

LET'S FIX THE BASIN PLAN

Introduction:

There have been growing calls to pause, review and revise the current Murray Darling Basin Plan.

This is not a slogan, but rather a properly constructed proposal necessary to address the goals of the current plan and deal with existing problems, associated with the implementation of the Basin Plan. (Attachment A & B)

Why Review and Revise the Basin Plan?

The current Basin Plan is not working. It is failing the environment and failing regional Australia!

1. Unprecedented social and economic impacts have been felt across the majority of irrigation communities, as evidenced by the Murray Darling Basin Authority's (MDBA) own '2017 Basin Plan Evaluation Southern Basin Community profiles'¹ and the 2016 'Northern Basin' review social and economic condition reports². In geographically specific regions, there is a crisis occurring with an exodus of people and farmers from irrigated agriculture.
2. Social and Economic impacts are not consistent with the findings of the Murray Darling Basin Authority Regulatory Impact Statement (2012) which assumed the impacts of the Plan would be relatively modest. Government intervention is now needed to allow these communities to remain viable and develop resilience to withstand significant challenges into the future, including major drought.
3. In the Southern Basin, the Sustainable Diversion Adjustment Mechanism (SDAs) is plagued by restrictive timeframes and lack of flexibility in decisions. This is preventing due diligence in project design, failure to enable consultation with affected parties and strong risk of project failures and budgetary blow outs.
4. Government intervention in the water market has impacted upon irrigators' ability to access affordable water for agricultural productivity. The negative economic effects extend to local and regional economies with long term consequences for a wide range of industries in parts of the Murray Darling Basin. Substantial damage to the dairy, summer and winter grains industries and associated livestock programs are already evident.

¹ <http://www.mdba.gov.au/publications/mdba-reports/southern-basin-community-profiles>

² <https://www.mdba.gov.au/publications/mdba-reports/NBreview-social-economic-condition-reports>

5. The next steps in the implementation of the Basin Plan (the accreditation of Water Resource Plans, the implementation of Supply Measures Projects and the completion of Efficiency Measure Projects) pose significant further risks to certain communities. Increased flexibility and revised timeframes are needed to ensure that these components of the Basin Plan do not result in additional negative socio-economic impacts for rural communities already struggling from the Basin Plan water recovery targets and severe drought.
6. Environmental water agencies and river managers are now responsible for managing significant volumes of environmental water within highly complex river systems. A review enables environmental water agencies and river managers to confirm exactly what volumes of water can actually be delivered downstream. This is essential for managing adverse impacts to the environment, private property and consumptive water demands in the Murray River where capacity exceedance can result in property damage, elevated flooding risks and water loss negatively impacting irrigation reliability (for example operational losses experienced in 2018/19 season).
 - Currently, the Murray Darling Basin Authority's 'end of system' flow targets to the Murray Mouth primarily relies on the Murray, Edward and Goulburn Rivers to deliver the volumes.
 - Due to the natural physical limitations of the Murray River system, it is likely environmental objectives will also be unachievable
 - The interim period can also identify what volumes of water CAN physically and safely be delivered downstream; what contributions will occur from individual Basin States and valleys; and a full cost benefit analysis and risk profiling to determine whether the MDBA flow targets are achievable, including the 80GL at the South Australian border.
7. Water for the Future Program incorporating the Murray Darling Basin Plan is costing Australia \$13 billion. The scale of this investment must be accompanied by good governance and due diligence.
8. Implement structural reform to the Murray Darling Basin Authority as recommended in the recent Productivity Commission's Murray-Darling Basin Plan: Five-year assessment final report³.

What do we mean by 'Fix the Basin Plan'?

1. **Basin States and the Federal Government to immediately implement a framework that will ensure no further water acquisition for the environment until a review is completed**
2. An independent consultant be engaged to undertake an analysis of the 35 or more Basin Plan reviews undertaken to date. The purpose of the analysis would be to pull together the findings from these reviews and together with new information, devise an improved process

³ <https://www.pc.gov.au/inquiries/completed/basin-plan#report>

for delivery of the Basin Plan. A key objective should be to determine a manner for future Basin Plan implementation that does not result in further negative social, economic or environmental impacts. The review should be undertaken with genuine consultation and collaboration with impacted communities, and in particular, the terms of reference for the review should be developed with affected stakeholders and community in conjunction with State Water Ministers.

