



National Irrigators' Council

Food · Fibre · Future

Submission to Productivity Commission
Interim Report into Murray-Darling Basin Plan
Implementation Review

November 2023

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Background

The National Irrigators' Council (NIC) is the peak industry body for irrigated agriculture in Australia. NIC is the voice of irrigated agriculture and the industries producing food and fibre for domestic consumption and significant international trade. Put simply, our industry is helping to feed and clothe Australia and our trading partners.

Irrigated agriculture in Australia employs world leading practices in water management. The industry has extensively adopted and embraced new technologies and knowledge to ensure we are consistently growing more with less water. Australian farmers also operate under strict regulations and compliance mechanisms. These factors mean we lead the world in both farming practices and produce quality.

NIC's policy and advocacy are dedicated to growing and sustaining a viable and productive irrigated agriculture sector in Australia. We inform, we listen, and we debate ideas, but we always seek to collaborate in the best interests of all water users. We are committed to the triple bottom line outcomes of water use - for local communities, the environment, and for our economy.

Point of Contact

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Introduction

The Murray Darling Basin is arguably Australia's most important agricultural region, with irrigated agriculture a key component. All Australians are connected to the Murray-Darling Basin, whether they know it or not. Forty percent of our farms, over \$22 billion in economic activity at the farmgate, thousands of direct and indirect jobs, and most of the irrigated produce such as rice, fruit and nuts which hits our dinner plates and the natural cotton fibers that clothes us is grown in the Basin.

The Plan has been a vital tool in balancing the needs of our communities, our environment and our productive sector. It hasn't always got it right, but it has achieved a great deal since its inception with more than 2,100 gigalitres of water recovered for the environment providing the environment a 72% share in long-term flows.

These achievements have not been without impacts on employment in our regional communities, their economies and have had material impacts on how the remaining irrigators use the reduced share of water. These impacts are real, and they add to the cost of any reform, which must be considered by the PC when it finalizes their recommendations to Governments.

Given what we now know about how water is recovered affects communities, we need to continue to ensure balance is maintained so we can keep our rivers and communities healthy and thriving, while feeding and clothing Australia and the world.

While much has been achieved and should be celebrated, it is noted that there are many significant challenges remaining, particularly around accountability for finalising the Basin Plan and maintaining the agreed balance. The potential for failure and the risks that presents is largely out of the control of individuals or communities – particularly if the Government pursues further water recovery through buybacks.

We agree with the need for greater transparency, accountability and leadership of Government's in implementing and finalising the Basin Plan. We believe there are stronger measures required to enable this to occur.

We support communities being at the center of any future implementation of programs.

NIC views the Water Amendment (Restoring our Rivers) Bill 2023 as a missed opportunity to ensure the Basin Plan remains focused on outcomes and not numbers. The Bill is at times at odds with the interim view of the PC regarding timelines and opportunities to finalize and implement the Basin Plan and more must be done to ensure alignment.

To assist, the NIC has provided a number of recommendations to the PC in finalizing their report to Governments.

Recommendations.

1. Creation of co-designed implementation roadmaps to provide clarity and transparency for remaining implementation tasks. Provision for monitoring capability by a third party for:
 - a. SDLAM Program Roadmap – to deliver the full 605 GL of off-sets on time.
 - b. Constraints Program Roadmap – that optimizes the environmental outcomes that can be achieved with full community support; and
 - c. 450 GL Roadmap – that complies with all related socio-economic protections.
2. Australian Government to deliver on their commitment to implement community-led, co-design finalizing the Basin Plan and if required, recovery programs.
3. The PC to consider the broader cost implications of direct purchases in their cost efficiency assessment. This should include the expected cost of transitional/adjustment assistance, as well as the scaled cost of ongoing licence administration that will be borne by taxpayers through the CEWH.
4. The PC to request Government to release or alternatively calculate the regulatory impact of the Water Amendment (Restoring our Rivers) Bill 2023 to provide clarity and transparency on the cost and impacts of the Bill.
5. The PC review and consider National Irrigators Council's 13 recommendations to the Senate Inquiry into the Water Amendment (Restoring our Rivers) Bill 2023 as

- opportunities to finalize the Basin Plan, noting seven recommendations relate to implementation and requests for more information.
6. Based on its findings in the interim report, the PC provides the Government with a recommendation on achievable timeframes and implementation dates for the SDLAM – supply projects, constraints and the 450GL.
 7. The PC to recommend implementing two parallel improvement programs to focus on delivering the SDLAM - 605 GL offsets program within agreed timeframes:
 - a. No-regrets (up-front funded) fast-tracked approach for new project businesses cases, to test options and determine their applicability for funding, delivered direct to proponents.
 - b. Development of a well-designed and flexible, third-party delivery model.

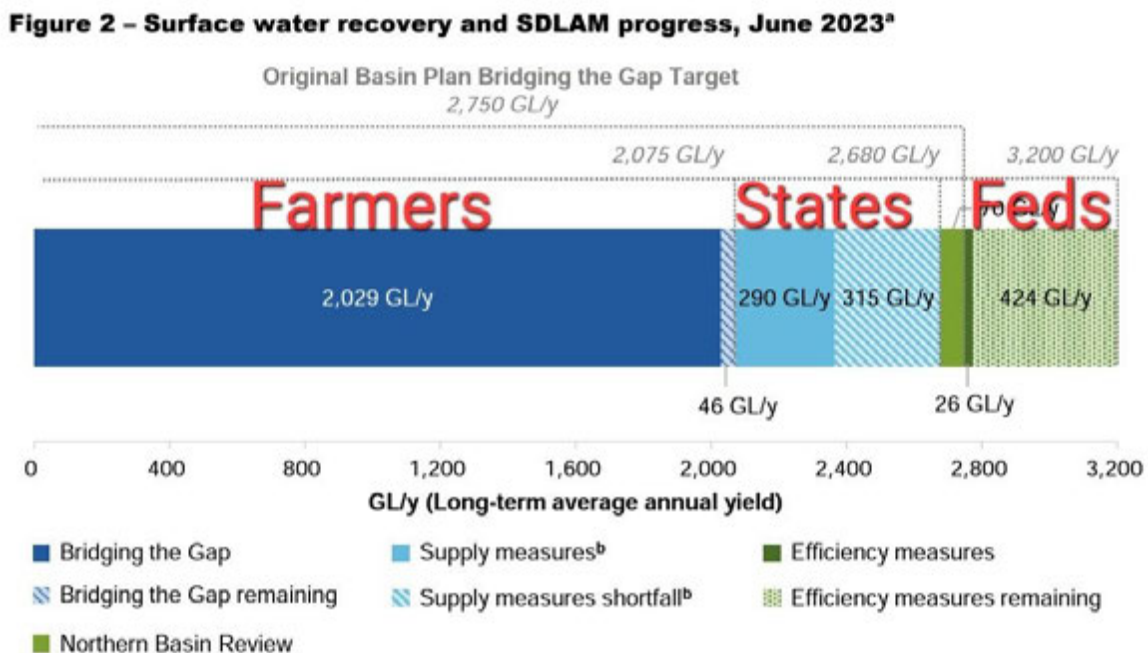
Comments on Key Themes

Leadership, Accountability, and Transparency.

Much of the PC report highlights the lack of leadership from Government's (Australian and Basin Jurisdictions) to implement their responsibilities under the Basin Plan. Their failure to implement, has no direct implications to them other than perhaps at the electoral ballot but exposes Basin communities to further water recovery. This is disenfranchising to Basin communities.

NIC amended Figure 2 of the PC report to highlight the responsibilities for remaining elements of the Basin Plan. On 31st October, the Bridging the Gap requirement was announced to be under contract, finalising the responsibilities of farmers contributions to the Plan. The remaining tasks to be completed under the Basin Plan are Government led.

