Australian Government
Commonwealth Environmental Water Holder

Joanne Chong
Commissioner – Productivity Commission
Murray–Darling Basin Plan: 5-year Assessment Public Inquiry
GPO Box 1428
Canberra City ACT 2601

Dear Commissioner Chong

Thank you for the interim report on the five-yearly inquiry into the effectiveness of the implementation of the Murray-Darling Basin Plan (the Inquiry), and the opportunity to provide comment and additional information.

The interim report demonstrates the importance of the full implementation of the Murray-Darling Basin Plan (the Basin Plan) and its associated intergovernmental agreements. To this end, I welcome many of the interim report's findings which, if implemented, will strengthen Basin government collaboration, community input, and result in improved environmental outcomes.

Please find enclosed my response, which I note is a public document and will be published on the Productivity Commission's website.

Thank you for the opportunity to contribute to your assessment of the effectiveness of the implementation of the Basin Plan. The Murray-Darling Basin (the Basin) is a national asset, and its overall health underpins the economic prosperity and wellbeing of Basin communities.

Yours sincerely

Dr Simon Banks
Commonwealth Environmental Water Holder
20 November 2023

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Response to the Productivity Commission's
Murray-Darling Basin Plan: Implementation Review 2023 (interim report)

Background and context

The Commonwealth Environmental Water Holder (CEWH) is responsible for managing Commonwealth environmental water holdings to protect and restore the environmental assets of Murray–Darling Basin (the Basin). This function is governed by the *Water Act 2007* (Water Act), the Basin Plan 2012 (the Basin Plan) and the Basin-wide environmental watering strategy. The CEWH is also required to manage the Commonwealth water portfolio to ensure its effective, efficient, and ethical use, consistent with the statutory obligations within the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

The CEWH manages the water portfolio by making decisions about whether to use, carryover or trade environmental water throughout the Basin. The use of environmental water is planned and delivered in collaboration with other environmental water managers, river operators, land managers, scientists and local communities across all Basin states. These decisions are informed by robust decision-making frameworks, comprehensive risk assessments and principles of continual improvement. Over the past 15 years, Commonwealth environmental water has contributed towards achieving a range of environmental objectives, including:

- connecting rivers to wetlands and floodplains to support native vegetation, waterbirds and other native animals, as well as driving the ecological food chain
- providing flows to connect rivers and creeks, which support native fish and improve water quality
- supporting the recovery of the environment following extreme events (such as drought) and building resilience so the environment can better withstand future events.

It is important to remember there is still more to do.

- Waterbird populations have been declining over the past 40 years and are not consistently recovering.
- Native fish populations have declined by 90 per cent over the last 150 years.
- End-of-system flow targets are not being consistently met.
- Operational and physical constraints remain in our rivers preventing water from getting to wetlands and floodplains.
- More needs to be done to empower First Nations people's ownership of water and participation in water management.

There are a range of environmental needs in wet, dry and average years and these needs vary greatly across the Basin. Commonwealth environmental water holdings are insufficient to meet all these needs. Significant opportunities lie in the full implementation of the Basin Plan.

This submission focusses on the following interim findings and recommendations:

- Chapter 2 (Resetting the balance)
- Chapter 3 (Environmental water planning and management)
- Chapter 5 (The values of First Nations people) and
- Chapter 7 (Water quality and critical human water needs).

Chapter 2 – Resetting the balance

The CEWH supports the intent of interim recommendations 2.1 (The Australian Government should be more transparent, and have greater authority, over decisions for supply, constraints-easing and northern Basin toolkit measures) and 2.3 (Implement an assurance mechanism for the northern Basin toolkit) to promote community confidence and transparency of supply, constraints, and northern Basin toolkit measures.

In relation to interim recommendation 2.2 (Reset and extend implementation of constraints-easing projects), the CEWH supports providing additional time to complete constraints-easing projects, as these projects are essential to enhancing the connection between rivers and their floodplains. However, we caution against prioritising the sequencing of constraints-easing in major tributaries prior to the River Murray. There are opportunities for 'no regrets' interventions in the Murray valley, which can be pursued independent to and in parallel with actions taken in the tributaries to reduce constraints and enhance environmental outcomes.

The Water Amendment (Restoring Our Rivers) Bill 2023 (currently before the Australian Parliament) proposes to introduce a requirement for the Murray-Darling Basin Authority (MDBA) to prepare a Constraints Relaxation Implementation Roadmap, to be completed by 31 December 2024. This roadmap will help governments identify measures to relax constraints and develop and implement them in a way that enhances environmental outcomes.

