

Productivity Commission
Locked Bag 2, Collins St East
Melbourne VIC 8003
By email: basin.plan@pc.gov.au

Attention: Tracey Horsfall

30 April 2018

Submission to Murray Darling Basin Plan: Five Yearly Assessment

The National Parks Association of NSW (NPA) welcomes an opportunity to contribute this inaugural five yearly assessment of the Murray Darling Basin Plan by the Productivity Commission.

Over the sixty plus years since establishment, NPA has taken a proactive interest in best practice sustainable management of water resources in terms of volume and quality in so far as this impinges on the long-term integrity and viability of areas protected for nature conservation. During the 1990s NPA was active in pressing for water management reform in NSW, stemming from particular concerns over the declining health of the Macquarie Marshes and the Gwydir Wetlands in the face of irrigation growth in the Murray Darling Basin. Accordingly, NPA welcomed the bi-lateral adoption of the 2007 Commonwealth Water Act that provided for a Basin Plan in accordance with legislated objectives.

Throughout the process since then members of NPA have participated in numerous meetings, workshops, consultations, committees and presentations, at Commonwealth and state level. Drawing on this experience, NPA considers that while the intentions of the Plan were and remain sound, there has been inadvertent and deliberate undermining of these intentions. This has seriously diminished the effectiveness of implementation to date thereby putting achievement of the Basin Plan at high-risk.

1 *With response to feedback on the Commissions approach to assessing the Basin Plan NPA submits that there is need to:*

- Clearly separate the roles of implementation and regulation;
- ensure fair and just rules are in place, with effective and enforceable penalties, under adequately resourced compliance arrangements;
- apply up to date information on climate change in modelling so that Water Resource Plans (WRPs) reflect realistic risks into the future;
- halt further growth in use until
 - above measures in place AND
 - risk to Plan achievement is at low or negligible level AND
 - mandate a 'no meter no pump' requirement for water extraction with clear timelines for implementation;

- lift the cap on buy-back for environmental water and deliver in full on actual implementation as well as commitments to environmental water restoration and protection of flow through the system;
- put any SDL adjustment proposals on hold until they meet essential criteria as set down in the Act and the Basin Plan, taking note of above.

2 *Risks*

Major risks have been revealed in the responses to recent Inquiries following the revelations of the July 2017 *Four Corners* report. Attention is particularly drawn to the points made by Ken Matthews in his Report, dated 24 November 2017, to the NSW Government. We draw your attention in particular to the highlighting of five key risks:

- risks associated with planning the implementation of the reforms
- risks in not allocating the necessary financial and staff resources to the tasks
- the challenges in translating the government's desired high-level reform outcomes into specific and practical measures on the ground
- increasing pressure from certain stakeholders to 'water down' key reforms, including reforms to water metering and improving transparency of information about water usage
- the risk of uncooperative relationships between government agencies and the risks associated with a new round of restructuring of staff involved in compliance and enforcement.

These risks are manageable but will require close attention from senior departmental staff.

The NSW Government is to be commended for its prompt commissioning of Mr Matthews to undertake a much-needed investigation NSW water management and compliance. The NSW Government's quick response in setting up the Natural Resources Access Regulator to lead on compliance matters is also to be commended. However, NPA notes that aspects of the subsequently released Water Reform Action Plan (WRAP), including that addressing flood plain harvesting, appear to continue a bias towards growth and property rights rather than addressing essential fundamental environmental concerns.

NPA is concerned that 'supply measures' alone risk delivering longer term environmental and possibly social costs that carry counter-productive aspects. NPA is also concerned that, throughout much of the process to date, the emphasis has been on the social/economic downside of any reduction in water take while largely ignoring the benefits – social and economic – from restoring water volumes and flows to the system. Such benefits range from local community wellbeing (as in Wilcannia, and downstream Darling graziers) to potential sunrise enterprises.

3 *SDLs in the Northern Basin.*

NPA has been shocked by changes to Water Sharing Rules, and the lack of transparency and understanding behind the Northern Basin Review. Before any changes to SDL measures are adopted the full facts, applying up to date and accurate modelling, should be made widely available. Furthermore the 'toolkit' measures, which have been claimed to offset reduction in real water return, are not at this stage enforceable, with one key measure – the shepherding of environmental flows – being abandoned to the too hard basket by the NSW

government. The proposed cut back in environmental water to significant wetlands of the Macquarie and Gwydir is highly questionable.