Figure 1: Annotated Figure 2 from PC Interim Report



- a. The figure does not include nominal over-recovery; the full volume recovered under 'bridging the gap' volume is reported at 2,107 GL/y. Shaded cells indicate target not yet achieved. Includes water under contract to be delivered.
- b. MDBA estimate of maximum supply measure shortfall.

The PC clearly raised issues with implementation and ability to fund and complete the Government responsibilities. It calls for the Government to finalize the core elements of the Plan – which is Bridging the Gap up to 2680 GL before, engaging in how best to achieve the enhanced environmental outcomes of the 450GL program.

The current proposal of the Government is the opposite to the PC interim recommendation – see section on Water Amendment (Restoring our Rivers) Bill 2023. Their solution to their poor performance, is to again ask farmers to bridge the gap of any shortfalls without addressing their own role or implementation barriers. In recent consultation sessions with the agencies on forward planning for implementation programs under the 450GL program – their immediate focus, which is again at odds with the PC, they have not indicated any administration improvement on their end. This is unacceptable and the PC should provide a clear suite of recommendations to ensure efficient and effective delivery of Government's remaining responsibilities.

NIC supports increased monitoring of Basin Plan implementation and accountability of Government to pursue their responsibilities. This includes proposing and approving new ideas and projects towards the SDLAM, to be reasonable in redesigning new projects and to take a no-regrets policy to making these happen. For clarification a no-regrets policy in this context by NIC, refers to allowing the fast-tracking of funding for businesses cases to later determine if those projects are considered SDLAM or 450GL enhanced environmental efficiency projects.

NIC as part of our recommendations to the Senate Inquiry on the Water Amendment (Restoring our Rivers) Bill 2023, recommends the preparation of a SDLAM roadmap in addition to the constraint's roadmap. Given the findings of the PC in their interim report, we also consider it appropriate for a 450 GL program roadmap to provide greater clarity on the progress and transparency of implementation. In terms of the 450 GL, this also provides assurances that all socio-economic protections will continue to be met.

Recommendation to design and create co-designed implementation roadmaps to provide clarity and transparency for remaining implementation tasks. Provision for monitoring capability by a third party for:

- a. SDLAM Program Roadmap – to deliver the full 605 GL of off-sets on time.**
- b. Constraints Program Roadmap – that optimizes the environmental outcomes that can be achieved with full community support; and**
- c. 450 GL Roadmap – that complies with all related socio-economic protections.to prepare the following implementation roadmaps to provide clarity and transparency on implementation as well as monitoring capability by a third parties.**

[Communities Need to Be Closer to Plan Implementation, Not Further Away.](#)

Much of the PC's Report implies the best solution is to give more power to the Commonwealth – especially in terms of making unilateral decisions for the SDLAM projects. This is unacceptable for Basin communities given the poor track record with accountability and decision making to-date with the Basin Plan.

The Commonwealth needs to deliver what it's been offering since late-2022; a bottom-up, community-led, co-design approach to implementation. This respectful and innovative approach should be implemented immediately and be used to drive all remaining Basin Plan implementation tasks. This reset is needed to ensure Basin communities remain central to the solutions to secure their future.

Recommendation for Australian Government to deliver on their commitment to implement community-led, co-design finalizing the Basin Plan and if required, recovery programs.

Socio-Economic Impacts Are Complex and Real.

Basin Governments must maintain their support for positive or neutral socio-economic benefits for all remaining water recovery, especially where it contributes to the 450 GL. If there are efficiencies to be found, they should be pursued if they are beneficial to local communities. They should not be pursued if it harms our regions and undermine the operational capacity of delivery networks.

Closing farms and value-add processing and manufacturing will impact trade. We will have less to sell, which will also impact domestic prices. All Australians will be left paying more for food and textile products. Imports grown under less regulation and with inferior water management practices will be bought in meaning poorer Australians will have lower quality food and Fibre products. We will also lose reliability and self-sufficiency, placing our food supply at risk in global shipping issues.

The PC should include this consideration in their assessment of the efficiency of costs to the Australian taxpayer. Currently the PC determined direct purchases are the most efficient, without considering this flow on impacts to the economy which is a short-term and narrow economic view.

Recommendation for the PC to consider the broader cost implications of direct purchases in their cost efficiency assessment. This should include the expected cost of transitional/adjustment assistance, as well as the scaled cost of ongoing licence administration that will be borne by taxpayers through the CEWH.

Government Reset Will Only Focus on a Number, Not Outcomes.

The proposed re-write of the Basin Plan before the Australian Parliament in the Water Amendment (Restoring our Rivers) Bill 2023 sets a platform that detaches the bipartisan agreed, expected outcomes from key implementation programs. This together with a lack of evidence of the other options, as warned by the PC, signals to Basin communities that the Government is chasing a number rather than outcomes.

The continued exclusions of complementary measures that can contribute environmental equivalents to the 450GL program highlights this concern. Volumes are no substitute for real outcomes and the MDBA articulated that without addressing key constraints, which we know won't be addressed in time, the additional volumes will not achieve the expected outcomes. Yet, the Government continues to pursue the additional 450GL program, nonetheless. Aiming to just add water without a plan on how to deliver it or what it is to achieve. Whilst ignoring the opportunity to directly target environmental issues with investment that is known to work and will complement the 2,100 GL of water already recovered.

Water Amendment (Restoring our Rivers) Bill 2023

NIC provided a submission into the Senate Environment and Communications Legislation Committee on – *Water Amendment (Restoring our Rivers) Bill 2023* and have attached this for information to this feedback, as many of the recommendations and discussions are relevant to ongoing construct and implementation of the Basin Plan.

NIC welcomed the inclusion of extended timeframes and flexibility to allow new projects and ideas to be captured in programs such as the Sustainable Diversion Limit Adjustment Mechanism (SDLAM).

However, elements of the Water Amendment (Restoring our Rivers) Bill 2023 shift the balance that was agreed and move away from the certainty that the Basin Plan provided. The removal of socio-economic protections such as the limit on water purchases and socio-

economic criteria, in the absence of any alternative programs or the other tools, referred to by Government, signifies a shift in intent on the Basin Plan.

Both the current basin plan and proposed amended plan, has too narrow a focus on water entitlements alone. Missing the opportunities that are available for other investments to deliver outcomes and this should not be held off until 2026. Unless the PC believes that the proposed timeframes should be extended further, and this then provides a clearer alignment of objectives. However, we note that the PC did not make this recommendation as part of their suggestions but rather inferred this outcome. We would support clarity from the PC on this matter.

Additional work under the Basin Plan should be focused on delivering the outcomes, not just chasing volumes for the sake of ticking off the Plan. It must focus on what is achievable given the likely changes to implementation flagged by the Water Amendment Bill and the PC's interim report.

While NIC and our members support healthy rivers for now and future generations. This re-written plan will fail by not delivering on expected environmental outcomes at great cost to our regional communities and their economies. For these reasons, we have requested of the Federal Water Minister, the regulatory impact of the Water Amendment Bill seeking transparency on the key changes is imperative, including the:

- a) Likely environmental outcomes expected from an altered constraints program.
- b) Deliverability of additional environmental water with an altered constraints program.
- c) The socio-economic outcomes from direct purchase of water above the current 1,500GL cap, including up to an additional 450 GL of held environmental water.
- d) Regulatory impact of circumventing existing process to allow the Minister to unilaterally adjust Sustainable Diversion Limits 'from time to time'.
- e) Regulatory impact of new market requirements – data provisions, costs and benefits.

Improving transparency on these matters will also demonstrate whether the Murray-Darling Basin Plan remains on target to balance environmental, economic and social needs as agreed in 2012. To date we have not had any response which again, leads NIC to concur with the PC that the Government is seeking a number, regardless of the cost or outcomes of that water recovery.

