



Xavier Martin
President

Ref: 23164POC

3 July 2023

Water Reform: Public Consultation on ideas to deliver the Basin Plan
GPO Box 3090
CANBERRA ACT 2601

Via online submission: consult.dcceew.gov.au/ideas-to-deliver-the-basin-plan

RE: DCCEEW 'Delivering the Murray-Darling Basin Plan' consultation

I write on behalf of the NSW Farmers Association members to formally contribute ideas and suggestions to deliver the Murray Darling Basin Plan (MDBP) while highlighting some unique challenges facing our members in Basin communities across NSW.

NSW Farmers is Australia's largest state farming organisation, representing the diversity of interests of its members. Our focus extends from issues affecting particular crops and animals, through to broader issues including the environment, biosecurity, water, economics, trade and rural and regional affairs.

When the Department of Climate Change, Energy, the Environment and Water (DCCEEW) announced the public consultation on ideas to deliver the Plan in late May, NSW Farmers welcomed the chance to share our concerns and solutions. However, it was disappointing to see that the NSW Government did not publicly share their ideas prior to the submission. We have long standing policy that supports the implementation of the MDBP, as long as there is significant focus on achieving a balance on environmental, social and economic outcomes. The MDBP in its form today is inflexible and therefore the delivery of the Plan by the Murray Darling Basin Authority (MDBA) and state partners continues to be hampered in meeting this triple bottom line. As you work towards the upcoming the Murray-Darling Basin Ministerial Council meeting and review the ideas submitted through the public consultation, we urge you to seriously consider these ongoing challenges and the opportunities to progress forward with a Plan that is fair and prosperous for farmers and their communities.

We have seen over the last several years that concentration of water recovery in the headwaters of the Murray and Murrumbidgee Rivers is already leading to increases in flooding risk affecting the farming sector and regional towns. Major storages in the southern basin are now again entering winter with full supply. This can be attributed to high levels of carryover, a concentration of environmental water recovery in the Murray and Murrumbidgee Valleys, and Goulburn Valley Eildon storage. The increased flooding risks is real and should be a key factor in acknowledging storage limitation of the major southern basin dams, and the physical limitations of the Murray, Murrumbidgee & Goulburn Rivers. Recognition is required to understand the cumulative impacts of major changes in how these southern basin storages are being managed as a result of water policy changes and the MDBP water recovery targets. Continual, high level flows is already having major negative impacts on riverbank integrity leading to erosion, bank slumping in the Murray & Edward/Wakool Rivers system, movement of sand deposits, and a decline in river capacity.

Current management strategies appear narrowly focused on one objective – to deliver enough water down the Murray River to keep the river mouth open 95 per cent of the time. Communities along the rivers in NSW are seeing the negative results of these strategies in real time, playing out in the form of environmental water

NSW Farmers' Association

ABN 31 000 004 651 PO Box 459 St Leonards NSW 1590 Level 4 154 Pacific Highway St Leonards NSW 2065
Member Service Centre 1300 794 000 T 02 9478 1000 F 02 8282 4500 www.nswfarmers.org.au

being acquired and delivered at the expense of the ecological, social and economic detriment of upstream communities. It is hard to understand how even further water recovery for the environment will not increase already recognised risks.

Opportunities to Progress Forward

A more collaborative and flexible approach to designing Sustainable Diversion Limit (SDL) projects is more likely to achieve earlier community support and provide long-lasting legacy values for future Natural Resource Management (NRM) programs, alongside long-term benefits for broader environmental outcomes. As the SDL projects are not scored individually, but as a whole, variations to existing and additional new projects ideas could still be done without changes to legislation. If recognition of additional options is permitted and the whole Sustainable Diversion Limit Adjustment Mechanism (SDLAM) package of projects has community support, more timely outcomes and higher environmental scores are attainable.