3. A new co-operative and adaptive partnership model for future implementation of a Basin Plan should be developed which enables the fostering of long term environmental and community benefits across both water and landscapes. In particular, this model should include a capacity to incorporate flexibility, new information and adaptive management into decisions
4. The current timeframes for the Basin Plan should be revised, with the Plan to recommence once the comprehensive review of the plan is completed and agreed upon by basin communities and governments.

When?

We are seeking that all Basin Governments commit to a review of the Basin Plan from **IMMEDIATELY..**

How?

We note that at this stage this is an initial proposal, and that we seek to work with our communities and government officials to further refine this proposal.

However, at this stage the steps proposed for achieving a review of the Plan proposal are as follows:

- The Federal Water Minister call an emergency Ministerial Council meeting seek a commitment from all Basin Governments to the review proposal.
- Develop a Steering Committee to further develop the review proposal, made up of regional stakeholders and government representatives. The Steering Committee should be responsible for overseeing the development of the detailed plans for the 'Pause', the terms of reference for the 'Review' and the engagement strategy for undertaking genuine consultation with impacted parties.
- Develop and pass the legislative changes needed to give effect to the Proposal.
- Engage the consultant to undertake the Review. Commence and complete the Review. This should include a period for communities to review the outcome of the review.
- Seek that all Basin Governments commit to the recommended improvements for the implementation of the Basin Plan.

A Review of the Basin Plan would mean the following;

3 30.5.19 MURRAY REGIONAL STRATEGY GROUP (INC)

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1. Enacted Immediately, all projects that are in place and are necessary to meet the obligations associated with the deadline of July 1st 2019 be completed and from this date forward, all future water recovery programs be placed “on hold”.
 - This is not a proposal that all future water recovery programs be abandoned. This is to provide Governments/stakeholders with an opportunity to undertake an in-depth review of water recovery to date, a very different ownership structure and clearly changed water management regime
 - Governments reconsider the current focus on water volumes and instead take the time to develop a suite of programs that allow for ‘Enhanced Environmental Outcomes’ to be achieved without further productive water recovery
2. An extension to the timeframes for State governments to finalise Water Resource Plans, to allow for full and appropriate levels of consultation with affected parties.
3. An extension of the deadline for Sustainable Diversion Adjustment Mechanism Projects beyond the 30th June 2017, to allow time to incorporate new information and the principles of adaptive management into the current projects, and to allow for the inclusion of new projects where relevant.
4. To allow for the incorporation of new information and best practice into the Basin Plan post 1st July 2019.

Summary

This is not a radical departure from the implementation of a major policy reform process.

The proposal provides an opportunity for all parties to take a step back and make sure that the final implementation of the Basin Plan is based on best practise, sound science and in collaboration with regional communities. Importantly this should enable all stakeholders to feel like they are part of the process of implementing a Basin Plan, not just simply observers with no ability to influence a policy process that for many has significant impacts on their economic and social wellbeing.

If the remainder of the implementation phase of the plan was to occur and continue as it has to date, the long-term consequences will be disastrous for large sections of Australian society. This was never the intention and should send “alarm bell” to all sides of government.

This proposal is a well thought out strategy that we believe serves as a constructive contribution to public policy of national significance.

ATTACHMENT A:

Numerous inquiries have occurred following on- going concerns about the Murray Darling Basin Plan.

Despite thousands of submissions, personal representations, interviews, formal hearings – there has been little tangible change to the Murray Darling Basin Plan, apart from the 70GL returned to the Northern Basin and inclusion of 650 GL Sustainable Diversion Adjustment Mechanism

In response to numerous social and economic impact reports on the affects to the Southern Basin, the MDBA has described that such reports would not result in material change in direction by the MDBA or the decisions it makes.

