



PASTORALISTS' ASSOCIATION

OF WEST DARLING est. 1907

28th June 2023

Ms Joanne Chong
Productivity Commissioner
Murray Darling Basin Plan Implementation review.

This submission is public

Dear Ms Chong,

Thank you for taking the time to meet with me in Menindee 19th July 2023 I wish to make the following comments regarding the Murray Darling Basin Plan and the effects its implementation has had on the Menindee Lakes and Lower Darling. I make these observations as President of Pastoralists Association of West Darling but bring experience from my role as chair of the Stakeholder Advisory Group for the Menindee Lakes SDL water saving project and as a local of the area with a family connection to the lower Darling going back to 1890 when my great grandfather settled in the area.

Connectivity,

NSW water sharing plans do not address connectivity, there are no end of valley flow targets and no end of system flow targets, that is the simple but catastrophic failing of the basin plan. The Basin plan has the Northern Basin pitched against the Southern Basin for water access, this ongoing battle leaves The Darling Baaka from Louth to Wentworth in a vulnerable position, including the Menindee Lakes system and all the communities that rely on this part of the basin. This failing of the plan manifested itself with the 2018/19 fish kill event.

During consultation regarding the Menindee Lakes SDL project NSW DPIE Water staff often referred to the forecast projections of climate change and the possibility of a thirty percent reduction to inflows to the Murray Darling Basin over the next fifty years, if this prediction is true, it will have major impacts on connectivity. However, the focus was that this reduction would affect the available water in the environment, there was no mention of how any reduction of inflows would be dealt with in irrigation extraction or in water sharing plans.

Departmental Failings,

The Menindee community has no faith in water management departments in NSW, in particular Water NSW. The high turnover of staff in some of these departments also makes it hard to build rapport with community or have management experience in previous low and high flow events. This lack of lived experience combined with a predisposition to ignore community experience or advise has led to regrettable outcomes. The most recent occasion being the flood of late 2022, where local residents informed water NSW on several occasions that water was returning to the main river channel from the Talyawalka creek down steam of the last gauging station at Wilcannia and upstream of Menindee. This advise was ignored and authorities were "surprised" when inflows of 100G/L arrived opposed to the expected 20G/L this caused a panicked release from Menindee and inundated many properties downstream of the Lakes.

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During a community meeting after the 2018/19 fish kill event former MDBA Chair Phil Glyde was asked what he would do differently to prevent another fish kill event under similar circumstances in the future. Mr Glyde's response was "we wouldn't do anything different as the rules haven't changed." In essence while the states go about business as usual doing as they please with water the MDBA looks on and does nothing, the fact that NSW water plans are years late is evidence enough that the plan is failing.

Please refer to appendix 1 which is a summary of the Menindee Lakes SLD project, this project failed the community expectations on several fronts,

- The issue of connectivity would not or could not be adequately addressed by the project team, the plan to expedite releases from the Menindee lakes with no safe guard to ensure fresh inflows to replenish water levels would have a catastrophic impact on the entire region.
- The project team expected the community to fall for the idea of a major works project and the financial boost provided for a couple of years over the long-term health of the river and benefits that provides.
- Figures put forward by the project team focused solely on water savings with no regard to social, economic, or environmental benefits.
- Figures put forward on water savings by the project team were based on modelling not science.
- The project team completely misunderstood what the Baaka means to the Barkindji nation peoples in a cultural sense.
- The project failed dismally at removing the old Menindee Town Weir which was seen as "low hanging fruit" by the project team. The community was lied to about how much of the weir had been removed and the community was also misled that the remainder of the weir would be removed as no further progress on removal has been made.

Further to the failings listed above please refer to Appendix 2 which is a list of Departmental Staff that attended a meeting in Menindee on May 7th 2021, within twelve months five of the ten departmental staff had resigned or left their positions, at the time of writing 28th July 2023 all community attendees are still in the community and still representing the river. A list of actions as agreed by the community attendees is also attached in Appendix two, these were circulated to all in attendance and to then Minister Pavey, most remain unresolved.