The CEWH notes the interim report suggests the focus should be on progressing other components of the reform before pursuing the 450 gigalitres per year efficiency measure target. Progress to implement constraints relaxation measures, and more broadly the Sustainable Diversion Limit Adjustment Mechanism (SDLAM), can be pursued in parallel with the recovery of additional environmental water. Relaxing constraints is essential to enhancing environmental outcomes but is not critical to effectively using any additional water recovered for the environment.

Every additional megalitre of water makes a difference to environmental outcomes: supporting native fish and waterbird populations, maintaining connectivity in dry times, and improving drought resilience. The statutory review of the Basin Plan in 2026 by the MDBA provides an opportunity to revisit progress against the supply and constraints (SDLAM) target, not a justification to delay implementation.

Chapter 3 – Environmental water planning and management

The CEWH's initial submission to the Productivity Commission's inquiry included extensive discussion of the importance of protecting environmental water throughout the Basin (see extract below). This important matter has not been reflected in the interim findings or recommendations. Addressing the remaining gaps to achieve full protection of environmental water (from re-regulated and re-socialised for irrigation or other use) throughout the Basin is an important matter for Basin Plan implementation and should be fulsomely addressed in the final report.

> *"The protection of environmental water across the Basin is a pre-condition for the effective use of Commonwealth environmental water, and the achievement of environmental outcomes contingent upon it. Through close cooperation and partnership, the Commonwealth and Basin state governments have made significant advancements towards the protection of environmental water within the Basin, however water for the environment is still not protected throughout the entire river system.*

… Action by Basin governments is needed to implement solutions that enhance the protection of environmental water throughout the system, as agreed under the Intergovernmental Agreement on Implementing Water Reform in the Murray–Darling Basin (the Water Reform IGA). This includes ensuring that PPMs are operating effectively to enable environmental water to be used at multiple locations along the river through 'return flow' provisions, as well as by enabling water for the environment to be released (or 'piggybacked') on top of unregulated flow events."

The CEWH notes the concerns raised by participants about environmental water use (Box 3.2). Issues such as increased carp numbers, hypoxic events, tree health degradation and bank erosion are typically a result of a long history of river regulation and not environmental water management. In fact, in many cases, environmental water is helping to reduce bank erosion and declining tree health and mitigate the impacts of poor water quality. Changes in patterns of agricultural water use (for example permanent plantings) and inter-valley transfers have influenced the timing and duration of river flows as river operators respond to changing patterns of water demand. Environmental water can be used to reduce the impacts of river regulation on the environment. For example, environmental water has slowed the recession of flows as river regulation becomes focused on storage of water for consumptive use.

The CEWH supports continued funding of complementary natural resource management measures such as infrastructure, fish ways, fish screens and integrated natural resource management activities for pests and weeds. Complementary measures are important to enhance environmental outcomes that can be achieved with environmental water and the two work hand-in-hand.

Integrated catchment management is happening at the local and catchment level. The CEWH considers what complementary natural resource management activities are occurring when making decisions about watering. In addition to the examples identified in Box 3.6 in the interim report, the CEWH has funded complementary measures from the proceeds of selling annual water allocations (under its Commonwealth Environmental Activities Framework). Projects funded since 2021 include:

- works to improve fish passage
- installing fish screens on irrigation pumps and
- pipelines to get water to wetlands.

Regarding the Productivity Commission's interim recommendations, the CEWH supports the broad intentions identified in recommendation 3.1 (Improving the effectiveness of the Basin-Wide Environmental Watering Strategy), including the need to include First Nations peoples' objectives and outcomes. However, it is important to recognise the limitations of the Basin-Wide Environmental Watering Strategy (the Strategy) and consider whether it is the most appropriate instrument for addressing all the identified issues. For example, the relative priority of environmental assets and outcomes (including between in-catchment versus system scale outcomes) can be highly dependent on antecedent and current conditions, water availability, and a range of operational and management considerations, and thus can change within a year and from year to year. Setting these priorities in a longer-term document, such as the Strategy, may not be the appropriate instrument. Similarly, it is unclear why the Strategy is the relevant instrument for a framework for the coordination of environmental water management with natural resource

management, particularly given the CEWH is the only entity that is required to act consistent with and give effect to the Strategy.

The CEWH in principle supports recommendations 3.2 (The adaptive management of long-term watering plans), 3.3 (Basin annual environmental watering priorities require review) and 3.4 (Delivering shared benefits from the use of environmental water).

Chapter 5 – The values of First Nations people

The CEWH supports recommendation 5.1 (Strengthening the roles of Aboriginal and Torres Strait Islander people in the Basin Plan). The CEWH is committed to and actively working with First Nations people with connection to Country in the Basin. The CEWH's approach to partnering with First Nations people is detailed on the CEWH website and focuses on:

- providing opportunities to empower and support First Nations people to care for Country
- building partnerships with First Nations in ways that they determine, and
- building the confidence of CEWH staff to engage First Nations people and cultures.