Productivity Commission Five Year Review of the Murray Darling Basin Plan (January 2019)

Key Points: (include)

- *An immediate improvement is nevertheless required in two important elements of the Plan.*
 - *The development and accreditation of Water Resource Plans is behind schedule.*
 - *Basin Governments should agree to extend the 2019 deadline where there is a material risk to the quality of plans.*

- *In the future, there will also be major challenges and risks to implementing the measures to adjust Sustainable Diversion Limits by 2024.*
 - *The agreed package of supply measures (including constraints easing projects) is ambitious.*
 - *If key projects fail, environmental benefits will be delayed and the additional costs to tax-payers are potentially in the order of \$480 million. Basin Governments should establish sound governance and funding arrangements and develop an integrated plan to manage delivery of the projects. The current timeframe is unrealistic and should be extended.*

- *Projects to ease or remove delivery constraints and achieve enhanced environmental outcomes are unlikely to be completed by 2024. The Australian Government consequently risks bringing forward significant expenditure for an asset that cannot be effectively used for many years. It should instead align additional water recovery with progress on easing constraints and include strategies to mitigate socioeconomic impacts.*
- *These complex challenges are made more difficult because of the way Basin Governments have developed and agreed to the projects. The process has lacked transparency and candour with stakeholders who are concerned about potential impacts*
- *There are major shortcomings in the current institutional and governance arrangements and these pose a significant risk to successful implementation. Now is the time for Basin Governments to do some heavy lifting and provide strategic direction*
- *The MDBA has two main roles: supporting Basin Governments to implement the Plan; and ensuring compliance with the Plan (in its role as regulator). These roles are conflicted and the conflicts will intensify in the next five years.*
 - *The MDBA should be separated into two institutions — the Murray-Darling Basin Corporation and the Basin Plan Regulator.*
- *This is an opportunity to make **important ‘stitch in time’ changes to ensure an effective Plan.***
- ***Failure will be costly for the environment and tax-payers and undermine confidence that the significant investment in the Basin Plan has been worthwhile.***

Additional Report Points:

- *P 11: Challenging components of the Supply Package: The supply package relies heavily on six highly complex and interdependent projects, which could account for between one-third and half of the 605 GL expected water recovery offset. These key projects are still in the concept design phase.*
- *“and the community is concerned about the road ahead. Deficiencies in the way that Governments have approached implementation of the Plan have caused considerable concern in many Basin communities. This has left a legacy of community distrust, which the Commission considers is a risk to effectively implementing the next phase of the Plan” (Productivity Commission 2019)*

- *“The Basin Plan evaluation framework should be improved to define the specific questions that will be used to comprehensively evaluate the effectiveness of the Plan in achieving environmental, socioeconomic and cultural outcomes at both a region and Basin scale. This will enable Basin Governments to communicate the outcomes of the Plan in a clear, cogent and consistent manner.”*
- *“This debate has distracted Basin Governments from developing an effective and efficient strategy for addressing any substantial adverse socioeconomic impacts, and from developing community-supported projects that may recover environmental water cost-effectively and with relatively limited impact (at both a local and Basin-wide scale).” (Productivity Commission 2019)*

FINDINGS 6.1

- *The development and accreditation of Water Resource Plans (WRPs) is well behind schedule and there are key issues still to be finalised in some WRP Areas.*
- *Although a number of WRPs appear likely to meet the 30 June 2019 deadline, in some areas there is a risk that attempting to accredit the WRP by the 30 June 2019 deadline will compromise the quality of plans by:*
 1. *inadvertently impacting on the entitlements of water users or the environment*
 2. *reducing the effectiveness of WRPs in implementing key elements of the Plan including the protection of environmental water, providing water for critical human needs and water quality objectives*
 3. *not allowing sufficient time to consider and consult on those key issues with affected stakeholders.*
- *To ensure prudent use of public funds, it is vital that the process for funding supply projects is capable of removing projects if and when it becomes apparent that there has been a material decrease in the anticipated net benefits of that project. This includes instances where ongoing monitoring of a project reveals insufficient progress (particularly if extensions are granted). Because of the funding and community implications, there needs to be a high level of transparency about the process.” (Productivity Commission 2019)*
- *Governments need to confront the reality that some projects may require more time Failure to successfully implement these projects by 2024 would mean that either Basin States or the Australian Government will most likely need to make good any shortfall in the offset, which could include further water recovery.*
- *The 2024 deadline for a number of these projects (particularly the constraints projects) is highly ambitious, if not unrealistic. The timeframe for implementation (which is already delayed) will continue to be compressed until Governments resolve significant policy issues including funding arrangements, responsibility for making good if projects fail and ongoing costs associated with assets. Agreement on these issues is urgent, as works cannot commence until they are resolved. Strictly enforcing the 2024 deadline could lead to the abandonment of worthwhile projects.*