SDL offset projects are currently scored by the MDBA at 605GL but there are identified risks that SDL project scoring may be below 605GL and timeframes for implementation will be beyond 2024. This has ramification for the Basin Plan reconciliation date of 2024. Examples of delayed projects due to unforeseen circumstances include:

i. Millewa Forest - Murray National Parks Project:

- Program lodged in 2016 as SDL project
- Parts of the project have been delayed due to Covid restrictions, repeated flooding and access issues
- Includes upgrades to Murray River in-forest regulators to enhance flow management

ii. Mid-Murray Anabranches Accelerated SDL Project:

- Project program is funded, and currently at pre-construction phase
- Infrastructure work has been delayed due to Covid restrictions, repeated flooding and access issues
- It remains unclear how balance of private property impacts is to be addressed (e.g. Reconnecting River Country program)
- Enhanced fish passage
- Millewa Forest National Park Project has links to one aspect of Mid-Murray Anabranches Accelerated Project, achieving improved connectivity from Murray to Edward River/Wakool Rivers and associated creeks

To address known challenges with project completion dates and risks relating to the shortfalls in MDBA scoring of the SDL offset projects managed by NSW, community and stakeholder groups have continued to work on developing further variations. In the Murray Valley, there has been a history of innovative partnerships and collaboratively designed projects. The *Murray Valley Adaptive Roadmap* is a further example of community collaboration where broader environmental outcomes can be achieved beyond the measure of a single drop of water.

This work has looked at additional opportunities to enhance scoring with new projects and improved recognition of benefits of complimentary measures to achieve higher environmental on ground outcomes. These should be considered as positive additions to the original concepts lodged by the NSW Government back in 2016 and 2017. Examples include:

i. Werai Forest works:

- Currently under development, and has not been submitted as an SDL project
- Cultural significance to the Wamba Wamba & Perrepa Perrepa Traditional Owners
- Restoring inflows, delivering cultural and environmental benefits
- Upgrading or installing new regulators and fish passages
- Options for further investigation for indigenous outcomes and SDL scores

ii. Tumudgery Creek offtake infrastructure:

NSW Farmers' Association

- Managed by Water NSW (not yet submitted as SDL project)
 - Upgrade the regulator to facilitate higher flows, which avoids regulator failure & surrounding bank damage
- iii. Neimur River offtake infrastructure:
- Managed by Water NSW (not yet submitted as SDL project)
 - Regulator issues occur where there are high flows, causing blow outs, bank & regulator surrounds damage
- iv. Eagle Creek offtake & Merran Creek:
- Not yet submitted as SDL projects; the projects require further investigation, with options being discussed with Commonwealth Water Holder
 - Investigate options to improve connectivity of Eagle and Merran Creeks for fish refugia/breeding site
- v. Murray Irrigation Limited (MIL) *Murray Reconnected Floodplains* Project:
- Support for Stages 1, 2 and 3 only, which includes use of irrigation infrastructure to achieve wetland watering in higher landscapes.
 - These projects are funded and/or are completed; as such, they should be incorporated into current MDBA scoring of the 605GL SDL Adjustment Mechanism.
 - NSW Farmers Association does not support Stages 4 or 5 as no details have been released and therefore it is not appropriate to offer support to these stages at this time.
 - In addition, NSW Farmers Association seeks full recognition of property rights and required funding in the Constraints Management Strategy. Therefore, any recognition of MIL's broader project concept should not jeopardise funding for the Constraints Management Strategy.

Constraints Management Strategy: NSW Reconnecting River Country Program and Mid-Murray Anabranches Project

Constraints relaxation projects are expected to affect over 6,000 landholders across the southern basin, with 3,000-4,000 in NSW alone, and will take years to complete negotiations with individuals. The MDBA proposed higher flows rate, which currently account for the higher scoring as an SDL offset project, is not supported by affected parties. There are legitimate concerns from affected landholders regarding the significant risks of elevating and extending flooding risks in specific areas. Riparian landholders have strong reservations on fairness and equity of the projects, and this is exacerbated by the federal and state government's current position that limits compensation and has specifically excluded elevated flooding risks.

At the most recent meeting of the NSW Farmers Association's Executive Council, two motions were passed that specifically addressed the current legislation that restricts liability of the Crown in relation to just terms compensation, and also requires that flooding risks are compensable under these projects. There is a greater chance of support for these projects from affected stakeholders if all concerns are incorporated into decisions and the risks are appropriately managed.