Recommendation the PC to request Government to release or alternatively calculate the regulatory impact of the *Water Amendment (Restoring our Rivers) Bill 2023* to provide clarity and transparency on the cost and impacts of the Bill.

As part of the Senate Inquiry, we provided 13 recommendations to be considered. Of these recommendations, one suggests an essential, new amendment and five are to maintain key elements of the existing legislation. The remaining seven recommendations are for the Senate and Australian Government to consider providing more information, to ensure objective information and evidence to support the Government's intent and decision-making process.

NIC's Senate Inquiry Recommendations are presented below:

New Amendment:

1. A basin-wide toolkit must be developed to allow the immediate investment in complementary measures, to enable the water reserved for the river and the environment to produce the desired environmental outcomes and the expectations of communities. The toolkit should deliver equivalent and/or improved environmental

outcomes to a specified volume of water and account towards the additional 450 gigalitres.

Maintain existing drafting:

2. Maintain the socio-economic criteria for all programs under the 450 gigalitre program.
3. Maintain the 1,500 gigalitre limit on water purchases.
4. Removing "from time to time" is replaced with fixed time, aligning with the expected completion dates for all other measures within the Plan.
5. Maintain the existing definition of Commonwealth Environmental Water consistently in any subsequent legislation (thus removing language changes referring to held environmental water).
6. Maintain the current drafting of Section 86AD of the Water Act 2007.

More information and consultation:

7. The Office of Impact Analysis is requested to assess the cumulative regulatory impact of the Water Amendment (Restoring our Rivers) Bill 2023 and report to the Federal Parliament as part of this inquiry.
8. The Commonwealth Government should directly engage with communities who are over-recovered about their communities' water being reallocated to other Basin Plan programs.
9. The regulatory detail should be included in the legislative framework within the bill rather than in subordinate legislation.
10. Further work is necessary to develop an SDLAM roadmap to monitor progress and improve oversight and deliverability of the program.
11. Further work is needed by the Murray Darling Basin Authority to evaluate the likely environmental outcomes following the finalization of the constraint's roadmap.
12. Immediate progress on the other tools being developed to contribute to finalising the Basin Plan is announced prior to passing this legislation. Providing stakeholders with a clear understanding of the Federal Government's intent.
13. Further clarity on the structural adjustment programs to complement the finalization of the Basin Plan prior to amending the legislation.

Recommendation the PC review and consider NIC 13 recommendations to the Senate Inquiry into the Water Amendment (Restoring our Rivers) Bill 2023 as opportunities to finalize the Basin Plan, noting seven recommendations relate to implementation and requests for more information.

[Timelines.](#)

Much of the PC findings indicated a lack of time, even with the proposed extension to deliver the expected outcomes of the Basin Plan. Given the tendency for Government's to over-commit and be rather aspirational in their objectives, we encourage the PC to be firmer on the likelihood of completion deadlines.

NIC note that the PC inferred that there are implementation challenges with pursuing the required core deliverables of the Basin Plan being the Sustainable Diversion Limits and their

offsets, whilst concurrently pursuing the additional enhanced environmental outcomes under 450GL. Noting that:

“The Commission previously raised concerns about the assumptions underpinning the 450 GL/y water recovery target, including the lack of any review point to assess the feasibility of the ‘enhanced environmental outcomes’ in schedule 5 of the Basin Plan and the value for money of the overall program. Some of the environmental benefits of this additional water are also contingent on the delivery of constraints easing projects – which are still 5–10 years from delivery.

Given these factors, it makes little sense for the Australian Government to rapidly pursue the 450 GL/y target when a significant shortfall in the Bridging the Gap target is expected.”¹

We would recommend the PC, the independent body reviewing the implementation, to make a recommendation on this rather than a statement. For example, if the PC is so concerned, it should expressly advise the Government that the 605 GL be completed before any more effort is directed to the 450 GL.

Recommendation that based on the PC’s findings in the interim report, the PC provides the Government with a recommendation on achievable timeframes and implementation dates for the SDLAM – supply projects, constraints and the 450GL.

Feedback on Interim Recommendations by the PC

Summary of Recommendations and NIC Commentary

#	Recommendation title	NIC View and Comment
2.1	The Australian Government should be more transparent, and have greater authority, over decisions for supply, constraints-easing and northern Basin toolkit measures.	Agree. The remaining elements of the Basin Plan – SDLAM, constraints, northern toolkit and 450GL efficiency measures are programs that the Australian Government and Basin jurisdictions have responsibility. Basin communities will shoulder the burden if they fail, yet there is limited transparency, monitoring, or oversight. We recommended a SDLAM, and a constraints roadmap be developed.
2.2	Reset and extend implementation of constraints-easing projects	Agree. We support a constraints roadmap. We agree with the PC that the assumptions underpinning the 450GL program are changing and we support further assessment of the outcomes to be achieved by the additional 450GL program once the constraints roadmap is understood. This will help to manage expectations on what can be achieved.
2.3	Implement an assurance mechanism for the northern Basin toolkit	Agree. Further transparency on the status, outcomes and benefits of toolkit options should be provided.
2.4	Develop a renewed approach to water recovery	In principle – the full range of community-led, co-designed options should be explored. The current Basin Plan has a narrow water volume and entitlement focus, and the bill continues this narrow focus. It does not allow for the full suite of options to be implemented. See further discussion below on Water Recovery Reset and Third-Party Organisation.

¹ <https://www.pc.gov.au/inquiries/current/basin-plan-2023/interim>

#	Recommendation title	NIC View and Comment
3.1	Improving the effectiveness of the Basin-Wide Environmental Watering Strategy	Agree. There is a strong need to simplify and reduce duplication.
3.2	The adaptive management of long-term watering plans	Agree.
3.3	Basin annual environmental watering priorities require review	Agree. There is a strong need to simplify and reduce duplication.
3.5	Delivering shared benefits from the use of environmental water	Agree. Environmental water managers should, as all water entitlement holders should, continue to innovate and be smarter with the water that is available to them.
4.1	Simplify requirements for water resource plans	Agree. There is a strong need to simplify.
4.2	A risk-based approach to amending water resource plans	In Principle. We agree with low-risk amendments to WRPS that don't materially change access to allocations or shares. The benefits of WRPs are that provide a clear framework for understanding the sharing arrangements for all stakeholders. Allowing these to be amended with due process (such as proposed by this bill) undermines the certainty they provided.
5.1	Strengthen the roles of Aboriginal and Torres Strait Islander people in the Basin Plan	Agree. The Australian Government has multiple commitments to improve engagement and participation with Aboriginal and Torres Strait Islander people in the Basin Plan and should enact them in a genuine and appropriate way.
6.1	Specific measures or targets for evaluating climate change resilience	Agree. Consultation on these should occur and consideration on how WRP and particularly allocation frameworks within these documents, already adjust to climate change should be acknowledged.
6.2	Publishing material used for decisions	Agree. This should be standard practice for Governments, including the Parliament hence we have requested the release of the Regulatory Impact Assessment of the Water Amendment (Restoring our Rivers) Bill 2023.
6.3	Strategic coordination of knowledge generation and sharing activities	Agree. This is likely to be the role of many agencies.
8.1	A comprehensive review of trading rules in the Basin Plan	In principle. We support simplification; however, these rules are included in the Basin Plan 2026 review, and we must avoid duplication of effort and acknowledge there are significant (and material) market reforms currently underway already.
9.1	Extending oversight of intergovernmental funding agreements relevant to Basin Plan implementation	Agree.
9.2	Improving the transparency of Basin Officials Committee	Agree. Transparency in decision making and authority is key to provide all stakeholders confidence.
9.3	Strengthening the community voice in Basin decision-making	Agree. Basin communities are needed to be part of the future solutions for the Basin, not excluded.

