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Ms Joanne Chong
Commissioner
Murray-Darling Basin Plan: Implementation Review 2023
Productivity Commission
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Dear Commissioner

Thank you for the opportunity to respond to the Productivity Commission's interim report, *Murray-Darling Basin Plan: Implementation Review 2023*.

Consistent with the requirements of the *Water Act 2007* and the Commission's terms of reference, the Commission is required to undertake an inquiry into and report on the effectiveness of Murray-Darling Basin Plan and water resource implementation, which necessarily encompasses all key elements of Basin Plan delivery. In this context, the South Australian Government agrees with the Commission that its approach should take account of the *Water Amendment (Restoring our Rivers) Bill 2023*, while not revisiting 'questions that fundamentally underpin the Plan'.

South Australia's feedback in this response focuses primarily on *Chapter 2 – Resetting the Balance*. This response will not duplicate information that the South Australian Government has provided to the Productivity Commission or submitted to the Senate's Environment and Communications Legislation Committee (see the submission from the South Australian Government to the Senate Committee,¹ as well as the submission from the Commissioner for the River Murray in South Australia, Mr Richard Beasley SC²).

Interim recommendation 2.4 – Develop a renewed approach to water recovery

South Australia welcomes the Commission's call for a renewed approach to water recovery and strongly supports its call for consideration to be given to all water recovery options, including voluntary water purchases. However, South Australia believes that the Commission's findings and recommendations in Chapter 2 should not just focus on the shortfall against the Bridging the Gap target, but rather should focus on the effectiveness of efforts to meet all statutory water recovery targets under the Plan - all of which are required to be met.

Similarly, South Australia disagrees with the Commission's commentary on page 13 that "...it makes little sense for the Australian Government to rapidly pursue the 450 GL/y target when

¹ The Hon Susan Close MP, [Submission #70](#), Senate Environment and Communications Legislation Committee, 3 October 2023.

² Richard Beasley SC, [Submission #16](#), Senate Environment and Communications Legislation Committee, 28 September 2023.

a significant shortfall in the Bridging the Gap target is expected”, which is tantamount to revisiting a key part of the Plan and which if followed, would undermine the effectiveness of efforts to meet the 450 GL target. In this respect, the current outstanding Bridging the Gap target is 46 GL, of which around only 14.9 GL needs be recovered from the Southern Basin, which is the focus of the 450 GL water recovery commitment. As such, there is no material conflict between the Australian Government commitment to meet the remaining Bridging the Gap target in the Southern Basin by 30 June 2024 (five years after the original deadline) and its commitment to recover the 450 GL by 31 December 2027 (the target date under proposed amendments).

Furthermore, should the Water Act amendments be passed by the Australian Parliament, the new statutory deadline for delivering Sustainable Diversion Limit (SDL) offset projects and the Murray-Darling Basin Authority’s reconciliation determination would be 31 December 2026. Accordingly, contrary to the Commission’s commentary, the better approach would be to recover as much of the 450 GL as practicable before this point, noting that any consequential increases in SDLs and Gap Bridging water recovery requirements as a result of reconciliation are unlikely to take effect until 1 July 2027 (at the earliest – see further below on constraints projects).

It is also the case, as highlighted in testimony to the Senate’s Environment and Communications Legislation Committee from the Commissioner for the River Murray in South Australia, that the Commission’s view on this matter did not have regard for the context of an unlawful Basin Plan. In particular, any move to delay recovery of the 450 GL would ignore the legal requirement that extraction under the Basin Plan must be reduced to an Environmentally Sustainable Level of Take. At best, based on the best scientific evidence, recovery of the equivalent of 3,200 GL would be the minimum amount of water recovery required for this purpose, irrespective of when or whether constraints are addressed.

Interim recommendation 2.2 – Reset and extend implementation of constraints-easing project

The relaxation of constraints is important to maximise the ecological outcomes sought under the Basin Plan. For this reason, South Australia supported the commitment in the August 2023 Basin Plan implementation agreement that the 2026 Basin Plan review be the mechanism to provide advice on a pathway to deliver the constraints program. South Australia also supports the proposed amendment in the Water Act Amendment Bill that would require the MDBA to prepare a new constraints relaxation implementation roadmap by 31 December 2024.

In this context, there would be merit in the Commission considering how Basin governments can address the SDL offset shortfall associated with constraints measures that are unlikely to be complete for five to 10 years. This is a gap in the interim report, especially as these measures will contribute a significant volume to the SDL offset shortfall – with a shortfall expected under both the current Basin Plan timeframe, as well as under the extended timeframe.

Interim Finding 2.5 – The costs of achieving the enhanced environmental outcomes (schedule 5 of the Basin Plan) through water recovery have risen substantially

The South Australian Government agrees with this interim finding. The supporting commentary about funding is also correct if it is referring to the current balance of the Water for the Environment Special Account. However, the Australian Government has provisioned additional funding as part of the October 2022 and May 2023 budgets to enable the Basin Plan to be delivered, though it has kept the budgeted funds confidential to reduce any impacts on water prices. Unless privy to this confidential information, the Commission does not necessarily have the evidence base to make a strong statement about the adequacy of the budget available to recover the 450 GL.

South Australia also does not agree with the Commission's other commentary related to this finding that the 2026 Basin Plan review be the time to assess how to deliver the enhanced environmental outcomes. Such an approach, if accepted, would risk further delaying the Australian Government's efforts to meet its renewed statutory commitment to recover the 450 GL by 31 December 2027 – noting again that this water recovery outcome remains a commitment under the proposed Water Act amendments. The Commission's commentary on this point arguably does not align with its intent to work within the statutory framework and to avoid revisiting 'questions that fundamentally underpin the Plan'.

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 Commission's proposal that a single new Commonwealth entity be established to address the water recovery shortfall merits further consideration. Should this new entity proceed, its scope should extend explicitly to the recovery of the 450 GL. That said, any such entity would need to be established in sufficient time to recover the necessary volumes within statutory timeframes. Moreover, implementation of required water recovery should not be delayed, pending, or as a result of, the establishment of a new entity.

Conclusion

Thank you again for providing the opportunity to respond to the Commission's interim report. Should you wish to discuss the matters raised in this response, please contact Mr Dan Jordan, A/Executive Director, Water and River Murray

Yours sincerely

Ben Bruce
ACTING CHIEF EXECUTIVE

21/11/2023