



Department of Energy, Environment and Climate Action

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Murray-Darling Basin Plan: Implementation Review 2023

Productivity Commission
GPO Box 1428
CANBERRA ACT 2601

Dear Commissioner Joanne Chong and Associate Commissioner Chris Guest,

SUBMISSION TO THE INTERIM REPORT FOR THE MURRAY-DARLING BASIN PLAN: IMPLEMENTATION REVIEW 2023

Thank you for the opportunity to make a submission in response to the interim report for this review. Victoria recognises the importance of the Commission's inquiry to help ensure that the Basin Plan and water resource plans are being implemented as effectively as possible. The communities of the Basin are at the heart of the Plan's implementation and are keen to see the outcomes promised in 2012. Victoria is committed to working with the Commonwealth Government, other Basin jurisdictions and the Murray Darling Basin Authority to meet our obligations in a way that balances social, economic and environmental outcomes.

There are four areas of the interim report that we would like to focus on, and our comments on these are outlined below.

Streamlining water resource plans

Victoria welcomes the Commission's interim recommendations for simplifying some of the requirements for preparing and implementing water resource plans. Requirements for these plans must remain rigorous, but should take a risk-based approach, prioritising the assessment of compliance with the Sustainable Diversion Limits (SDLs). We agree that some requirements could be removed or made less prescriptive and more focused on outcomes. The current process for the assessment and accreditation of the plans is unnecessarily onerous, which led to delays in the finalisation of Victoria's water resource plans. We agree that reporting and amendment processes can also be streamlined.

Like the Commission, Victoria is concerned that New South Wales have not finalised their water resource plans, more than 10 years after the Basin Plan was put in place and four and a half years since the legislated deadline. Without all water resource plans in place across the Basin, the Basin Plan cannot be fully implemented or properly enforced. These plans underpin the assessment of compliance with the agreed SDLs in each jurisdiction. We are proud that all of Victoria's water resource plans are accredited, operational, and supporting SDL compliance in every year of reporting.

Water recovery

Victoria disagrees with the report's findings that government policy decisions and water entitlement prices have meant little progress towards all environmental water recovery targets.

Against the 2,750 GL target required by the Basin Plan, Victoria has made good progress on our water recovery task, with over 826.5 GL (77%) of our state's 1,075 GL share recovered. This water is already delivering for the environment, with improved vegetation, fish populations, and waterbird breeding. While there is a substantial risk to the 2,750 GL target due to the high likelihood of a shortfall in the 605 GL offsets, this has been driven by unavoidable and extreme circumstances including the global pandemic and floods, for which the Basin Plan does not have a force majeure. Government policy is not able to overcome these challenges to deliver supply measures before the original 2024 deadline, but with more time, most will be deliverable.

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For the additional 450 GL, Victoria has recovered or contracted 17.7GL of water towards the contracted total of 26 GL, more than any other state. The current legislation and Basin Plan states that the 450 GL water recovery target is both additional and conditional (upon neutral or positive socio-economic impacts) and it is therefore appropriate that the state's efforts have been towards the 2,750 GL first, as this is required by the Basin Plan. Prioritisation of the 2,750 GL target is consistent with the Commission's sensible recommendation that a strategic approach to water recovery would include prioritisation of the 2,750 GL Basin Plan target (including the 605 GL offset measures) before the recovery of up to 450 GL. The Commonwealth's recent policy change, prioritising the 450 GL over all other obligations and setting out no plan to address shortfall in the 605 GL, puts delivery of the Basin Plan at risk. The Commission's report could be more unequivocal in the importance of this prioritisation.

The Victorian Government supports the Commission's recommendation for a renewed approach to water recovery, including a transparent, strategic plan for water recovery, which prioritises water recovery targets according to legislation, i.e. the 2,750 GL target including shortfall in the 605 GL offsets first. The *Water Act 2007* and Basin Plan assign responsibility for bridging the gap between baseline and SDLs to the Commonwealth, and the 2013 *Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin* requires the Commonwealth to prepare and update a Water Recovery Strategy as well as accrue a balanced portfolio of entitlements. This has not been done and the Commonwealth must meet this obligation. While Victoria does have concerns about the performance of the Commonwealth department in the area of water, it does not immediately follow that a new agency, particularly a corporate agency, would be the most suitable entity to deliver this obligation. Regardless of the delivery agency, buybacks should not be included in any strategic approach to water recovery, and the socio-economic condition on the additional 450 GL should be retained.

The Victorian Government is concerned that the Commonwealth's multiple water recovery commitments, including the Basin Plan program and the much-delayed Aboriginal Water Entitlements Program, are not being managed strategically. To minimise the government's water recovery task, the shortfall in the 605 GL should be mitigated as far as possible by supporting projects to be completed on a longer time scale and allowing for new projects to be brought forward. To deliver any remaining water recovery, off-farm and other socio-economically neutral methods of water recovery must be prioritised. Lack of a plan for long term monitoring and mitigation of socio-economic impacts is particularly concerning. The current Commonwealth proposal for one-off, fixed funding for community assistance is not consistent with a true commitment to avoid and minimise impacts and is likely to repeat the mistakes of past programs found by the 2020 Sefton report¹ to not effectively address impacts.

Transparency and accountability

Victoria supports transparency and accountability to the Australian community in the implementation of the Basin Plan. Victoria already provides detailed milestone reports that would provide sufficient detail for the Australian Government to develop a new annual report, if this recommendation from the interim review is adopted.

We have some concerns regarding the report's recommendation that the Commonwealth Government Minister for Water be granted sole power to withdraw a Commonwealth-funded supply measure. Any amendments to the Basin Plan regarding withdrawal of projects should include the requirement for the relevant state Minister/s responsible for delivery of the project to be party to the decision, and for Ministerial Council to be consulted. It is worth noting that there is no practical risk that unviable projects continue against the Commonwealth's wishes; the Commonwealth as funding body can withdraw this support.

While Victoria supports strong accountability, it is worth noting that enhanced accountability would not have made it possible to complete supply or constraints measures by 2024. Additional accountability measures must be accompanied by reasonable expectations of what they can deliver and should not be expected to prevent project delays driven by events like the 2022 floods.

¹ <https://www.dcceew.gov.au/sites/default/files/documents/panel-report.pdf>

Empowering First Nations communities

Victoria supports in principle the report's recommendations regarding strengthening the roles of Aboriginal and Torres Strait Islander people in the Basin Plan. We agree that state and territory governments should be held to account for how they consider and action advice from Aboriginal and Torres Strait Islander people, but further consideration is needed on how this is achieved. Approaches should be centered on the principles of self-determination and free, prior and informed consent, respecting the rights and objectives of Traditional Owners.

We look forward to reading the final report from the Commission and considering its findings with our state and federal counterparts. Victoria is focused on the future and the outcomes still be achieved and we are committed to ensuring the effective implementation of the Basin Plan.

If you would like to discuss this submission further, please contact Jess Freame, Director Intergovernmental Branch

Yours sincerely

Andrew Fennessy

Acting Deputy Secretary, Water and Catchments

20th November 2023