



## Lifeblood Alliance submission to the Productivity Commission's 2023 review of Murray-Darling Basin Plan Implementation Interim Report.

Lifeblood Alliance consists of environmental, Indigenous and community groups committed to keeping the rivers, wetlands and aquifers of the Murray-Darling Basin healthy for the benefit of current and future generations. Member groups and associated individuals of the Lifeblood Alliance span the breadth of the Basin and beyond and include landowners, farmers, irrigators, commercial and recreational fishers, nature tourists, Local Government representatives, Traditional Owners, ecologists, townspeople and conservationists.

Lifeblood Alliance has closely followed the initial development of the Basin Plan, its adoption and the processes of implementation.

We welcome the opportunity to contribute to the Productivity Commission's review and provide feedback on their Interim recommendations.

### **Interim recommendation 2.1 The Australian Government should be more transparent, and have greater authority, over decisions for supply, constraints-easing and northern Basin toolkit measures**

The Australian Minister for Water should table in Parliament an annual report about the progress of all supply, constraints-easing and northern Basin toolkit projects. The reports should include:

- the status of the projects
- funding arrangements, including amounts expended to date
- reasons for deciding to continue, amend or withdraw project funding, including evidence on the cost-effectiveness of projects relative to other forms of recovery
- the expected shortfall against the water recovery offset (if any) and planned actions to make good.

The first report should be tabled by 30 June 2024. The Water Act 2007 (Cth) should also be amended to require the Minister to table these reports. The Basin Plan should be amended to require the Basin Officials Committee to notify the Murray–Darling Basin Authority of material changes to supply measures within three months of those changes occurring. The Basin Plan should also be amended to require the Australian Minister for Water to withdraw a Commonwealth-funded supply measure if the Minister considers that the measure will not enter into operation by the deadline in s. 7.12(6) of

the Basin Plan. These amendments to the Water Act and Basin Plan should be made as soon as possible.

**Response:** We strongly support the intent of the recommendation, but it will not of itself drive the necessary increase in transparency and accountability. If the report is to have weight and standing, the contents and process for its development need to be described in the Water Act. The report must also have consequences – for example, if a constraints project is deemed to be behind schedule, what are the consequences and for whom?

Another key issue is reporting by the states, who are often the blockers to progress. Having them report to their own Parliaments would be a great benefit to transparency.

### **Interim recommendation 2.2 Reset and extend implementation of constraints-easing projects**

Basin governments should remove southern Basin constraints-easing projects from the supply measure package. The Murray–Darling Basin Authority should develop an implementation roadmap that includes:

- pathways to incremental improvements in flow rates in each river, including evidence on the benefits of gradual increases in flow rates
- a process to provide procedural fairness to affected landholders
- a sequence for constraints-easing projects that prioritises the major tributaries prior to the River Murray.

Subject to making meaningful progress on incremental constraints easing, the Australian Government should assess the costs alongside the environmental and operational outcomes of further constraints easing, and consider allocating additional Water for the Environment Special Account funding towards constraints easing

**Response:** We strongly support separating constraints from supply measures and removing them from the SDL adjustment package, and establishing their own dedicated program, funding arrangements and sequencing. We have previously suggested the establishment of a scientific advisory body to help develop the implementation pathway.

### **Interim recommendation 2.3 Implement an assurance mechanism for the northern Basin toolkit**

The Australian Government should implement a monitoring framework, together with public reporting, to provide assurance of environmental outcomes for completed northern Basin toolkit projects. As part of the 2026 Basin Plan review, the Murray–Darling Basin Authority should stocktake the outcomes of the northern Basin toolkit projects along similar lines to the Sustainable Diversion Limit Adjustment Mechanism reconciliation.

**Response:** we support the recommendation for monitoring framework, public reporting and stocktake, as complementary measures are often announced and then not funded or implemented. For example, the fish ladders in NSW Nth Basin that were a condition of planning approvals for major storage augmentation have still not been constructed.

The LBA seeks an assurance that no funds allocated to water recovery are used to pay for toolkit measures. We acknowledge that complementary measures are important but these are investments that should be funded separately by both State and Commonwealth governments. LBA has long advocated for a permanent line item in national and state budgets for investment in on-ground natural resource management projects.