- *To enable worthwhile projects to be implemented in realistic timeframes, Basin Governments should be open to the possibility of extending the 30 June 2024 deadline and make this clear to project proponents prior to detailed business cases being completed. This should not be interpreted as scope for a blanket extension for all projects or a reason for Basin States to procrastinate. Nor is it a reason to avoid making good if projects fall short. But being open to legitimate extensions of time avoids rejecting worthwhile projects or progressing projects with milestones that just cannot be met. Projects with unrealistic milestones will likely further erode community confidence that projects are achievable and worth doing.” (Productivity Commission 2019)*
- *Structural reform is required to address the MDBA’s conflicting roles. Structural reform to the MDBA is required to address the significant conflicts in its future suite of roles. Complete structural separation is required to assign its agent of governments functions and its regulatory functions to separate entities. This aligns with the principle of role clarity and with recommended practices for managing conflicting functions (box 14.1). Structural separation would involve assigning the MDBA’s roles to two separate entities:*
 - *the Basin Plan Regulator — with compliance and evaluation responsibilities*
 - *the Murray-Darling Basin Agency — the agent of governments providing MDB Agreement services and supporting Basin Governments to implement the Plan.*
- *The conflict in the MDBA’s roles will intensify over the next five years. Its agent of governments role will grow. Basin Governments will need to rely on the MDBA to help them to be proactive stewards of the shared water resources of the southern Basin, which has a market with more than \$13 billion of water entitlements. They will need its technical capability and river operations skills to implement supply projects and to maximise the benefits from an environmental water portfolio that is currently worth \$3.3 billion.” (Productivity Commission 2019)*

Australian Government | Productivity Commission. Murray-Darling Basin Plan: Five-year assessment Productivity Commission Inquiry Report Overview. 2019.
<https://www.pc.gov.au/inquiries/completed/basin-plan/report/basin-plan-overview.pdf>

The Senate Legal and Constitutional Affairs References Committee A Balancing Act: provisions of the Water Act 2007

- *Recommendation 1 4.17 The committee recommends that the Australian Government publicly release the legal advice on the Water Act 2007 provided by the Australian Government Solicitor to the Murray-Darling Basin Authority on 26 November 2010 and 30 November 2010, and any other relevant legal advice, as a matter of urgency.*

- *Recommendation 2 4.18 The committee recommends that the Australian Government appoint as a matter of urgency an independent panel of legal experts to review all relevant legal advice relating to the Water Act 2007 for the purpose of recommending specific amendments to the Act to ensure:

 - *the Basin Plan has the security of sound legal underpinnings and certainty for all involved and affected;*
 - *the Basin Plan balances the optimisation of environmental, social and economic considerations; and*
 - *the Murray-Darling Basin Authority and the Minister are granted the discretion to give appropriate weight to economic, social and environmental considerations in order to balance these interests against each other.**
- *Recommendation 3 4.19 Subject to Recommendation 2 and following the report of the independent panel of legal experts, the committee recommends that the Australian Government amend the Water Act 2007 as a matter of urgency.*
- *Recommendation 4 4.20 The committee recommends that the Australian Government take whatever measures are necessary to strengthen the constitutional validity of the Water Act 2007.*

Murray Valley Basin Impact RMCG Report: Murray Group (June 2017)

Summary includes:

- *The transfer of 451GL of General Security entitlement to the environment. This represents some 28% of the General Security that was previously held within Murray Irrigation Ltd, and a further 25% of GS entitlement held elsewhere in the NSW Murray Valley.*
- *That reduction in the consumptive pool would otherwise have been available to generate irrigated production with a value of some \$120M farm gate in an average season*
- *The main impact has been on annual cropping sectors, in particular rice, which has seen a reduction in production by nearly 30%*
- *A reduction in dairy production by around 21% and increased vulnerability in a drought situation with higher reliance on access to the temporary market*
- *Those regions that are predominantly horticulture such as SA, Sunraysia and Griffith have emerged largely untouched by the plan to date. In future drought seasons they will command a far higher proportion of the available water so putting greater pressure on all other sectors*
- *The reduction in the size of the consumptive pool has pushed up the average price in the allocation water market. This higher price makes irrigated production of annual summer crops less viable and increases the likelihood that water will be sold out of the area rather than used in production*
- *Increasing the risk to the region is the unresolved issue of how the water purchased by government can be delivered physically and safely without third party impacts including major flooding of private property and*
- *Any reliability risks to remaining general security water entitlements with any adverse decisions in the Sustainable Diversion Adjustment Mechanism and Pre-Requisite Policy Measures (rule changes)*