Appendix 3 attached to this submission is a copy of a Letter to former NSW water minister Kevin Anderson, the letter clearly explains that the recently installed 195GL drought reserve for the lower Darling is completely inadequate and needs to be changed as a matter of urgency to alleviate the risk of future fish kills. No response to the letter was received.

Since the implementation of the Basin Plan Menindee has had two major fish kill events and the lower Darling has had two major fish kill events that has decimated native fish populations. The lower Darling has seen the longest cease to flow events in recorded history. Tandou farm has sold its water allocation and closed 16000Ha. of irrigated cropping, approximately 1000Ha. of grape vines plus citrus and stone fruit in Menindee have been abandoned and left to die with the net effect of taking an estimated 1000 part time and 75 full time jobs out of a small community. Plans for a proposed fish hatchery for Menindee have been abandoned. Community confidence in state and federal water management bodies is non-existent.

The thirteen billion dollars that was allocated to the Basin plan has nearly been spent, the plan is running late, the projects touted for Menindee have failed at a cost of probably thirty to fifty million dollars, most of which went to consultants, and so-called experts outside of the community.

Menindee now has less water security than it did 20 years ago and because of this the community is worse off socially, financially, and environmentally not to mention the mental health stresses on its members.

If anyone can explain to me how Menindee has benefitted from the Basin Plan, I would be pleased to hear it.

Terry Smith.

Appendix 1,

Menindee Lakes Stakeholder Advisory Group Report

June 1 2021

The Menindee Lakes Sustainable Diversion Limit Adjustment Mechanism project was first raised by DPIE (water) NSW in late 2018. The main focus of this original proposal was to save 106 gigalitres (G/L) of water per year via reduced evaporation of the water in the Menindee Lakes System (MLS) by increasing the rate of draw down through infrastructure improvements that would have seen the MLS reduced to a drought reserve of just 80 G/L (or about six month's supply for the Lower Darling).

The 106 G/L was to contribute to a commitment made by Basin States to return 605G/L to the environment via various water saving measures under the SDL projects, the SDL savings allow for more extraction for irrigation. The idea is to achieve the same environmental outcomes with less water, (no-one from DPIE (Water) has been able to adequately explain this). One complicating factor here is the water savings in Menindee were to contribute to the 605 G/L of savings in the Southern basin, while all the water in Menindee comes from the Northern Basin, the Basin boundary is the high-water mark of Lake Wetherell.

The proposed 2018 Business Case that was promoted by DPIE (Water) was widely criticised and almost unanimously rejected by members of the public at eight meetings held from Wentworth to Wilcannia. The 2018 Business Case took a lot away from Menindee and the MLS and left very little in way of drought reserve. The community opposition caused a rethink of the project and process within DPIE.

In July 2019 a small meeting was held in Menindee to discuss the way forward, and the Stakeholder Advisory Group process was put forward by then Land and Water Commissioner Mr Jock Laurie. The process was based on a model that had been used in mineral exploration in eastern NSW. The initial group of stakeholders was 26 peer selected members of Indigenous, irrigation, farming, grazing, tourism and local council background. After two meeting of the Stakeholder Group Mr Laurie was inexplicably sacked in November 2020 as Commissioner, and the role of Land and Water Commissioner was abandoned by NSW Government. Many on the Stakeholder Group felt that the direct and somewhat independent link the Group had, via Mr Laurie, to the NSW Water Minister had been severed.

In March 2020 NSW Water Minister, the Hon. Melinda Pavey was in Western NSW, and toured the Lower Darling on an itinerary organised by the Stakeholder Group. A meeting was convened in Menindee at the end of the tour, where the Group outlined its main concerns regarding connectivity of the entire Darling River system and tributaries.