The MDBA's Northern Basin Advisory Committee was crystal clear that Toolkit measures are not alternatives to water recovery, not a substitute for the 70GL cut in the northern basin recovery target and not to be funded from designated water recovery funds.

### Interim recommendation 2.4 Develop a renewed approach to water recovery

The Australian Government should develop a renewed approach to water recovery to manage the risk of a supply measure shortfall. This approach should consider all water recovery options, including voluntary water purchases. However, purchasing should be undertaken gradually, to avoid driving rapid water market and community adjustment, and aligned with irrigation network rationalisation where necessary to avoid impacts on irrigation network viability.

The Australian Government should update its water recovery strategy so it is clear how this renewed water recovery program will proceed. The strategy should outline:

- the sequencing of different water recovery targets, based on the progress of supply and constraints measure implementation
- how different water recovery options will be used, based on the availability of projects, their cost-effectiveness and likely socioeconomic impact
- when and how community adjustment programs will be implemented, based on socioeconomic monitoring
- requirements for monitoring, evaluation, reporting and improvement on program design

**Response:** We strongly support the development of a new approach to water recovery, which is currently governed by an Abbott government strategy which has effectively stalled water recovery for several years. In addition to the points made by the PC, we suggest the lifting of the 1500GL cap on buybacks and the abandonment of the socio-economic criteria for upwater recovery agreed in 2018.

**Information request 2.1** The Commission is considering the merits of establishing a new corporate Commonwealth entity to address the anticipated water recovery shortfall. The independent entity would initially adopt the existing Australian Government responsibility for water recovery, with a commercial approach to program delivery in closer partnership with Basin entitlement holders and irrigation networks. It would operate at arm's length from government and be in place for a fixed time period. The Commission invites views on the merits and the design of the entity, including:

1. the likely strengths and weaknesses of a government-owned corporate entity compared to current arrangements
2. the role of the Ministerial Council in providing high-level direction to the entity

3. the scope of its functions, including whether it should have a role implementing supply, constraints-easing and toolkit measures

4. the entity's guiding principles, such as ensuring value for money and minimising community impacts from water recovery.

**Response:** Lifeblood Alliance is not fully supportive of the concept of a new Government-owned corporation as an additional layer of governance in Basin Plan implementation. It will be costly and take time to establish. The finalisation of the Basin Plan needs to be implemented as soon as possible. DCCEE has commenced work on a way forward including establishing principles and drafting programs with extensive consultation. A new entity would likely have to start from scratch and therefore cause a significant delay in achieving the required outcomes.

If the PC were to recommend a new entity the following considerations must be taken into account:

The key point about any new entity is that it should operate at arm's length from government and not be subject to political considerations. *Water for Rivers* was effectively able to achieve this in recovering water for the Snowy, but it was operating in a much less politicised environment and had a wide suite of options open to it, including the 'low hanging fruit' infrastructure opportunities. On the other hand a new entity will have the benefit of years of experience in water recovery and infrastructure projects, and be well aware of potential pitfalls such as failure to account for return flows or the creation of stranded assets.

As a key criterion for the new entity would be political independence, Ministerial Council should not have a role in providing direction. The entity would be financed solely by the Commonwealth and should be responsible only to the Commonwealth for its actions.

The entity's guiding principles should be based on sound science and ecological principles so that its water recovery efforts are directed to catchments where there is most ecological need and where water recovery can have the greatest system wide benefits. If a *Water for Rivers* model is to be followed, we suggest the inclusion of an advisory body similar to the Snowy Scientific Committee to advise on where water recovery should occur for maximum environmental benefit.

We believe a new entity should focus exclusively on water recovery and should not be responsible for supply, efficiency or constraints projects. Handing responsibility for these projects to the new entity risks confusion, political interference and a loss of focus on the key job which is to recover real water for environmental purposes, address over-allocation and ensure the future health of the Basin's rivers and wetlands.