Further Discussion on Water Recovery Reset and a Third-Party Organisation

Further to our commentary, the PC are indicating a complicated redesign process. NIC agrees that due to poor implementation by Government's a rethink of how we design, implement, and govern the final component of the Plan is needed. However, this must be done in the context of the likely time constraints and risks to Basin communities.

NIC agree there should be *"a commitment to all available water recovery options, including community and industry developed proposals"*². We recommended a SDLAM and constraints roadmap for this reason and a 450GL efficiency measures roadmap should be also included. NIC do not support fast-tracking of direct purchases prior to the assessment and finalization of an SDLAM roadmap, which should identify new, realistic proposals towards the 605GL.

NIC agree that further discussion on the timing of the renewed water recovery strategy and the differences between Bridging the Gap including SDLAM progress and the 450GL program should be considered given the PC said *"It makes little sense for the Australian Government to rapidly pursue the 450 GL/y target when a significant shortfall in the Bridging the Gap target is expected"*².

NIC agree the Australian Government must do more to demonstrate how they will incorporate the lessons learnt from implementation to date and make efforts to improve their implementation, design and accountability of the final stages of the Basin Plan water recovery. This must include a review of Government processes and delivery models, and transparency around direct water purchases.

NIC are generally in support of a third-party entity to implement community initiated, bespoke projects and be more flexible than Government has demonstrated to date. This entity focus should be maximising the opportunity of the 605 GL offsets. We note that to be successful a body would need to:

- Integrate project funding streams – enable projects that fit supply and 450GL requirements but also, other funding streams of government.
- Be flexible.
- Be simple.
- Be responsive to proponents and work from the ground up – allow co-design of projects.
- To operate they would need a clear mandate from Government, both funding, rules and conditions. The delay in Government approvals will undermine the effectiveness of any new ideas and solutions.
- There was support for Water for Rivers but suggestions whether the National Water Grid or other body could also work.

We are therefore, concerned that to establish such an entity, would consume much of the time extension proposed by the current Water Amendment bill. NIC therefore, do not think the establishment of a group should be in isolation but that a parallel, Government led, no regrets program to progress high value, well supported projects can be fast-tracked. For clarification a no-regrets policy in this context by NIC, refers to allowing the fast-tracking of funding for businesses cases to later determine if those projects are considered SDLAM or 450GL enhanced environmental efficiency projects.

In many cases, we think funding an overarching body –to allow a proponent led approach and avoiding the intervention of the states, would work quicker. Legal support for proponents may need to be required as the complexity of commonwealth contracts was also noted as an increasing concern. This also ensures the maximum funding on the ground, avoiding state administration costs.

² <https://www.pc.gov.au/inquiries/current/basin-plan-2023/interim>

Recommendation the Government to implement, two parallel improvement programs to focus on delivering the SDLAM - 605 GL offsets program within agreed timeframes:

- a. No-regrets (up-front funded) fast-tracked approach for new project businesses cases, to test options and determine their applicability for funding, delivered direct to proponents.**
- b. Development of a well-designed and flexible, third-party delivery model.**

We encourage the PC to look at lease back i.e., the Commonwealth could lease water from entitlement holders over a longer term 5–10-year arrangements³ to address shortfall risk in the short-term. We believe that amendments to the bill are likely needed to account for any lease arrangements towards the water recovery target.

Furthermore, the CEWO had an event-based trial in Narran Lakes, which worked well but this water isn't accounted against recovery. This could mitigate in the short-term any shortfall risk but also provides an opportunity to test the socio-economic implications of purchases. Amendments should enable all options to recognise water delivered and outcomes achieved.

NIC agrees that further discussion on the timing of the renewed water recovery strategy and the differences between Bridging the Gap including SDLAM progress and the 450GL program should be considered.

Ends.

Attachment A – National Irrigators Council Submission to the Senate Environment and Communications Legislation Committee on – *Water Amendment (Restoring our Rivers) Bill 2023*

³ Under the NIC proposal, licences remain in the consumptive pool. Consumptive licence-holders enter into arrangements for the CEWH to lease their water on a temporary basis.



National Irrigators' Council

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**Submission to Senate Environment and
Communications Legislation Committee on – *Water
Amendment (Restoring our Rivers) Bill 2023***

September 2023

Who we are and our purpose

The National Irrigators' Council (NIC) is the peak industry body for irrigated agriculture in Australia, representing irrigation entitlement holders and the industries producing food and fibre from throughout the Murray Darling Basin and the rest of Australia.

Irrigated agriculture in Australia employs world leading practices in water management. The industry has extensively adopted and embraced new technologies and knowledge to ensure we are consistently growing more with less water. Australian farmers also operate under strict regulations and compliance mechanisms. These factors mean we lead the world in both farming practices and produce quality.

NIC's policy and advocacy are dedicated to growing and sustaining a viable and productive irrigated agriculture sector in Australia. We inform, we listen, and we debate ideas, but we always seek to collaborate in the best interests of all water users. We are committed to the triple bottom line outcomes of water use - for local communities, the environment, and for our economy.

Point of Contact

Zara Lowien

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Introduction

The Murray Darling Basin is arguably Australia's most important agricultural region, with irrigated agriculture a key component. All Australians are connected to the Murray-Darling Basin, whether they know it or not. Forty percent of our farms, over \$22 billion in economic activity at the farmgate, thousands of direct and indirect jobs, and most of the irrigated produce such as rice, fruit and nuts which hits our dinner plates and the natural cotton fibers that clothes us is grown in the Basin.

The Plan has been a vital tool in balancing the needs of our communities, our environment and our productive sector. It hasn't always got it right, but it has achieved a great deal since its inception with more than 2,100 gigalitres of water recovered for the environment providing the environment a 72% share in long-term flows.

These achievements have not been without impacts on employment in our regional communities, their economies and have had material impacts on how the remaining irrigators use the reduced share of water.

Given what we now know about how water is recovered affects communities, we need to continue to ensure balance is maintained so we can keep our rivers and



communities healthy and thriving, while feeding and clothing Australia and the world.

NIC welcomed the inclusion of extended timeframes and flexibility to allow new projects and ideas to be captured in programs such as the Sustainable Diversion Limit Adjustment Mechanism.

However, elements of the Water Amendment (Restoring our Rivers) Bill 2023 shift the balance that was agreed and move away from the certainty that the Basin Plan provided. The removal of socio-economic protections such as the limit on water purchases and socio-economic criteria, in the absence of any alternative programs or the other tools, referred to by Government, signifies a shift in intent on the Basin Plan.

While NIC and our members support healthy rivers for now and future generations. This re-written plan will fail by not delivering on expected environmental outcomes at great cost to our regional communities and their economies.

We therefore provide the following 13 recommendations to be considered by the Senate Inquiry. Of these recommendations, one suggests an essential, new amendment and five are to maintain key elements of the existing legislation. The remaining seven recommendations are for the Senate and Australian Government to consider providing more information, to ensure objective information and evidence to support the Government's intent and decision-making process.

Recommendations

New Amendment:

1. A basin-wide toolkit must be developed to allow the immediate investment in complementary measures, to enable the water reserved for the river and the environment to produce the desired environmental outcomes and the expectations of communities. The toolkit should deliver equivalent and/or improved environmental outcomes to a specified volume of water and account towards the additional 450 gigalitres.

Maintain existing drafting:

2. Maintain the socio-economic criteria for all programs under the 450 gigalitre program.
3. Maintain the 1,500 gigalitre limit on water purchases.
4. Removing "from time to time" is replaced with fixed time, aligning with the expected completion dates for all other measures within the Plan.
5. Maintain the existing definition of Commonwealth Environmental Water consistently in any subsequent legislation (thus removing language changes referring to held environmental water).
6. Maintain the current drafting of Section 86AD of the Water Act 2007.

More information and consultation:

7. The Office of Impact Analysis is requested to assess the cumulative regulatory impact of the Water Amendment (Restoring our Rivers) Bill 2023 and report to the Federal Parliament as part of this inquiry.