The first actions required in NPA's view are:

- to ensure no further growth in use;
- to instigate (and police) 'no meter, no pump' rules; and
- to re-run data based on up to date information that factors in climate change forecasting.

Until and unless these are in place, and evaluated against delivery of the key Basin Plan criteria, any SDL amendments should be put on hold.

4, 5 Constraints and recovery options

NPA has been concerned that while 'third party impact' has been cited as a major concern, this has largely been applied in NSW to apply to impacts on the irrigation dependent industry but not on ecological assets, to the extent that benefits from release of environmental flows in a regulated system may not be delivered with serious adverse impact on the target environmental asset. A much greater willingness to explore positive environmental outcomes should be fostered, recognising that a healthy river and wetland system benefits all in the long run. This extends to constructive negotiation with local government and local communities where, for example, there may be a short-term interruption through flooding of local access routes. This may require additional training of water managers as well as the community, with greater attention to negotiation skills, in order to assist the shift in previously entrenched culture. At the same time, in some areas, the water operators are to be commended for their co-operative approach as in the application of 'piggy-backing' environmental water releases on irrigation water orders to maximise wetting and 'reach' in regulated systems. There has also been, in our observation, some good cooperative action between Commonwealth and State agencies, notably Commonwealth Environmental Water Holder and NSW Office of Environment and Heritage, regarding 'pooling' of available water to maximise delivery of beneficial environmental outcomes especially to wetlands such as the Macquarie Marshes and also one example of a cultural flow. It is hoped the Commission will be able to uncover more good examples to encourage such productive action. There has also been a mixed history regarding 'unauthorised' construction of levee banks, including retrospective approvals of environmentally damaging works.

NPA has been concerned at the slow, and at times seemingly secretive and biased progress towards delivering the Basin Plan in full and on time, particularly with respect to environmental as compared to economic stakeholder interests. It remains to be seen whether the new WRAP under NSW Department of Industry-Water will result in the desired change to open, accountable and equitable administration.

6 With respect to support for change:

NPA has noted with disappointment that the emphasis has been overwhelmingly on the negative implications of the Basin Plan, as in terms of the socio-economic studies, rather than highlighting opportunities for benefit and the need to come to terms with reality. This is disappointing and harks back, in part, to the early release period of the Basin Plan, such that

a very negative attitude set in, encouraged by some of the traditional and vested interests of the type referred to in the Matthews Report.

NPA hopes that through this inaugural five yearly review, a greater emphasis on the positive outcomes, reinforced by environmental as well as socio-economic benefits, can be fostered.

7 Water Resource Plan finalisation

NPA has been disappointed in the slow development of Water Sharing Plans within NSW, and particularly dismayed by some of the goal-shifting changes that have occurred in the unregulated Barwon-Darling that severely compromise downstream river and wetland health, to the detriment of communities and environment. At this stage, with the requirement to accredit WRPs by mid-2019, NPA emphasises the importance of NOT locking in inappropriate commitments within existing NSW WSPs. NPA also draws attention to the possible escalation of compensable commitments that may subsequently have to be amended, in the haste to meet the 2019 WRP deadline. NPA perceives a major risk in NSW is the acceptance of some significant flaws in some of the NSW WSPs, noting in particular the controversial amendments affecting the Barwon-Darling WSP.

8 Environmental Water Delivery

Delivery and shepherding of environmental water through the system is a critical aspect of meeting Basin Plan environmental objectives.

NPA notes that in NSW regulated river systems delivery of environmental water may be precluded under WSP rules due to seasonal priority for irrigation extraction. This is compounded by the 'averaging' approach based on past historical records and with no climate change implications factored in. The WRPs provide a crucial opportunity to address these aspects.

NPA considers WRPs provide a critical and essential opportunity to address the problem issues in the Barwon Darling and in river reaches currently defined as unregulated, such as the area below Bells Bridge on the Macquarie River.