### **Interim recommendation 3.1 Improving the effectiveness of the Basin-Wide Environmental Watering Strategy**

The Murray–Darling Basin Authority's next update to the Basin-Wide Environmental Watering Strategy should include:

- an objective that environmental watering should seek to contribute to social or cultural environmental outcomes (where compatible with environmental outcomes)
- First Nations peoples' objectives and outcomes, under all water availability scenarios, for shared benefits from environmental water use (where compatible with environmental objectives) at the Basin-wide scale

- clear articulation, under all water availability scenarios, of the relative priority of key Basin environmental assets to achieving the overall environmental objectives of the Basin Plan and the expected outcomes set out in the strategy
- clear guidance, under all water availability scenarios, on the priority for achieving flow connectivity at the system scale relative to watering within a water resource plan area
- risks to achieving environmental objectives, in a changing and more variable climate.

Over the longer-term, a framework for the coordination of environmental water management with natural resource management should be developed by the Murray–Darling Basin Authority and Basin state governments and included in the Basin-Wide Environmental Watering Strategy.

**Response:** we support the second dot-point on including First Nations objectives in shared benefits of environmental watering, but are not supportive of including all social and cultural objectives (first dot point). The inclusion of social criteria can lead to perverse outcomes, for example requests from duck hunters to fill wetlands for the purpose of attracting game or requests for watering to occur during school holidays. Environmental objectives must be paramount.

We support the fourth dot-point on giving priority to achieving flow connectivity, which is a key objective in supporting river health.

We are not clear on the intent of the third dot-point on the relative priority of KEAs in the Basin. Surely if a site is a KEA it is exactly that - key - and should receive its watering requirements under all water availability scenarios. The job of the Basin Plan is to ensure adequate environmental water so that this is possible, not to trade off its most important sites. We do not support the inclusion of an element of triage in the BEWS.

While we agree that NRM actions should be coordinated with watering actions, the BEWS is not the place to achieve the coordination. It should be dedicated to the delivery of held environmental water to achieve maximum ecological benefit across the Basin.

### Interim recommendation 3.2 The adaptive management of long-term watering plans

In the next iterations of long-term watering plans, Basin state governments should include:

- First Nations peoples' objectives and outcomes under all water availability scenarios for shared benefits from environmental water use (where compatible with environmental objectives) for each water resource plan area
- planning and management actions to integrate the management of environmental water with natural resource management (such as habitat restoration or weed and pest control).

**Response:** We support the first dot point, but NRM actions must not become a substitute for watering actions. They are complementary to water recovery and watering actions, not a substitute for them as so often claimed by opponents of water recovery.

### Interim recommendation 3.3 Basin annual environmental watering priorities require review

As part of the 2026 review of the Basin Plan, the Murray–Darling Basin Authority should assess the value of Basin annual environmental watering priorities and whether the Basin Plan requirements for these annual priorities should be amended or removed.

**Response:** Support

### Interim recommendation 3.4 Delivering shared benefits from the use of environmental water

First Nations peoples' objectives and outcomes for providing shared benefits from environmental water use for inclusion in the Basin-Wide Environmental Watering Strategy and long-term watering plans should be developed by First Nations people through genuine, resourced partnerships with the Murray–Darling Basin Authority (for the Basin-Wide Environmental Watering Strategy) and Basin state governments (for long-term watering plans), consistent with commitments made by all governments under the National Agreement on Closing the Gap.

**Response:** Support

### Interim recommendation 4.1 Simplify requirements for water resource plans

In its 2026 Basin Plan Review, the Murray–Darling Basin Authority should consider how the requirements for water resource plans could be simplified and whether some requirements should be removed or made less prescriptive and more focused on outcomes. The principle of subsidiarity should be a guiding consideration in this review, given many of the arrangements included in the plans should remain largely the responsibility of state governments, with the implementation of sustainable diversion limits being a core purpose of water resource plans.

**Response:** We support moves to simplify water resource plans and make them more comprehensible to both those charged with implementing them and the general public. However any simplification must include:

- A template for required content of all WRPs, including a standard definition of Planned Environmental Water and its provision and a standard methodology for assessing 'no net reduction'
- Rules for the provision end of system flows, and connectivity targets with upstream and downstream catchments and for Held Environmental Water to be protected across the Basin.
- Requirements for First Nations consultation, engagement and consent as outlined in our previous submission. MLDRIN has commenced legal action over the accreditation of the Fractured Rock WRP 'to set a precedent that ensures that all Murray-Darling Basin water resource plans must be properly undertaken according to fair and reasonable standards of consultation'.<sup>1</sup>

### Interim recommendation 4.2 A risk-based approach to amending water resource plans

The Water Act 2007 (Cth) should be amended to allow the accreditation of amendments to water resource plans to be fast-tracked, where those amendments are low-risk and clearly comply with the Basin Plan.