8. The Commonwealth Government should directly engage with communities who are over-recovered about their communities' water being reallocated to other Basin Plan programs.
9. The regulatory detail should be included in the legislative framework within the bill rather than in subordinate legislation.
10. Further work is necessary to develop a SDLAM roadmap to monitor progress and improve oversight and deliverability of the program.
11. Further work is needed by the Murray Darling Basin Authority to evaluate the likely environmental outcomes following the finalization of the constraint's roadmap.
12. Immediate progress on the other tools being developed to contribute to finalising the Basin Plan is announced prior to passing this legislation. Providing stakeholders with a clear understanding of the Federal Government's intent.
13. Further clarity on the structural adjustment programs to complement the finalization of the Basin Plan prior to amending the legislation.

Proposed changes we support.

Timeframes

NIC supports the request from Basin State jurisdictions for more time to complete supply measures and constraints projects, which are engrained within the timeframe adjustments in the bill. These timeframe extensions allow for the States to deliver on their promises to regional communities and the Federal Government.

There is logic in providing a clear roadmap for constraints in the new section 7.08A *Constraints relaxation implementation roadmap in the Murray Darling Basin Plan (2012)*, which will need longer than the 2026 timeframe allowed by this Bill to fully implement.

Flexibility

NIC supports greater flexibility, particularly in the need to notify new projects towards the Sustainable Diversion Limit Adjustment Measures program. The ability to notify new projects up to June 2025 is supported. However, the need to have these measures in operation by December 2026 will limit the scope of new projects to those that are either underway already or near shovel ready.

Accountability and deliverability

NIC encourages the Federal Government to monitor the Basin States implementation of their responsibilities in both the administration of the Basin Plan (such as Water Resource Plan reporting) but also projects under their control.

NIC does not support the removal of the 1500 gigalitre limit on water purchases as a means for the Commonwealth to 'manage' the states performance on implementing constraints and supply measures by opening the opportunity for further recovery of any shortfalls. Other incentives should be considered to drive improved accountability and deliverability of state responsibilities and their milestones. The increased risk of direct water purchase doesn't directly impact a



state but rather the regional communities from which the water is recovered and the national economy, providing repercussions for the Commonwealth not the states.

Suggested inclusion in the bill.

Complementary measures

NIC were most disappointed in the failure of the bill to include complementary of 'toolkit' measures that directly target environmental outcomes through specified investment that complements water recovered for the environment has not been included.

Complementary measures could include, but are not limited to:

- carp control through the release of the Carp Herpes virus and other measures
- appropriate management of cold-water pollution
- improvement of fish migration through fishways throughout the Basin
- Fish screen installation
- restoration of native fish habitat
- coordinated feral animal control in and around key environmental assets
- riparian land management
- weed management
- restoration of wetland and strategic ephemeral creek system habitats
- Better quality water monitoring and management.

Complementary Measures facilitate win-win opportunities to deliver equivalent and/or enhanced ecological outcomes required to meet Basin Plan objectives. They provide clear and localized examples of environmental measurables for the community such as fish screens and new fishways which allow everyone to connect to outcomes of the Basin Plan.

Whilst many agree that “complementary measures like pest control and enhanced fish passage are essential tools”¹ for improving environmental conditions. Divergence exists on whether to address these issues as part of the current Murray Darling Basin Plan arrangements. Environment groups often caveat their support for

“DATA AND EXPERT ADVICE PROVIDED TO THIS REVIEW [INDEPENDENT REVIEW INTO THE FEBRUARY-MARCH 2023 FISH DEATHS IN THE DARLING-BAAKA RIVER, MENINDEE] MAKE CLEAR THAT WITHOUT SUBSTANTIVE CHANGE TO OUR REGULATORY APPROACH, PAIRED WITH INVESTMENT IN PEOPLE, DATA AND INFRASTRUCTURE, THERE WILL BE FURTHER ENVIRONMENTAL DEGRADATION AND RECURRENCE OF SUCH EVENTS.”

“AN INTEGRATED SUITE OF STRATEGIES SHOULD BE DESIGNED AND IMPLEMENTED TO REDUCE THE RISK OF FURTHER MASS FISH DEATHS AND RESTORE THE HEALTH OF THE BROADER RIVER ECOSYSTEM”.

SOURCE: NSW CHIEF SCIENTIST

¹ Delivery the Murray Darling Basin Plan – Consultation – What we heard – page 25 Direct Quote from Environment Victoria, Nature Conservation Council – NSW, Conservation Council SA, Queensland Conservation Council submission number 126.



complementary measures with “they are complementary to environmental flows”¹. This is despite the best available science that highlights the need for improved integrated management. Most recently this was raised in NSW by Chief Scientist during the inquiry into Menindee Fish Deaths². These recommendations included the implementation of fishways identified in the NSW Fish Passage Strategy, management of invasive fish amongst targeted temporary measures and a focus on water quality management. The CSIRO as part of their expert commentary shortly after the 2023 Fish death event said, these events will continue across the climate spectrum of drought and floods, even when water isn't the limiting factor³.

Given this predicament, it's important we take this opportunity to look at all the tools rather than just adding more water to address issues such as the health and resilience of native fish populations in the basin.

The continual push against including complementary measures right now, and a preference to kick the concept down the road to the Basin Plan evaluation, also ignores the fact that the Federal Parliament has already agreed to this investment in complementary measures in the northern basin as part of the current plan. The 2018 amendments to the Murray Darling Basin Plan adjusted recovery target by 70 gigalitres and enabled \$180M investment in complementary measures, because a “sustainable river system cannot be achieved by simply delivering water for the environment. To achieve a healthy working river system for the Northern Basin, further measures are required”⁴. The toolkit program was also designed to reduce the social and economic impacts of water recovery in the northern basin.

These northern toolkit programs are well underway to improving fish passage and fish friendly farms, they were largely oversubscribed and well supported by industry and their communities. Such programs can directly contribute to recommendations outlined by the NSW Chief Scientist but most importantly, be designed to address localized and systemwide, environmental issues. Enhancing the likely outcomes from the delivery of existing commonwealth environmental water without the need for more water. Hence, a win-win opportunity which is being ignored.

NIC recommends that a basin-wide toolkit must be developed to allow the immediate investment in complementary measures, to enable the water reserved for the river and the environment to produce the desired environmental outcomes and the expectations of communities. The toolkit should deliver equivalent and/or improved environmental outcomes to a specified volume of water and account towards the additional 450 gigalitres.

Proposed changes that we do not support.

Removal of socio and economic protections

² Recommendation 4

https://www.chiefscientist.nsw.gov.au/__data/assets/pdf_file/0005/580658/Menindee-Fish-Deaths-Report_Findings-and-Recommendations.pdf

³ <https://www.csiro.au/en/news/all/news/2023/march/expert-commentary-on-menindee-fish-kill>

⁴ <https://www.mdba.gov.au/water-management/northern-basin>



The Ministers second reading speech highlighted that the bill aimed to remove impediments to progress¹⁵ on the Basin Plan, particularly around achieving the additional 450 ggalitres. In doing so, the Minister has effectively removed the socio-economic protections for regional communities that were essential to delivering a balanced plan.

In 2012, the then Minister Tony Burke stated that the Water for the Environment Special Account was not to involve projects that had a socio and economic impact as it was known that direct purchases could hurt communities. This is explained in the explanatory memorandum as:

“It is envisaged that criteria to be specified in the Basin Plan will include that the mechanism must operate on a no-detriment basis. The adjustments would then not be able to weaken the social, economic and environmental outcomes inherent in the Basin Plan. Projects that enable environmental water to be used more efficiently, thereby reducing the need to remove additional water from productive use, must achieve equivalent environmental outcomes to those in the Basin Plan. Projects to enable improved environmental outcomes, must maintain or improve the socio-economic circumstances of basin communities compared with the Basin Plan. These projects could include for example, improved irrigation efficiency, enabling more water to be made available for the environment.”⁵

This commitment was enshrined in the current Plan, by requiring that any acquisition towards the 450GL had to pass a strict socio-economic test, to ensure there were no negative social or economic impacts on communities.