In order for the Menindee community to support the SDL project there needed to be some guarantee that changes would be made to existing NSW water sharing plans, which were under review in early 2020. The stakeholders were asking for a re-instatement of storage targets in the MLS that were removed around the time of the Murray to Broken Hill pipeline build (2016), and some river operating rule changes that would better protect first flush and low flow events in the Northern Basin, as well as end of valley flow targets for Northern Basin Tributaries.

Meeting number five of the Stakeholder Group was held 20 June, 2020. At this meeting the Group was presented with twelve options, Options A to L, by the consulting team over a two-hour presentation. One of the options was the reworked original business case that the Group was told was "off the table" on more than one occasion.

The available information on the options was extremely limited with no costings, no water savings outcomes and no operational rules. The Stakeholder Group was given two weeks to submit feedback to the project team on our preferred option/s. This was an abysmal failure - DPIE (Water) received no feedback due to a complete lack of suitable information.

On June 30, 2020 DPIE (Water) submitted its Water Sharing Plans to the Murray Darling Basin Authority (MDBA). These Plans were mostly unchanged on the previous Plans, and all the recommendations from the Stakeholder Group had been ignored.

In August, 2020 the stakeholders held a meeting where no DPIE or Agency staff were invited. It was at this meeting that the Group decided to suspend talks with DPIE (Water) staff on any proposed water saving project at MLS until the issue around connectivity were adequately addressed by DPIE. It should be noted that in order for any SDL project to be acceptable for funding by MDBA it must have community support, and the Menindee community did not support the current projects put forward by DPIE (Water).

The stakeholders also felt that the community message was not being delivered clearly back up chain of command via the Project Team to the Minister, and that a continuation of meetings would be a “tick the box” affair that would allow DPIE to say that they had consulted with community.

In November 2020 the stakeholders were advised that DPIE (Water) now had a shortlist of 2 options. These options were chosen with no community input whatsoever.

Option 1 was a reworked version of the original business case that the community had consistently rejected in 2018 and that the Stakeholder Group had been told was “off the table” on numerous occasions.

Option 2 was a completely new option which included raising the levee height of Lake Wetherell by up to three meters and Lake Pamamaroo by up to four meters, and the installation of 3 new gated regulator structures. This option also stated that Lakes Menindee and Cawndilla would see longer periods of no water than currently experienced. Neither of these options in their current form were acceptable to the Stakeholder Group, or the wider community.

The Stakeholder Group returned to the table with DPIE (Water) on 24 February 2021. The main agenda item was the issue of river connectivity; the meeting was interfaced with video calls from agency staff that could not make it to Menindee on that day. There were several issues with technology during the day which did little to ease the tension and frustration of the stakeholders in the room. An undertaking was given by Anissa Levy (CEO Water Infrastructure NSW) that a face-to-face meeting would be convened in Menindee in the near future, with a list of required attendees put forward by the Stakeholder Group. A short presentation was also given on the two proposed options now being put forward by the Government. This presentation was made by the new Project Manager, again the presentation was inadequate with a complete lack of required information to base any informed decision on, including no costings, no budget, no operational rules and no estimated water savings.

A further meeting was held in Menindee on May 7, 2021, as per the undertaking given in February by Ms Levy with the following people in attendance from DPIE Water;

Jim Bentley - CEO NSW Water Sector, DPIE Water

Anissa Levy - CEO Water Infrastructure NSW, DPIE Water

Amanda Jones - Chief Strategy Officer, DPIE Water

Allan Raine - Director Water Planning Implementation, DPIE Water

Kaia Hodges - Executive Director Regional Water Strategies, DPIE Water

Shagofta Ali - Director Regional Water Strategies Far West, DPIE Water

Lisa Chikarovski - Director Community and Stakeholder Engagement, Water Infrastructure, DPIE Water

Jeff McCarthy - Executive Director SDLAM Delivery, Water Infrastructure, DPIE Water

Vanessa O'Keefe - Executive Director, Policy and Planning, DPIE Water

Adrian Langdon - Executive Manager, water operations, Water NSW

The Stakeholder Group also requested that Justin McClure and Graeme McCrabb, from the Australian Floodplain Association, attend as guests.