**Response:** The problem with the Water Act is not so much with amending WRPs but the lack of provision for review. Under current arrangements WRPs once accredited essentially exist in perpetuity. We reiterate our previous recommendation that water resource plans must be regularly and independently reviewed to assess their performance against the objectives of the Water Act and Basin Plan as well as the state's commitments. Statutory expiry periods or maximum review periods must be set in the Basin Plan or Water Act. The Condamine Balonne WRP is a case in point as it is

---

<sup>1</sup> [First Nations take legal action over alleged lack of consultation on Fractured Rock Water Resource Plan - ABC News](#)

mostly silent on the timeframe for review of dozens of items of subordinate legislation, but the principle applies to all WRPs.

#### **Information request 4.1 Reporting on compliance and other arrangements**

The Commission invites comments on whether Basin state governments should continue to be required to report on compliance with their water resource plans (Murray–Darling Basin Plan, Schedule 12, Matter 19), and on any other ways the reporting arrangements for water resource plans should be improved

**Response:** Basin states should absolutely continue to be required to report on compliance with WRPs and SDLs. The WRP is the key interface between the Basin Plan and state instruments, and must be demonstrated to be working as intended. As outlined above, the problem lies with the content of the WRPs – when the states just provide a list of their own management plans and strategies and say ‘we are compliant with these and are therefore compliant with our WRP’ the process becomes pretty meaningless.

However the states cannot be solely responsible for marking their own homework and there is a key role for the Inspector General in providing independent assessment of compliance with WRPs. An adequate regulatory process must be developed and the language of the Water Act and Basin Plan changed (for example from ‘may have consideration’ to ‘must have consideration’) so that the IG can hold the states to account.

#### **Interim recommendation 5.1 Strengthen the roles of Aboriginal and Torres Strait Islander people in the Basin Plan**

In line with the priority reforms committed to under the National Agreement on Closing the Gap, Basin state and territory governments should:

- publish the input and advice received from Aboriginal and Torres Strait Islander people and organisations on draft water resource plans
- publicly report on how the advice is considered, actioned and reflected in finalised water resource plans.

In addition, the Murray–Darling Basin Authority should:

- in partnership with Aboriginal and Torres Strait Islander people, develop a framework for monitoring and reporting on how Basin governments engage with Aboriginal and Torres Strait Islander people on Basin Plan matters. This should be in place before the 2025 evaluation of the Basin Plan
- annually report on Aboriginal and Torres Strait Islander engagement activities undertaken by Basin governments that relate to water management in the Murray–Darling Basin
- consider – in partnership with Aboriginal and Torres Strait Islander people – the merits of establishing a new Basin-wide body to represent Aboriginal and Torres Strait Islander people’s water interests in Basin Plan decision-making.

All Basin governments should:

- actively pursue opportunities to work in formal partnership with Aboriginal and Torres Strait Islander people on the implementation of, and shared decision-making about, the Basin Plan and provide funding and capacity strengthening support to these partnerships
- work in partnership to develop, then make public, their Aboriginal and Torres Strait Islander engagement intentions early, including for the upcoming 2025 Basin Plan Evaluation and 2026 Basin Plan Review.

**Response:** MLDRIN has provided advice that partnerships and decision making about water resources within the Basin are the purview of Basin Nations and/or relevant self-determined Indigenous organisations representing Basin Nations. The point is that all partnerships and decision making must be with individual Basin Nations as the *right holders* and spokespeople for their respective Nations. Each Nation and its members have inherent rights.