“The Basin Plan includes 450 GL per year additional water recovery above the gap bridging target. This is for enhanced environmental outcomes on the condition that there are neutral or positive socio-economic impacts from this water recovery. Water recovery towards this target is being done through efficiency measures. This creates water savings that are shared between environmental and productive water users.”⁶

Changes proposed by this bill ignore these commitments to regional communities and the justified protections inbuilt into the Basin Plan.

The Murray Darling Basin Authority through the Northern Basin Review⁷ and the 2017 Evaluation of the Basin Plan (summarized by NSW Irrigators Council⁸), as well as prior Inquiries such as the “Of drought and flooding rains: inquiry into the impact of the Guide to the Murray Darling Basin Plan” and the “Independent assessment of the

⁵ http://www5.austlii.edu.au/au/legis/cth/bill_em/waasdlab2012714/memo_0.html

⁶ <https://www.dcceew.gov.au/water/policy/mdb/water-recovery/how>

⁷ <https://www.mdba.gov.au/sites/default/files/publications/NB-social-economic-technical-overview.pdf>

⁸ <https://www.nswic.org.au/wp-content/uploads/2023/04/2023-04-19-Jobs-impacts-socio-economic-report.pdf>



social and economic conditions in the Basin" highlighted the impact that water recovery was having on regional communities throughout the Basin. The pace, type, scale of water recovery and community reliance on irrigated agriculture were all revealed to influence the impact on a community.

Whilst there are direct impacts on employment, throughout the implementation of the Plan it has become more apparent that there are flow-through third party impacts to remaining irrigators where there are shared costs associated with the irrigation infrastructure. This includes the increased water costs for operating and delivering irrigation water, which is recouped via fixed and variable charges as well as the increased cost of water, as a function of reduced supply.

For these reasons, changes overtime have been made to the Basin Plan to reduce the direct recovery of water and to provide certainty to communities, whilst still achieving environmental outcomes. These changes had bipartisan support.

These included:

- 2012 – maximum 5% limit of change with SDLAM adjustment of 605 gigalitres linked to an additional 450 gigalitres of water through efficiency measures and need for socio-economic considerations
- 2016 – inclusion of a 1,500 gigalitres limit of direct purchases
- 2018 – agreement on socio-economic neutrality requirements.

More recently, Aither and the Australian Bureau of Agriculture Resource Economics (ABARE)⁹ also reported on the impact of

⁹ <https://www.agriculture.gov.au/abares/products/insights/economic-effects-of-water-recovery-in-murray-darling-basin#:~:text=ABARES%20analysis%20finds%2C%20however%2C%20that,prices%20in%20the%20southern%20MDB.>

JOB LOSSES ATTRIBUTED TO WATER RECOVERY FOR THE ENVIRONMENT (2001 – 2016) ACROSS 61 COMMUNITIES:

- SOUTHERN BASIN COMMUNITIES - THIRTY PER CENT (3,261 FTE JOBS)
 - NSW 21%
 - VICTORIA 30%
 - SOUTH AUSTRALIA 45%
- NORTHERN BASIN COMMUNITIES 685 FTE JOBS
 - HIGHEST IMPACT 38% LOSS FROM WITHIN THE ONE COMMUNITY
- 22 COMMUNITIES HAD A GREATER THAN 20% OF WATER RECOVERED FOR ENVIRONMENT, THESE COMMUNITIES WERE HARDEST HIT.
 - 17 SOUTHERN BASIN
 - 5 NORTHERN BASIN
- REDUCTION IN IRRIGATED AREA VARIED, OFTEN GREATER THAN % LOSS OF WATER.
- IMPACT SOMETIMES MASKED BY TRANSFER OF WATER FROM OTHER AREAS – TEMPORARY AND PERMANENT

SOURCES: NSWIC, JOB IMPACTS IN THE SOUTHERN MDB AND MDBA, NORTHERN REVIEW SOCIO-ECONOMIC TECHNICAL REPORT



water recovery on the price of water and subsequent changes in water use. For example, ABARE stated:

“Large scale reforms will almost always have flow on effects. In the case of environmental water recovery, many of these flow-on effects stem from higher water prices and reduced agricultural production. They include pecuniary and wealth effects on other irrigators, changes in the profitability and financial viability of irrigation infrastructure, and impacts on local economies and communities.”

Aither who undertake regular assessments on the demand on water and trends in water prices and uses, in their 2020 report for the Southern Murray Darling Basin Trends determined that a further 500 gigalitre purchase of water from production under the current crop projects would increase the median allocation price of water to \$390 meaning that 50% of the time it could be lower, but 50% of the time the price could be higher. Aither also noted that depending on where you are located the price impact could be greater. For many commodities, this temporary price point would drive them out of the market.

Aither supported the ABARE findings saying:

“While there will always be uncertainty over the exact magnitude of the impact of consumptive water recovery on water allocation prices, it is clear that water recovery is having a material impact.”

Given what we know about the impacts of non-strategic direct purchases, and how different water recovery strategies may impact a community. NIC is disappointed that there was no consideration given to these factors as part of bridging the gap tender criteria and that these amendments seek to circumvent the agreed protections.

NIC views the removal of socio-economic protections as a broken promise by this Federal Government.

NIC contends that more work can be undertaken to explore all other options as alternatives to direct purchases in the 450 gigalitre program of investment.

NIC recommends maintaining the socio-economic criteria for all programs under the 450 gigalitre program.

NIC does not agree that the current 1,500 gigalitre limit on water purchases in *Division 5 Water Act (2007)* must be removed to achieve the Basin Plan.

If the Minister is genuine about “voluntary water purchases not being the first choice”¹⁵ then keeping the current limit, enshrines this commitment to look at other options. Keeping the limit on purchases also provides certainty to industry and basin communities about their long-term share of water.

NIC recommends maintaining the 1,500 gigalitre limit on water purchases.



Dynamic Sustainable Diversion Limits

Throughout the bill NIC notes that specific timeframes for existing sustainable diversion limit reductions are replaced with “reduction resulting from changes to the SDL from time to time” in both the *Water act (2007) Section 1AA S 6.13 (2A) in the Murray Darling basin Plan (2012)*. NIC is concerned that the inclusion of “time to time” rather than referencing fixed time periods undermines the certainty of the Basin Plan by allowing dynamic SDL at the notification of the Minister and circumventing the existing processes. Without the limit on water purchases, the ability to continue to drive down SDL is only limited by the availability of willing sellers over an undisclosed time up to the 5% limit on change in *S61.01 of the Murray Darling Basin Plan (2012)*.

This approach of adjustments to SDL from ‘time to time’ may also create reporting issues for States and the Inspector General of Water Compliance. For example, if water was used from an account that is later notified as additional environmental water during a water year, there could be reporting errors if this isn’t properly accounted.

NIC recommends that the removal of “from time to time” is replaced with fixed period, aligning with the expected completion dates for all other measures within the Plan.

The bill proposes the additional step throughout *Chapter 7 – Adjustment of SDLs in the Murray Darling Basin Plan (2012)* to include an additional step allowable to enable and notify “additional Held Environmental Water Entitlements (HEW)”.

NIC does not understand why the amendments are required to enable the creation of a new category of water, when the *Water Act 2007 in section 108*, already recognizes water purchased under the programs to be defined as Commonwealth Environmental Water Holding.