The sole focus of the May 7 meeting was to discuss the connectivity issues in the river that this Stakeholder Group had been raising since its first meeting in July 2019. The conversation around the table was honest and, at times very forthright. The outlook from this meeting from the stakeholders' point of view is that the right people were in the room to hear our concerns. Whether they choose to listen this time remains to be seen. The stakeholders made it very clear that no SDL projects will be discussed until these issues are addressed.

DPIE (Water) NSW is in possession of seven different reports that all state the river is over allocated or the environment is under protected. The NSW ICAC inquiry found that preference had been given to extraction for irrigation in the Northern Basin in NSW in direct contravention of the Water Act. The issue around connectivity of the Darling to Wentworth has been pushed back from the Water Sharing Plan review, to the SDL project, to the Western Weirs Project, the Regional Water Strategy which is still under development to the Water resource plan review in 2023. The operational rules that led to the fish kills in Menindee in the summer of 2018/19 have not been changed adequately to stop a repeat of that event.

Currently, NSW Minister for Water the Hon. Melinda Pavey has stated that the proposed projects in Menindee will not go ahead. There is still scoping going on for projects at Menindee and DPIE (Water) now has a two-month window to look at viable projects in the MLS. NSW has told the MDBA that the 106 G/L from Menindee cannot be recovered in time for the 2024 deadline. Regardless, NSW still need to find 106 G/L in water savings before 2024, otherwise the Basin Plan is in jeopardy and will have failed.

My role as Chair of the Stakeholder Group has been at times challenging, but I would like to thank all members of the group for their support and time as we push forward for an acceptable outcome for the Darling Baaka.

What happens to the MLS has implications for the entire Basin and indeed the Basin Plan. It is not acceptable that this part of the system and the communities it supports are sacrificed to benefit other parts of the system.

Compiled by Terry Smith

PAWD representative and Chair Menindee Lakes Water Saving Project Stakeholder Advisory Committee

Appendix 2,

Department Attendees

1. Chairperson, Jim Bentley - CEO NSW Water Sector, DPIE Water
2. Anissa Levy – CEO Water Infrastructure NSW, DPIE Water.
3. Amanda Jones – Chief Strategy Officer, DPIE Water.
4. Vanessa O’Keefe – Executive Director Policy & Planning, DPIE Water
5. Allan Raine – Director Water Planning Implementation, DPIE Water
6. Kaia Hodge – Executive Director, Regional Water Strategies, DPIE Water
7. Shagofta Ali – Director Regional Water Strategies – Far West, DPIE Water
8. Lisa Chikarovski – Director Community and stakeholder Engagement, Water Infrastructure NSW, DPIE Water
9. Jeff McCarthy – Executive Director SDLAM Delivery, Water Infrastructure NSW, DPIE Water
10. Adrian Langdon, Executive Manager Operations , Water NSW

Menindee SAG and community attendees

1. Terry Smith, Pastoralists Association of West Darling
2. Rachel Strachan, Lower Darling Horticulture Group
3. Uncle Badger, Barkindji Traditional Owner
4. Alan Whyte, South West Water Users
5. Paul McPherson, Anabranche Water
6. Trevor Smith, Pooncarie and District Development Association
7. Darryn Clifton, Darling River Action Group/ Broken Hill Speedboat Club
8. Greg Hill, Central Darling Shire Council
9. Robert Bosch, West Darling Fishing Club
10. Pauline Marrone, West Darling Fishing Club
11. Wayne Smith, NSW Farmers Federation Menindee Branch
12. Don Stewart, proxy for Ross Leddra – Darling River Action Group
13. Lorraine Looney, Country Women’s Association
14. Graeme McCrabb – Guest of SAG (Menindee Tourism Association)
15. Justin McClure – Guest of SAG (Australian Floodplain Association)
16. Richard Unsworth – Regional Engagement Officer Darling Barka MDBA (observer only)
17. Stewart Oates - Upper Lower Darling Representative
18. Tony Hilder - Sunset Strip Progress Association
19. Howard Jones - South West Irrigators and BCC