MLDRIN have also provided advice to the Senate Environment and Communication committee on the proposal for a new body to represent First Nations interests, as follows:

- ‘There are over 40 Basin Nations. Twelve First Nations organizations and/or Nations participated (either via providing a submission and/or direct consultation) in the PC’s interim reporting. One of three submissions made by a First Nations organization stated; “establish a body with the specific role of overseeing Aboriginal interest and involvement in water management”. There is nothing in the body of the interim PC report to suggest that the other 11 participating First Nations organizations and/or Nations raised the prospect of a new Basin-wide body with the PC. The reader is referred to pages 234-235 ‘B.2 What we heard Basin-wide’. Given this, it seems clear that there is limited support for, or a solid basis upon which, the PC has made such a sweeping recommendation.
- Fundamentally, it is not for any government agency to determine the appropriate representative institutions for First Nations to deliberate and advocate for their interests in decision-making.
- First Nations have the right to establish and self-determine their representative institutions as they see fit in accordance with article 18 of United Nations Declaration on the Rights of Indigenous People, which was endorsed by Australia in 2009.
- Further to the above, each Nation within the Basin fundamentally has the right to act, speak and represent itself as an independent, sovereign entity. If Nations choose to join collectively with their neighbours to represent themselves through collective structure<sup>1</sup>, that is also their right.
- Nations existing self-determined entities must be upheld and supported (including through adequate resourcing to fulfil Nation determined objectives), and not undermined by paternalistic ideals about what is best for First Nations. It is only through deep listening to Basin Nations, and partnerships in which government(s) agree to genuine power sharing arrangements with Nations (including resources), that more effective Basin Nation participation in Basin Plan decision making will be achieved.
- As noted above, there are more than 40 First Nations across the Basin. A government led initiative to establish a single entity to represent the diverse interests and needs of those Nations would come with significant challenges. It is highly likely that some Nations would elect not to engage with a government led and established body’.

LBA supports this position and further draws the attention of the PC to the letter from legal experts and academics to federal parliamentarians on how First Nations interests can be incorporated into the Water Act and Basin Plan, specifically that UNDRIP should be added to the list of relevant international agreements in the Water Act.<sup>2</sup>

---

<sup>2</sup> [c8f42f62d8836d67c133f605fa866af0 \(abc-cdn.net.au\)](https://www.abc-cdn.net.au/c8f42f62d8836d67c133f605fa866af0)



### Information request 6.1 Embedding climate change science into the Basin Plan framework

The Commission is considering whether the Water Act 2007 (Cth) places sufficient emphasis on the application of climate change science to the development and implementation of the Basin Plan. For example, should section 21 of the Water Act, which is about the general basis on which the Plan is made and updated, be amended to make clear and explicit that the best available science about the impact of climate change on water availability, including climate projections, is part of the scientific knowledge on which the Plan should be based?

**Response:** LBA has consistently argued that the impacts of climate change on water availability should be included in the Water Act and Basin Plan since 2010. We therefore support changes to the Water Act to make this explicit, and suggest that such changes could be included in the Water Amendment 'Restoring our Rivers' Bill that is currently before the Senate. Any change needs to happen now so that it can guide the review of the Basin Plan in 2026 and the development of Basin Plan 2. We understand the Wentworth Group is developing suggested amendments to the Bill for consideration by the Government. Timely and transparent science is an essential component of the Basin Plan.

While changes to the Water Act are important, it is essential that climate change impacts are considered ahead of 2026. As the Wentworth Group pointed out in their submission, a decade has already been lost due to the failure to include climate change in the 2012 Basin Plan. To ensure the environment's existing share of available water is protected, we make the following suggestions:

- All held environmental water (HEW) is protected throughout the system. While this was intended to be a prerequisite policy measure under the Basin Plan, it is still not occurring in all cases. For example, HEW travelling down the Darling-Baaka is re-socialised when it reaches Menindee Lakes and returned to the consumptive pool. This is a major impediment to using water recovered in the northern basin to achieve environmental objectives in the south, and may require changes to interstate water sharing arrangements to resolve.
- Protection of low flows is included in water resource plans. Some NSW unregulated water sharing plans currently permit pumping until flows have ceased.
- A broader response to help communities build resilience to climate change, reduce their dependence on irrigation and diversify their economies. An extensive literature exists on how best to achieve a successful transition.
- Improvements in river operations to allow more flexibility to adapt to extreme weather events and prevent perverse environmental damage

### Interim recommendation 6.1 Specific measures or targets for evaluating climate change resilience

The Murray–Darling Basin Authority should set out how it evaluates whether water-dependent ecosystems are resilient to climate change, including by specifying which targets are relevant to climate change resilience and how progress against these targets is monitored. When reviewing the Basin Plan in 2026, the Murray–Darling Basin Authority should also consider whether some of this information should be integrated into the Basin Plan.