Section 108 reads:

Meaning of Commonwealth environmental water holdings

(1) *Commonwealth environmental water holdings are:*

(a) *the rights that the Commonwealth holds that are water access rights, water delivery rights, irrigation rights or other similar rights relating to water; and*

(b) *the interests in, or in relation to, such rights.*

Note: Water access rights acquired by the Commonwealth with amounts debited from the Water for the Environment Special Account form part of the Commonwealth environmental water holdings (see subsection 86AE(1)).

(2) *Without limiting subsection (1), Commonwealth environmental water holdings include:*



(a) rights of a kind referred to in paragraph (1)(a) that the Commonwealth holds on trust or holds as a lessee; and

(b) rights of a kind that the Commonwealth Environmental Water Holder receives, on behalf of the Commonwealth, as donations.

(3) However, Commonwealth environmental water holdings do not include:

(a) water access rights, water delivery rights, irrigation rights or other similar rights relating to water; or

(b) interests in, or in relation to, such rights; that:

(c) the Commonwealth (including any agency of the Commonwealth) holds for the purpose of the use of water by the Commonwealth (including any agency of the Commonwealth) in the performance of functions that are not related to its functions of water management under this Act; or

(d) the Commonwealth (including any agency of the Commonwealth) holds for the purposes of the Living Murray Initiative (including rights or interests that vested in the Authority under section 239C having been held for that purpose by the Murray-Darling Basin Commission before the commencement of Part 10A).¹⁰

NIC also found variations of dates when additional HEW could be notified and reconciled which creates confusion and should be aligned to the key notification and reconciliation dates.

NIC recommends maintaining the existing definition of Commonwealth Environmental Water consistently in any subsequent legislation (thus removing language changes referring to held environmental water).

Inclusion of 450 gigalitres in the Water Act 2007

NIC does not support the legal decoupling of the 450 gigalitres from the objectives it was designed to achieve – enhanced environmental outcomes. These amendments create a program of water recovery devoid of deliverability and outcomes and driven by willing sellers only.

Amendments to Section 86AD Water Act 2007 essentially decouples the requirement for the delivery of constraints and specific environmental outcomes and inserts a non-specific higher order environment outcome. This undermines the intent of the additional 450 gigalitres of water which was modelled to deliver specific environmental outcomes which are expected by stakeholders.

Further to this, additional changes enshrine the 450 gigalitres (Section 86AD(b)) which effectively changes the plan from an agreed 2,680 gigalitre plan to a 3,130 gigalitres plan but without specified environmental outcomes other than more water by proposing to insert “increasing the volume of the Basin water resource

¹⁰ http://classic.austlii.edu.au/au/legis/cth/consol_act/wa200783/s108.html



that is available for the environmental use by 450 gigalitres". Suggesting that the volume of water, overriding the environmental deliverability and benefits of the Basin Plan and fundamentally altering its intent. This essentially will set the plan up to fail, by not meeting the expectations of the additional water recovery.

NIC recommends maintaining the drafting in Section 86AD to read:

86AD Purposes of the Water for the Environment Special Account

- (1) This section sets out the purposes of the Water for the Environment Special Account.
 - (2) Amounts standing to the credit of the Water for the Environment Special Account may be debited for any of the following purposes:
 - (a) making payments in relation to projects whose aim is to further the object of this Part by doing one or more of the following:
 - (i) improving the water efficiency of the infrastructure that uses Basin water resources for irrigation;
 - (ii) improving the water efficiency of any other infrastructure that delivers, stores or drains Basin water resources for the primary purpose of providing water for irrigation;
 - (iii) improving or modifying any infrastructure (including bridges and roads) that constrains the delivery of environmental water to the environmental assets of the Murray-Darling Basin in order to ease or remove those constraints;
 - (iv) better utilising existing dams and storages to deliver environmental water to the environmental assets of the Murray-Darling Basin;
 - (v) entering agreements to acquire an interest in, or in relation to, land (including easements) to facilitate environmental watering of the environmental assets of the Murray-Darling Basin;
 - (vi) improving the rules, policies, practices and procedures in relation to the use and management of the Basin water resources;
 - (b) purchasing water access rights in relation to Basin water resources for the purpose of furthering the object of this Part; making any other payments.

Over-recovered water resource units

Currently there is approximately 44.3 gigalitres of water held as Commonwealth Environmental Water but not attributed to the Murray Darling Basin Plan. The majority of this water sits in the Macquarie Valley.

This water was originally purchased for the achievement of Sustainable Diversion Limits which have been achieved.



In 2018, the Productivity Commission made it clear that any over-recovered water should be addressed and “return any identified over-recovery to consumptive uses in accordance with Sustainable Diversion Limits.” as part of Recommendation 3.114.

Governments have failed to deliver this recommendation. Now the bill proposes to allocate this water to the 450 targets through the notification process with no regard to how it contributes to the environmental outcomes, its deliverability or utilization (provided as the criteria for current bridging the gap water purchases¹¹) or to the community, from which this water was purchased.

Whilst the Minister's second reading speech indicated “no community will be left behind”¹⁵ there is no detail on how the communities who have over-recovered water are being consulted and compensated, nor is there any detail on the structural adjustment promised.

NIC recommends that the Commonwealth Government should directly engage with communities that are over-recovered about their water being reallocated to other Basin Plan programs.

Water Market Reforms

NIC welcomes improvement in the water market and supports reforms that make water trading transparent and fair. However, any reform comes at a cost which is borne by the user and therefore, the costs and benefits must be weighed against each other.

Throughout the preparation of this amendment bill there has been increasing frustration amongst our members about the inability to recognize the differences between water market participants and how these reforms impact them and what benefits the reforms will generate. For example, the continued inclusion of irrigation infrastructure operators within the insider trading provisions is inconsistent with the understanding that an individual or corporate holder of water with a similar size holding is excluded. There is no justification for the inconsistency of treatment of these two participants.

In addition to the process of providing most of the detail on the regulatory changes in the subordinate regulation, which does not require the same level of Parliamentary scrutiny that legislation does.

The NIC believes that the reform provides gross overreach on regulation with minimal benefit to farmers who wanted the reform to improve transparency.

The reforms will add a significant regulatory cost to many market participants including Irrigation Infrastructure Operators. An updated regulatory impact assessment should be completed prior to the implementation of this component of the reform bill. More of the detail should also be included in the main legislative framework.

¹¹ <https://www.dcceew.gov.au/sites/default/files/documents/strategic-water-purchasing-framework-2023.pdf>



NIC recommends that the regulatory detail should be included in the legislative framework within the bill rather than in subordinate legislation.

We note that due to the likely interaction between the new market reform rules and the changes to the Murray Darling Basin Plan, that the reforms are delayed allowing the Commonwealth agencies in direct purchasing of water from willing sellers, to avoid breaching their own rules.

Proposed changes that require more information

Regulatory Impact Assessment

In 2012, the Murray Darling Basin Authority completed a Regulation Impact Statement and Impact Assessment completed for the Murray Darling Basin Plan 2012¹². This assessment included the following summary:

“This decision means that each year some 2,750 gigalitres of surface water, which would otherwise be used for consumptive purposes (such as irrigation and industrial use), will be returned to the environment to help restore the health of the Basin. ...

The main benefits of the Basin Plan have been categorised into ‘use’ and ‘non-use’ benefits. Use benefits are estimated to approach \$100 million per annum...

The main economic costs of the Basin Plan are measured as foregone profits for agricultural industries, estimated at \$160 million each year. There will also be net additional administrative costs for Basin states and the Commonwealth estimated to be in the order of \$100 million each year. The Basin Plan will also have broader social and economic impacts on Basin communities; these impacts will be greater in some communities (or on families and individuals) than others. “¹³

The Water Amendment (Restoring our Rivers) Bill in 2023 presents a significant change to the assumptions around the original Plan and its regulatory impact, which was also completed more than 10-years ago. Most significantly, the increase of the Basin plan from 2,680 gigalitres to effectively a 3,130 gigalitres with the inclusion of direct purchases for an additional 450 gigalitres. This is to be achieved with an undisclosed amount of funding, secured through the last budgetary process at the cost of other services. NIC is also not aware of any assessment to-date of the impact that removing a further 450 gigalitres of water from irrigation production through direct purchases will have on the Australian agricultural sector and national economy, in particular our balance of trade.