Actions list following Menindee Stakeholder Group Meeting held Friday 7 May 2021

Connectivity

All water sharing plans must provide real connectivity with end of valley flow targets to the downstream plan etched in law.

18-month supply for Lower Darling

- Minimum 18-month supply for Lower Darling
- Clear rules to manage FPH take consistent with Supplementary water access rules.
- All northern valley licences be linked to storage levels at Menindee as were Barwon Darling C class licenses prior to the changes to the 2012 plan
- Restrictions on carry over extraction if Menindee is below 18 months. This can be a condition of all licenses linked to the above dot point
- Clear rules on releases from MLS in order to preserve 18-month storages.

- Defined flow targets at Burtundy weir and at other strategic locations across the basin to provide real connectivity.

Review of currently submitted WSP's, stronger emphasis on end of valley flow targets for all northern Valleys, review of current low flow rules threshold in particular 30,000 megs at Bourke being a single event total not consecutive event total and flow triggers at Wilcannia, 90 day rule, 10 day rule.

Detail further action to address current failings of Anabranch Environmental flow regimes.

Going forward release more information on why rules are changed (risk benefit analysis science based etc.)

Commitment from DPIE to increase consultation in Menindee on Northern Basin rule changes that will affect flow such as Flood Plain Harvesting and carryover rules.

Define how future Water Sharing Plan's will address climate change and reduce extraction for irrigation to ensure the environment doesn't get short changed.

Clearly outline what NSW see as NSW issue that can be fixed by NSW, what will require other states to work together, or is federal responsibility. Time line on who is doing what and when.

Provide information on Regional Water Strategies, especially the western RWS

NRC whole of Basin Review. When will it start, timeline to completion.

Clear and workable rules on delivery and storage of cultural water.

Define and clarify cease to flow definition, how long before a cease to flow does any valley lose connectivity. (200 megs a day over Wilcannia does not ensure connectivity) what is acceptable to community as cease to flow and connectivity.

Address the failings of having Northern and Southern Basin boundary in the middle of a river system not at its lowest confluence.

Provide definition of what is critical human need and how that will be protected.

Provide definition of what is critical environmental need and how that will be protected.

Provide definition of cultural water needs and how it will be delivered.

Provide definition of what is acceptable quality for cultural, environmental and critical human needs.

Investigate introduction of conveyance license to better protect Basic Landholder Rights.

Circulate proposed changes to current WSP's that will address connectivity under the current round of WSP reviews.

Provide details on how inflow data and modelling will be improved to enable smarter decisions.

Provide details on annexation Warrego River/Toorale/Boera regulator water management from NPWS to Water NSW.

Toorale management is not consistent with the priority of water use per the water management act 2007 or 1902 Are NRAR looking into this

Provide details on progress to redefine the 640/480 rule as active water under the Murray Darling Agreement.

SDL

Highlight benefits of any project for Menindee/Barka Communities. These benefits need to be real and achievable and not Department spin.

If no target (i.e. 106 gigs) is to be achieved, any proposed project outcomes need to be clear.

More information on any project, risk benefit analysis, science based, local wisdom included.

Outline what are the base line flows that the department accept and how would that measure up to community expectations for any project at Menindee.

Update on the status and costing of the Menindee Old Town Weir project and timeline for completion.

Develop and circulate costing and location of fish ladders to improve fish passage along the Baaka. Include redesign Pooncarie, Main weir/Block Dam, Wilcannia elsewhere there is a choke.