**Response:** Support

### Interim recommendation 6.2 Publishing material used for decisions

Government agencies should publish in regular scheduled reports the data, modelling outputs and government-commissioned research that informs their decisions about water management in the Basin. This should include any decisions related to resetting sustainable diversion limits.

**Response:** Support

### Interim recommendation 6.3 Strategic coordination of knowledge generation and sharing activities

The Australian Government should establish a role for overseeing and coordinating knowledge generation and knowledge sharing across the Basin

**Response:** Support, we consider CSIRO or BOM best placed to fulfill role.

### Information request 7.1 Options to improve water quality and availability in the northern Basin

The Productivity Commission invites participants to comment on whether the Murray–Darling Basin Plan should do more to improve water quality and ensure critical human water needs are met in the northern Basin. What options should be considered by the Murray–Darling Basin Authority in the 2026 Basin Plan Review?

**Response:** Water quality depends on adequate flows. For the Darling/Baaka it is critical that all held environmental water crossing the Queensland border is protected from extraction. It is also important that better protection of low flows in Queensland is included in WRPs. Better end-of-system flows from all NSW northern basin tributaries is essential to improve WQ and critical human needs in the Darling/Baaka.

The 70 GL reduction in the Northern Basin Review must be overturned. This decision was not based on science. It is evident that more water is required to turn around the ecological collapse of the Darling/Baaka.

The 100 GL of water savings attributed to the failed Menindee Lakes Supply Measure must be returned to the Northern Basin to improve water quality and prevent further devastating fish kills.

### Interim recommendation 8.1 A comprehensive review of trading rules in the Basin Plan

The Murray–Darling Basin Authority (MDBA) should ask the Australian Competition and Consumer Commission (ACCC) to conduct a comprehensive review of the Basin Plan trading rules. The review should consider, among other things, how unnecessary trade restrictions should be identified and removed. The Water Act 2007 (Cth) should be amended to enable the ACCC to provide advice to the MDBA about the trading rules on its own initiative. The ACCC should notify the MDBA before preparing any such advice.

**Response:** qualified support, any review must consider third party impacts of trade on the environment, including the impacts of IVT.

### **Interim recommendation 9.1 Extending oversight of intergovernmental funding agreements relevant to Basin Plan implementation**

The Australian Minister for Water should prescribe by regulation the additional intergovernmental funding agreements that the Inspector-General of Water Compliance should oversee. The Australian Government Department of Climate Change, Energy, the Environment and Water should consult with Basin state governments, the Inspector-General of Water Compliance and other interested parties to determine which new and existing agreements should be prescribed and make public the rationale for including or excluding each agreement in the Inspector-General of Water Compliance's remit

**Response:** Support

### **Interim recommendation 9.2 Improving the transparency of Basin Officials Committee**

The Basin Officials Committee (BOC) should be more transparent. The BOC should publish:

- meeting agendas, communiqués and information on meeting outcomes
- BOC decisions and the reasons for those decisions
- formal directions to BOC from the Ministerial Council
- information on BOC's strategic priorities, governance practices and sub-committees.

The Water Act 2007 (Cth) should be amended to enable the appointment of an independent Chair to the BOC.

**Response:** Support

### **Interim recommendation 9.3 Strengthening the community voice in Basin decision-making**

The Basin Community Committee should have a standing agenda item at Basin Officials Committee meetings to provide input and advice on matters from a community perspective. The Basin Officials Committee should publicly report on how this input and advice has been considered and has influenced decision-making

**Response:** Support, but more transparency is needed about how the BCC is appointed and its terms of reference.

For more information on this submission please contact:

Juliet Le Feuvre

Lifeblood Alliance Member Groups:

Australian Conservation Foundation, NSW Nature Conservation Council, Conservation Council of South Australia, Environment Victoria, Queensland Conservation Council, Murray Lower Darling Rivers Indigenous Nations, River Lakes and Coorong Action Group, Inland Rivers Network, National Parks Association of NSW, Goulburn Valley Environment Group, Healthy Rivers Dubbo and Central West Environment Council

17<sup>th</sup> November 2023