NSW Farmers Association supports community concerns about the MDBA's high flow targets for the Murray and Murrumbidgee Rivers, unresolved concerns on elevated flooding risks to affected regions and program failures that are not consistent with 'Just Terms' provisions. Major concerns include:

- Reconnecting Rivers Country Program has major exclusions to compensation.
- There is no clarity for landholders subject to funding and compensation limitations under the Mid-Murray Anabranches Project and the Reconnecting River Country Program.
- A critical component of risk is that landholders will be required to sign off on easement agreements whereby governments are excluded automatically from any liability for water authorities' actions under the 'good faith' clause in the NSW Water Act 2000 (2018 amendment).

NSW Farmers' Association

- It is urgent that federal and state governments and the MDBA address flooding risks and how they intend to achieve their 'good faith' exclusions. This will be a critical issue and, if not progressed to acceptable resolutions, will hamper program progression.
- Previous attempts by the MDBA, federal and NSW governments to recognise the severity of risks and unresolved issues have led to previous programs failures. This includes constraints measures programs initially managed by the MDBA and then subsequently the NSW government.

In the both the northern and southern Basins, following the recent years of high rainfall, it has become clear that the current modelling based on the NSW Floodplain Management Plans is not accurate, and that significant variations in water flow intensity, duration and depth are occurring to modelled outcomes. The floodplain management planning process is not aligned with the needs of local communities and there is low level of trust in the process. It is essential that federal and state governments prioritise engagement with affected communities and develop a strategy that allows input into the process to ensure transparency.

Complimentary Measures

The Basin Plan (2012) was developed during the period of the Millennium Drought. Considerable new information has emerged since that period.

The MDBP mandatory flow targets at the Murray Mouth in South Australia of 2000GL over three year rolling average. To achieve these targets the Basin Plan set flow has relied on achieving above bank capacity flows for the Murray, Murrumbidgee and Goulburn Rivers. There has been no consideration whether achieving these flow targets under this strategy is feasible and at what concentrated costs to affected southern basin regions. Major floods in 2010, 2016 and 2022 in the southern basin have not been able to maintain the Murray Mouth open 95% of years without dredging. To achieve this target would require major floods on a regular basis with unacceptable social and economic consequences in southern NSW and northern Victoria. A focus on flow volumes in rivers is also not seen as an effective mechanism to achieve broader or more sustainable environment outcomes.

The inclusion of Complimentary Measures within the 650GL (605GL) SDL Adjustment Mechanism scoring system would maximise broader environmental outcomes and encourage farmers and community members to participate in a wider range of environmental programs and initiatives.

Examples include:

- Native fish tracking and tagging programs right through the Murray River and Edward/Wakool Rivers system.
- Community and government partnership programs for native fish enhancement and restocking programs; initial programs have been developed and providing funding and incentives for further programs builds on existing community support.
- Riparian management, including bank works, weed management, stock exclusion fencing and feral pest control.
- Expansion of catchment-based fencing incentive schemes in other parts of the landscapes.
- Increased relationships and collaborative partnerships for long-term monitoring of ecologically valuable sites on private land, alongside monitoring of environmental flow outcomes
- Monitoring of bird and habitat rehabilitation through partnerships fostered through a Basin Plan that encourages community collaboration and long-term commitment to achieving positive, on-ground outcomes.

We welcome the opportunity to discuss these concerns and our suggested ideas in further detail. Please contact NSW Farmers' Policy Director, Nick Savage

NSW Farmers' Association

ABN 31 000 004 651 PO Box 459 St Leonards NSW 1590 Level 4 154 Pacific Highway St Leonards NSW 2065
Member Service Centre 1300 794 000 T 02 9478 1000 F 02 8282 4500 www.nswfarmers.org.au

Yours sincerely,

Xavier Martin
President

NSW Farmers' Association

ABN 31 000 004 651 PO Box 459 St Leonards NSW 1590 Level 4 154 Pacific Highway St Leonards NSW 2065
Member Service Centre 1300 794 000 T 02 9478 1000 F 02 8282 4500 www.nswfarmers.org.au