General

Community consultation has been substandard, Outline what will that be changed into the future and how local wisdom can be better applied to management.

Consultation should result in real change. Community feel consultation to date is only "ticking the box".

Update on progress on Wilcannia weir and timeline to completion.

Issued 04/06/21

Terry Smith

Appendix 3

The Hon Kevin Anderson MP
Minister for Lands and Water
Minister for Hospitality and Racing
GPO Box 5341
SYDNEY NSW 2001
Sunday 10th July 2022

Dear Minister Anderson

The formation of the Menindee Lakes SDLAM Project Stakeholder Advisory Group began in mid-2019 and was orchestrated by community members and the former NSW Land and Water Commissioner with help from MDBA community engagement officers and staff from DPIE (water). Formation of the Stakeholder group came about after staff from DPIE (water) and the MDBA held an eight-stop community tour outlining the then proposed SDLAM re-configuration project for the Menindee Lakes, this proposal was unanimously unpopular with the community.

The Stakeholder Group consists of peer selected representatives from community groups that represent Indigenous nations, irrigators, pastoralists, stock and domestic water users, townships and local government. There are representatives from the Menindee Lakes, the Great Darling Anabranch and along the Darling River from Wilcannia to Wentworth, an estimated 1100 kilometres of river.

The Stakeholder Group's main focus over this process time has been on river connectivity and rules that will underpin base flows in the entire Darling system, to have a healthy, working river the full length of the Darling Baaka and Great Darling Anabranch down to the Murray benefiting communities to thrive environmentally, culturally, socially and economically.

I have written to you today to raise the issue of Proposed Floodplain harvesting rules for Gwydir Regulated, Gwydir Unregulated, Border Rivers Regulated and Macquarie Regulated and the operational aspect of those rules that address harvesting flow triggers and in-catchment flow targets specifically the harvest trigger of having 195 gigalitres (G/L) of water stored in the Menindee Lakes System (MLS) this storage target is grossly inadequate to maintain a healthy river over a long term. I urge you to undertake real consultation in the communities that will bear the brunt of this rule change.

Recent history shows in December 2017 the 480 G/L threshold was reached and MLS returned to NSW control at this time approximately 305 G/L of water in the upper MLS could be used to maintain flows in the lower Darling Baaka. On December 15, 2018 the first of three catastrophic fish Kills occurred in the Menindee weir pool due to low flow rates and poor water quality combined with local weather conditions. Cease to flow in the Lower Darling began February 2018 and lasted for 18 months killing further untold millions of riverine flora and fauna.

The 195G/L trigger will see the MLS continually teetering between low and critical environmental recommended levels, with the looming threat of a late or failed wet season in the North plunging the entire lower Darling system back into the devastation of 2018 to 2020. Departmental advice to the Stakeholder group has advised that a further reduction of inflows of up to 30 percent is expected in the next 50 years due to climate change this must also be considered in any storage trigger looking forward.

Simply put the storage target of 195G/L is too low. A target of between 480 and 500 G/L active storage as a minimum is required to maintain supply for 18 months.

The Menindee Lakes stake holder group met face to face on six occasions with our most recent meeting focusing solely on restoring connectivity and I have attached the actions from that meeting and a list of departmental attendees as an appendix to this letter for your benefit and I trust you find it useful in guiding any decision that you make towards future outcomes for the Darling Baaka.

The Darling Baaka, the Menindee Lakes and Great Darling Anabranch are currently experiencing one in ten years high flows and it is fantastic to see the Riverine system flourishing again after recent destructive years. I extend an invitation to you to visit Menindee and see this spectacle as its happening, I would also extend an invitation to meet members of the Menindee Lakes Stakeholder Advisory Group and members of the wider community to get a first-hand understanding of the importance of this water source and also some of the complexities in the policy that surround its management.

Yours Sincerely,

Terry Smith
Chair; Menindee Stakeholder Advisory Group