



# Nature Conservation Council

The voice for nature in NSW

Productivity Commission  
4 National Circuit  
Barton ACT 2600, Australia  
Submitted online

April 19, 2018

## **RE: Submission into the Productivity Commission's 5-year review of the implementation of the Murray-Darling Basin Plan**

Dear Commissioners,

The NSW Nature Conservation Council (NCC) welcomes the opportunity to make a submission to the Productivity Commission's 5-year review of the implementation of the Murray-Darling Basin Plan, with reference to the recovery of water for the environment and the achievement of sustainable diversion/extraction levels (SDL) by 2024.

The Nature Conservation Council and the environment groups we represent have been winning protections for nature in NSW for more than 60 years. We've been at the centre of many of the state's iconic conservation battles, and have notched up countless wins for nature and local communities.

### **Introduction**

Our organisation is very concerned about progress and the direction of the water reforms and notes that, in the absence of policy, institutional and governance changes the following are likely to occur:

- the SDL will probably not be achieved by 2024 under current arrangements;
- self imposed restrictions on the how environmental water is recovered combined with an overly optimistic schedule of infrastructure investments, are putting recovery target at risk;
- unmanaged growth in use may have seriously degraded the security of environmental water (and reliability of supply to other water users);
- institutional conflicts of interest combined with structural failures in governance and transparency risk making the Basin Plan a poor investment of public funds.

### **Achieving the SDL - recovering water for the environment**

Progress since 2012 the Basin Plan has been coloured by a significant narrowing of government consultation and the re-emergence of institutional capture by the irrigation industry. We note that the only independent review of the recent reforms by unaligned experts is that provided by the Wentworth Group of Concerned Scientists in November 2017.

The recovery of environmental water has stalled in recent years, as a result of the crude ban on buy-backs, and the cost of recovery has increased by factors of 2x to 7x the market price.

Government is now entirely dependent on infrastructure and management rules to give effect to new 'environmental water' 2024 targets and has left itself with no alternative means of achieving the SDL. It is inconceivable that all of these projects can or will be achieved within the remaining five years of Basin Plan implementation - they are ambitious with regards to water savings, are politically contentious, involve complex third-party impacts, have been discussed for over twenty years, and as of today still have no public business case developed.

The slow recovery of environmental water threatens the achievement of the SDL by 2024, but insidious unmanaged growth in use of water in north western NSW may already be seriously undermining the cap on development established in 1995. This has arisen through the NSW Government's twenty year delay in implementing an effective metering program on most unregulated rivers or licensing the capture of overland flows. Given the scale of these groups of extractions and the length of the delay, the NCC is concerned that a significant portion if not all of the water recovered for the environment under the Water Sharing Plans is being squandered to this unmanaged growth in use.

Finally, the NSW Government is failing to support the efficient use of environmental water. Legislative change is required to enable the protection of unregulated environmental flows where they may trigger down-stream extractions by other water users. Water users argue that imposing such a restriction would represent a third party impact - however, such a position fails to recognise that in the absence of the environmental flow, the opportunity to pump would not have existed. Given that the SDL has been set above a level that was considered necessary by science, it is imperative that the environmental water that has been recovered can be used and reused throughout Basin's river systems, as securely and efficiently as possible.

### **Reinstatement of the institutional separation of roles**

The Productivity Policy reforms of the late 1990's promoted water governance arrangements wherein there was the clear separation of institutional roles (as system operators, regulators, and managers) and these were briefly achieved in NSW in the early 2000s - but these roles have blurred through the politicised and efficiency (rather than governance) focused restructuring, localised industry focused consultation (without representation of the public/national interest), combined with the loss of corporate knowledge.

The Murray-Darling Basin Authority and public irrigation areas in Victoria combine all three roles, to some degree. The MDBA and the NSW Government's Department of Industry - Water (regulator) have been subsumed as junior agencies within a broad Industry portfolio. In the case of NSW, policy is still arguably driven by local customer service oriented bodies, with no requirement for environmental/conservation expertise or representation, no clear mechanism for balancing competing regional demands, and that continues to enable the State water operator unreasonable influence in policy discussions.

## **Recommendations**

The Nature Conservation Council calls on the Productivity Commission to recommend that:

1. Governments re-instate the targeted buy-back of environmental water at an efficient price, in order to ensure the SDL can be achieved within target timeframes, and where necessary, to mitigate impacts through limiting the rate of purchase or other structural adjustment mechanisms;
2. The NSW Government makes legislative changes that would enable the protection of environmental flows through downstream extraction zones;
3. The NSW Government ensures that the current processes of developing Water Resource Plans, licensing flood plain harvesting, and metering of all unregulated river licences result in no growth in development since 2004; and
4. That government agencies related to water management undertake institutional reform to clearly separate the roles of Operator/Regulator/Manager, and ensure that the regulator and manager roles are not subject to direct industry servitude as part of some mega-department.

Thank you for the opportunity to provide a submission in to this important review. Please do not hesitate to contact me on [ncc@nature.org.au](mailto:ncc@nature.org.au) or (02) 9516 1488 should you require any further information.

Yours sincerely,