There are significant changes in intent from 2012 in addition to the new water market reforms, which will have regulatory implications for a range of market participants including individuals, intermediaries, irrigation infrastructure operators and government agencies.

¹² <https://oia.pmc.gov.au/sites/default/files/posts/2012/11/03-Murray-Darling-Basin-Plan-RIS.pdf>

¹³ <https://oia.pmc.gov.au/published-impact-analyses-and-reports/murray-darling-basin-plan-regulation-impact-statement-murray>



NIC are not aware of any updated regulatory impact assessment provided as part of preparing this Bill. Although we have written to key Ministers about this request.

Given the unknown quantum of these impacts to the economy and outcomes of the regulation, there is a clear need to update the regulatory impact assessment so that the Federal Parliament can make an objective and informed decision about how to finalize the Murray Darling Basin Plan.

NIC recommends that the Office of Impact Analysis is requested to assess the cumulative regulatory impact of the Water Amendment (Restoring our Rivers) Bill 2023 and report to the Federal Parliament as part of this inquiry.

Limits of change and risks to project delivery

Currently, there is interactions between the 450 gigalitre additional water is integrated with the broader Sustainable Diversion Limit Adjustment Mechanism, which is tied to the limits of change (+/- 5%), based on supply, constraints, and efficiency measures. Given the changes to the Water Act 2007 proposed by the bill to enshrine this additional water, further information is needed on how the changes to the 450 GL will impact the likely adjustments to Sustainable Diversion Limit Mechanism being the 605 gigalitres in supply measures.

Further to this is how the limits of change apply elsewhere in the basin given the supply measures are located in the southern basin but changes to the 450 gigalitres allow recovery towards this program from across the basin.

Whilst NIC supports the extended timeframes provided to the states, it is important a clear roadmap of implementation of the existing and additional SDLAM projects is development to monitor their implementation.

NIC recommend further work to develop a SDLAM roadmap to monitor progress and improve oversight and deliverability of the program.

Constraints roadmap

NIC does not see any corresponding analysis of the adjustment on expected environmental outcomes of the Basin Plan that a revised constraints program will have. This is essential to provide a clear picture of the environmental benefit of recovering the additional 450 gigalitres of water.

Changing timeframes and expected outcomes on one hand but not reducing the water recovery volumes, accordingly, is duplicitous. It also sets the Basin Plan up to fail by not meeting its expected outcomes. This was raised by the Productivity Commission in their 2018 review stating:



Recommendation 5.4

The Australian Minister for Water should specify that the 2021 review of the Water for the Environment Special Account review the benefits, costs and impacts of pursuing the enhanced environmental outcomes in Schedule 5 on the basis of new and updated information. This should include:

identifying which, if not all, of the Schedule 5 outcomes can be achieved, given progress in easing or removing constraints, and how much environmental water would be required to do so

assessing the benefits and costs (and feasibility) of other approaches to achieving those environmental outcomes.

This review should be supported by modelling provided by the Murray-Darling Basin Authority (as the agent of governments) and any additional information from Basin States.

The Australian Government should use the outcome of this review to determine whether there is a need to amend the Schedule 5 outcomes, or adjust the water recovery strategy to pursue those outcomes efficiently and effectively.¹⁴

It is very clear that the Productivity Commission held serious concerns around the 450 gigalitre elements of the Plan and the need to adjust the achievability of this based on the completion of constraints. Just removing the link of the additional 450 gigalitres to 'other objectives' doesn't detract from the fact the expected outcomes of both programs are undermined. Noting that the Productivity Commission had concerns there was a need to "assessing the benefits and costs (and feasibility) of other approaches to achieving those environmental outcomes."

NIC recommends a further body of work by the Murray Darling Basin Authority to evaluate the likely environmental outcomes following the finalization of the constraint's roadmap.

NIC agrees with the logic in aligning the review of the Water Act 2007, with the review of the Murray Darling Basin Plan. However, this could be achieved in two ways:

1. Delaying the Water Act Review until 2027 (as proposed by this bill); or
2. Bringing forward the evaluation and review of the Murray Darling Basin Plan to 2024.

Both provide a pathway to better align the two pieces of work.

Bringing forward the review of the Murray Darling Basin Plan provides an opportunity to fast-track considerations of non-held water options to improve environmental outcomes known as complementary measures, which we are told are to be included post the evaluation.

Understanding the other tools

NIC is disappointed that as part of changes to allow flexibility, there is little detail on the 'other programs' being considered by the Government to finalize the Basin Plan provided. NIC require more detail on what the Minister outlined in her second

¹⁴ <https://www.pc.gov.au/inquiries/completed/basin-plan/report>



reading speech “water purchase is never the only tool in the box, it's not the first tool at hand”¹⁵.

Without the provision of a clearer plan from the Government, one must assume that the only tool in the toolbox is water purchase from willing sellers.

A plethora of genuine ideas and alternatives were tabled as part of the Departments consultation on Finalizing the Murray Darling Basin Plan. Other than a Consultation: What we heard report¹⁶, there has been no further detail on the progress of these ideas.

For more information on the NIC ideas presented as part of this consultation, please see our submission in Attachment A.

NIC recommends that immediate progress on the other tools being developed to contribute to finalising the Basin Plan are announced prior to passing this legislation, providing stakeholders with a clear understanding of the Federal Government's intent.

Structural adjustment

To date there has been no information provided on the Government's indicated structural adjustment package.

NIC recommend further clarity on the structural adjustment programs to complement the finalization of the Basin Plan prior to amending the legislation.

Accountability

NIC request further information on the practicalities of the proposed requirement for the states to deliver an action plan under Sustainable Diversion Limit reporting in S 6.08A, B and C and S 6.12 (3) as additions to the Murray Darling Basin Plan (2012). Whilst we agree that oversight on ensuring Sustainable Diversion Limits are being implement, there already is compliance accountability built into the current Murray Darling Basin Plan (2012) with accounting by the Murray Darling basin Authority, and reporting by the states to both the MDBA and the Inspector General for Water Compliance.

These proposed changes will add another layer of complexity to compliance reporting, as well as time to report and approve, which has unknown impact on the allocation and access of water by the states.

NIC notes that without amendment, these changes are largely redundant until all States complete their Water Resource Plans.

¹⁵

<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F27164%2F0019%22>

¹⁶ <https://www.dcceew.gov.au/water/policy/mdb/water-recovery/delivering-murray-darling-basin-plan>



Conclusion

NIC and our members support healthy rivers for now and future generations.

NIC welcome elements of Water Amendment (Restoring our Rivers) Bill 2023, including the extended timeframes and flexibility for more projects in the SDLAM.

NIC is concerned that some of the proposed amendments are a fundamental shift in intent of the Murray Darling Basin Plan, moving away from the balance needed to address the environmental, social, and economic challenges across the Basin.

NIC also believe this bill missed a key opportunity to bring about positive and enduring change for our rivers, and basin communities by excluding a mechanism to recognize complementary measures and not creating a Basin toolkit as part of the 450 gigalitre program.

NIC has provided 13 recommendations to be considered by the Senate Inquiry to ensure the Plan remains on track to deliver on community expectations and balance the needs of the environment, communities and industries that rely on the Basin.

NIC looks forward to working through these recommendations with the Senate committee and the Australian Government.

Attachment A – Submission to Department of Climate Change, Energy, Environment and Water Delivering the Basin Plan Ideas Consultation Process, July 2023