In addition to the Ramsar site protected areas within the Basin, there are a number of national parks whose long term viability is dependent on appropriate water management. This is made very clear in the Yanga National Park Plan of Management, currently under development. Yanga station was acquired by the NSW government with the complementary aims of adding river red gum (*Eucalyptus camaldulensis*) communities to the reserve system and restoring the ecological health of river red gum ecosystems in decline in the Lowbidgee. The establishment of Yanga as a national park was welcomed by Balranald in recognition of its contribution to the local tourism economy. The draft Plan of Management (pp11-22) sets out the situation in some detail with later sections addressing particular issues and management responses including the importance of ongoing environmental flows. Similarly, the developing Plan of Management for Toorale National Park at the confluence of the Warrego and the Darling, includes extensive wetland and riverine elements dependent on appropriate upstream water management rules.

9 *Water quality*

Pollution issues were an active concern for NPA in the light of serious impacts on the national park system from upstream water resources. Pollution embraces not only salinity and toxic chemicals – including from careless use and disposal of agricultural chemicals – but also temperature. A new and emerging issue is the disposal of contaminated waste groundwater from fracking.

10 *Water Trading*

Given that confidence in a robustly policed set of trading rules is vital, NPA urges that adequate resources, amended institutional arrangements and training be provided into the future. This goes beyond compliance. It was very clear from early days of water trading that the component of water to be traded for extractive industry purposes must be strongly ring-fenced.

11 *Critical Human water needs*

NPA is aware that in the development of WSPs local governments negotiated a fairly generous cap in extraction. While extractions for potable use, under both Stock and Domestic and Local Government provisions, are acknowledged to be modest compared to extraction for irrigation enterprises, they ‘bite’ at the very time ecological assets are also under stress. Proactive fostering of a mindset change towards responsible use of water should be fostered. Small-scale ‘de-salination’ options, drawing on renewable energy sources, for major inland water dependant, communities should be actively explored. Additional long-distance pipelines, such as that being advanced for Broken Hill, are a costly option that, at least in the case of the Menindee Lakes Scheme, carry significant downstream adverse impacts, environmental, social and economic.

12 *Compliance*

NPA has welcomed the recent focus on improved compliance at both Commonwealth and NSW State level. However, NPA considers that unless these changes are supported long term, both with adequate resources and political will, they will fail. It should be noted that while compliance is a significant factor in delivering equitable rules, unless the volume, flow pattern and quality of water sufficient to sustain the environment is ensured, improving compliance alone will not be enough.

13 *Monitoring, evaluation and reporting*

Recently emerging publicity over failures in compliance highlight the unacceptability of relying on a single agency to oversee and deliver both the management and the policing of water extraction. There is clearly a conflict of interest, which should be resolved by ensuring the agency responsible for implementation is separated from the agency responsible for oversight at both Commonwealth and State level.

A timetabled target for achieving a no meter no pump requirement is essential. It is important to have an accurate and trustworthy measure of how much water – a public resource – is extracted as a basis for research and modelling; for confidence that management rules are founded on reliable data; and that these are both equitable and being complied with. It is also important that the entire process is open and clearly accountable.

Third party rights to citizens through the court system should be clearly upheld as an essential final resort.

As an organisation with members across NSW and beyond, NPA is concerned to highlight the importance of full and open participation in water planning processes.

During the 1990s in NSW this was recognised by an allocation of 'intervener funding' to ensure a voice for the environment was heard. This was valuable, despite an increasing bias towards the economic considerations. In more recent years NPA has experienced a profoundly disappointing reluctance by key decision makers to listen to, let alone hear, our contribution towards improved natural resource management, however well substantiated by evidence.

In Conclusion

NPA has consistently recognised that achieving the Basin Plan in line with the requirements of the 2007 Water Act is challenging but has maintained that it is a much-needed move forward. NPA considers we must work openly and cooperatively if we are to avert the collapse of the Murray Darling River and wetland system and its critical role in sustaining the ecological dynamic which underpins the social and economic framework of not only the basin dwelling communities but Australia generally. The cost of getting it wrong is frightening and a threat to Australia's international reputation.

Yours sincerely


Chief Executive Officer