development of states water plans

7. Environmental water planning and management

Key issues affecting the effectiveness of environmental water planning and management to date includes:

- DAWR having the responsibility for deciding the location, type and cost of water that is purchased for the environment, which has led to suboptimal environmental outcomes and lack of value for money
- The failure to address identified constraints, which has limited the ability of environmental water managers to deliver water to ecological assets
- The failure to protect water that has been purchased for the environment
- The introduction of the 1500 GL cap on water buy backs, which has severely restricted options to return water to the environment

Measures which are needed to improve environmental water planning and management includes:

- Transferring the responsibility for deciding the location, type and how much to pay for water that is purchased for the environment from the DAWR to the CWEH,
- Increasing the protection of environmental water under state water plans,
- Rescinding the 1500 GL buy back cap in the Basin Plan and,
- Removing the identified and other constraints as soon as possible

8. Water quality and salinity management

In Queensland, Basin Plan water quality and salinity management outcomes are delivered by Healthy Waters Management Plans (HWMP) established under the *Environmental Protection (Water) Policy 2009* (EPP Water), which is subordinate legislation under the *Environmental Protection Act 1994* (EPA).

The HWMP for the Warrego, Paroo, Bulloo and Nebine (WPBN) Basins³ is the only one that has been completed and approved by the MDBA to date.

Although it's been accredited by the MBDA, there are significant concerns about whether the water quality and salinity management outcomes required under the Basin Plan can be effectively delivered by the HWMP for the WPBN Basins. Key issues includes:

- While they are statutory instruments, there is no current mechanism to ensure that HWMP objectives and outcomes are delivered
- As they have not been specifically designed to address water quality or salinity issues, there is considerable uncertainty about whether the management response contained in the HWMP for the WPBN Basins will deliver Basin Plan outcomes
- The management responses do not address reduced watercourse flow rates caused by extracting water for consumptive purposes, which is one of the primary causes of water quality and salinity issues in the MDB
- The longevity of the management responses contained in the HWMP for the WPBN Basins ability to deliver Basin Plan outcomes is uncertain due to the short term nature of the government funding they rely on.

Due to these and other issues, the Commission should include a detailed assessment of the effectiveness of Queensland's approach to addressing water quality and salinity issues in its review of the Basin Plan's implementation.

9. Critical Human Water Needs

As it is critical to maintain the social cohesion of Aboriginal communities, the water that is required to maintain Indigenous cultural values should be considered as a critical human water need under chapter 11 of the Basin Plan.

10. Compliance

While the measures introduced by the State and Australian Governments will improve how issues highlighted by the 4 Corners program and recent investigations will be addressed, there is little evidence to date whether these measures are robust enough to address the systemic issues that have been identified with how certain basin states manage water in their part of the Murray Darling Basin.

³ <https://www.ehp.qld.gov.au/water/policy/pdf/hwmp-warrego-paroo-bullo-nebine.pdf>

Additional measures that must be implemented to ensure compliance with the Basin Plan includes, but is not limited to:

- Requiring governments to significantly increase their compliance budgets and penalties for non-compliance,
- Strengthening the MDBAs powers to oversee state governments compliance with the Basin Plan,
- Introducing financial penalties that are applied when state governments fail to comply with the Basin Plan,
- Ensuring that all take of water for consumptive purposes throughout the MDB is measured and,
- Undertaking random compliance audits across the MDB by an independent entity

11. Monitoring, evaluation and reporting

Key issues regarding the current monitoring, evaluation and reporting framework includes:

- As the majority of water that is extracted for consumptive purposes across the MDB is not metered, the water use data used to evaluate the Basin Plan's effectiveness is not accurate and,
- As it is not currently included, the take of water for stock and domestic and other purposes which do not require an authorization under the Queensland Water Act is skewing regional water balances that underpin the evaluation of the Basin Plan

Measures required to improve the monitoring, evaluation and reporting of the Basin Plan includes:

- Ensuring that water which is taken for commercial purposes across the MBD is metered
- All Basin governments adopting a no meter - no pump policy
- Incorporating all takes of water in regional water balances

12. Institutional and governance arrangements

Key issues regarding the Basin Plans current institutional and governance arrangements includes:

- Insufficient independent oversight of states compliance with the Basin Plan
- Unequal representation of all sectoral interests on the MDBAs board, which has potential resulted in bias being shown towards water users (irrigators)
- DAWR having the responsibility for deciding the location, type and cost of water that is purchased for the environment, which has led to suboptimal environmental outcomes and lack of value for money
- Introduction of the 1500 GL water buy back cap, which has severely limited options to return water to the environment

Measures required to improve the Basin Plans institutional and governance arrangements includes:

- Increasing the MDBAs (or another independent entity) to oversee states compliance with the Basin Plan
- Ensuring the MDBA board has at least one Traditional Owner representative and one environment sector representative at all times
- Transferring the responsibility for deciding the location, type and how much to pay for water that is purchased for the environment from the DAWR to the CWEH
- Rescinding the 1500 GL buy back cap that was introduced to the Basin Plan in 2016

Please do not hesitate to contact me should you require any further information or clarification regarding any aspect of this submission.

Yours sincerely,

Nigel Parratt
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WWF-Australia