Chapter 7 – Water quality and critical human water needs

The CEWH recommends a substantially more ambitious approach to water quality and critical human needs water (CHWN), including a clearer connection between these issues (water quality, CHWN and connectivity), emerging threats and the absence of or insufficient dedicated conveyance reserves in many catchments.

The northern Basin drought 2017-19 resulted in cease-to-flow events that far-exceeded previous records. These events had major implication for the delivery of CHWN, threatened mental health[1], as well as caused catastrophic environmental impacts. This experience has confirmed a major emerging threat to water quality management – absence of waterway connectivity, base-flow and conveyance reserves.

The interim report recognises the link between water quality and connectivity (Box 7.2), the need to consider updating water quality management plans' targets and objectives, and the differences between the Southern Basin and Northern Basin CHWN framework. However, there are no clear recommendations or policy direction arising from this discussion to support implementation of improvements in water quality and emergency management situations.

The CEWH supports greater policy and governance clarity in relation to extreme events and emergency response mechanisms. The CEWH's first submission to the inquiry included extensive discussion of the importance of greater policy and governance clarity in relation to extreme events and emergency response (see extract below). Issues such as water quality is a shared responsibility for all water users, including water managers and river operators. It is important that these issues are not solely left to environmental water managers to address, otherwise this will compromise the range of expected outcomes that can be achieved with the current share of environmental water and/or require additional volumes to be recovered to achieve the same outcomes.

> *"Under climate change, a range of threats are likely to arise more frequently. This will put pressure on environmental water managers like the CEWH to address issues and*

[1] frontiersin.org/articles/10.3389/fpsyt.2021.719786/full

emergencies beyond what was contemplated at the time of the Basin Plan's creation, while also constraining its ability to do so. In this context, consideration needs to be given to the role of all actors within the Basin's management framework to respond to extreme events, including water quality emergencies, recognising that this provides benefits for communities and other water users

…Water quality is a shared responsibility for all water users – it is not solely an environmental water manager's issue to address. As such, water management plans need to identify management options for water quality issues beyond the use of held environmental water. Improving water quality, particularly during an emergency, needs to be foundational to valley and system-based water management planning to improve certainty and flexibility of the response by state governments."

There are no easy solutions to conveyance and connectivity challenges and managing for extreme events in the northern Basin, which are fundamental threats to CHWN. The prospect of more frequent extreme cease-to-flow events necessarily requires a review of fundamental policy settings. Opportunities include clearer governance and a hierarchy of measures, rather than the ad hoc reliance on environmental water to respond to emergency situations.

The question that arises is what river operators and state governments would have done historically in the absence of environmental water to respond to water quality and emergency management situations, which are at risk of becoming more frequent in the Basin. For example, the Basin Plan s9.14 places broad obligations to have regard to water quality and salinity targets on the MDBA and Basin Officials Committee (both when performing their functions under the Murray-Darling Basin Agreement relating to the management of water flows), Basin states and environmental water managers (including the CEWH). Similarly, the objectives and outcomes for river operations in the River Murray System identifies community, CHWN, water quality and environmental objectives. However, past practice of river operations across the Basin has typically prioritised conserving water and maximising its availability, over these other considerations.

Support for other findings and recommendations

The CEWH supports in principle recommendation 6.3 (Strategic coordination of knowledge generation and sharing activities). The CEWH is the custodian of substantial Basin knowledge, data and insight of the benefit of Commonwealth water for the environment (for example the CEWH's science program Flow-MER) and would welcome further opportunities for collaborating and coordinating on this knowledge and expertise.

The CEWH recognises the importance of partnering with communities as governments implement the Basin Plan and supports initiatives to strengthen community voices in decision-making (Recommendation 9.3 - strengthening the community voice in Basin decision-making). As noted in the interim report, the CEWH's engagement approach is working well, and our Local Engagement Officers (LEOs) have built relationships and trust in local communities. We engage with communities throughout environmental water planning processes and pride ourselves on the strength of these relationships.

Conclusion

Strong partnerships, a rigorous monitoring, evaluation and research program, and a culture of continuous improvement (learning through doing) remain at the heart of the CEWH's approach to managing Commonwealth environmental water.

The CEWH is committed to managing Commonwealth environmental water in a way that is transparent, accountable and in the national interest, but also considers the interests and lived experiences of stakeholders and Basin communities.

This inquiry and its findings are a critical part of the successful implementation of the Basin Plan. I am happy to be contacted by the Productivity Commission about this response, or other matters relevant to the Inquiry and trust that this submission is considered in the final report.