Sefton Report; 2018 (Review of criteria 450GL)

Don Blackmore et al. Murray-Darling Basin SDL adjustment mechanism: Report by the Victorian and NSW Ministers' Independent Expert Panel. 2017

https://www.industry.nsw.gov.au/_data/assets/pdf_file/0007/148228/Murray-Darling-Basin-SDL-Adjustment-Mechanism-Report-by-the-Victorian-and-NSW-Ministers-Independent-Expert-Panel.PDF

Senate Select Committee on the Murray-Darling Basin Plan: February 2016

NSW Parliament Legislative Council, General Purpose Standing Committee No. 5, Inquiry into the Augmentation of Water Supply for Rural and Regional New South Wales, 2016

SDL Adjustment Stock-take Report August 2015: Warren Martin and Graeme Turner.

Senate Rural and Regional Affairs and Transport Committee – Inquiry into the Murray Darling Basin Plan

Australian Parliament: Rural and Regional Affairs and Transport References Committee report December 2017:

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed_inquiries/2010-13/provisionswateract2007/report/index

Australian Government | Murray-Darling Basin Authority. Losses in the River Murray System 2018–19. 2019. <https://www.mdba.gov.au/sites/default/files/pubs/River-murray-system-losses-report.pdf>

https://www.aph.gov.au/parliamentary_business/committees/senate/murray_darling_basin_plan

<https://www.mdbrc.sa.gov.au/sites/g/files/net3846/f/mdbrc-exhibit-36-management-of-the-murray-darling-basin-second-interim-report-october-2012.pdf?v=1530675578>

Australian Government | Murray-Darling Basin Authority: Wakool Community. 2018.

<https://www.mdba.gov.au/sites/default/files/pubs/community-profiles-wakool-june2018.pdf>

ATTACHMENT B:

What are the risks under 'no change' Basin Plan scenario?

- Australia is at risk of losing key industries in the Southern Basin and a significant proportion of young farmers due the current malaise of economic uncertainty
- Generational investment by successive Governments and regional communities, delivering world's best practise in the Southern Basin (NSW Murray and Northern Victoria)
- Future economic base of irrigation schemes
- Agricultural viability/investment based on water availability
- The expansion of new irrigated horticultural developments at the lower reaches of the Murray is creating major risks for water supply demands exceeding the capacity of rivers in the Southern Basin. These new demands are occurring simultaneously to objectives to deliver environmental flows to the lower lakes. There is an urgent need to place restrictions on the amount of water being traded down river.
- Economic capacity to participate in temporary water trade markets

The current crisis affecting parts of the Murray Darling Basin is a direct result of the Basin Plan, the significant change in water ownership, and the new operation and management structure under the MDBA. The scale of change and social and economic impacts cannot be attributed to drought.

In 2016, many rivers and dams were over 100% of capacity. Questions need to be asked, how will changes outlined in the Basin Plan and by the new management of the system enable Australia to respond to drought.

Environmental objectives?

- The Murray Darling Basin Plan lacks a comprehensive and adaptive approach to achieving sustainable environmental outcomes. The lack of flexibility in the Murray Darling Basin Plan is likely to result in the plan's own objectives not being met
- The Basin Plan relies on environmental indicator sites and an 'end of system' flow target to South Australia's Murray Mouth as the surrogate for achieving basin wide environmental outcomes
- The Basin Plan flow targets in the Southern Basin exceed the natural capacities of the river banks (eg Murray and Goulburn Rivers) resulting
 - Increased river bank erosion, sedimentation /silting of river beds.
 - Further reductions in the capacity of the Barmah and other natural river chokes limiting the amount of water that can pass through the systems.
- The Basin Plan is inconsistent with the principles of total catchment management
- The Basin Plan is inconsistent with the principles of community engagement and community collaboration.
- Negative community experiences are also detrimental to community participation in future environmental programs.

