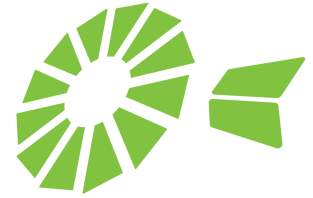


Department of Climate Change,
Energy, Environment and Water
GPO Box 3090
Canberra ACT 2601



**Victorian
Farmers
Federation**

3 July 2023

To whom it may concern,

RE: Submission – Delivering the Murray Darling Basin Plan consultation

The Victorian Farmers Federation (VFF) welcomes the opportunity to provide comment on the Commonwealth Have Your Say Process for Delivering the Murray Darling Basin Plan.

Please find enclosed the VFF's response to the consultation.

Faithfully,

A handwritten signature in black ink, appearing to read 'A Leahy', with a long horizontal flourish extending to the right.

Andrew Leahy
Chair
VFF Water Council

Victorian Farmers Federation response to Delivering the Murray Darling Basin Plan consultation

Consultation

The VFF is disappointed with the level of consultation provided by the Commonwealth. Public submissions are only open for six weeks and no effort was made to meet in the regions with those affected by the Basin Plan reforms. Rather a tokenistic webinar was held and there was no opportunity for broader rural communities to have a say in this process.

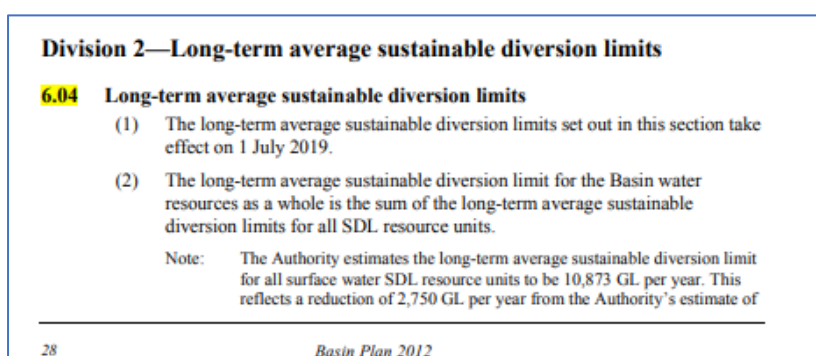
The VFF did participate in the farmer/irrigator webinar and was thoroughly disappointed by the lack of discussion on the negative impacts that the Basin Plan has had on rural and regional communities to date.

The Productivity Commission highlighted five years ago new ideas and changes that had to be made, very few of these occurred. The Commonwealth has arguably undermined the Productivity Commission 2023 review process that was announced on 17 May by announcing its own feedback process. The Productivity Commission, however, is proving far more genuine with its consultation and meeting out in the regions with all stakeholders.

A Basin Plan In Full?

There is much conjecture over what a Basin Plan in full means. The Basin Plan as per Section 6.04 (2) of the *Basin Plan Act* identifies a 2,750GL reduction to the long-term average sustainable diversion limit.

The 450GL was a political deal struck with South Australia in 2012 and is not referenced to the long term average sustainable diversion limit, rather its listed in Schedule 5. Recovering the 450GL can only occur if there are no negative socio-economic impacts and process pass the socio-economic test that was unanimously agreed by all Basin water ministers in 2018.



The Commonwealth's continued to talk about delivering the full 450GL and no mention of the socio-economic impacts shows a blatant disregard for rural and regional communities and the food they produce.

The Productivity Commission concluded in 2012 that it was a waste of tax payer funds if the 450GL was recovered and constraints not eased.

B.4 Notional cost saving of extending the water recovery timeframe

The Basin Plan allows for the recovery of an extra 450 GL of water to pursue environmental outcomes additional to those that can be achieved by recovering the equivalent of 2750 GL (outlined in Schedule 5 of the Plan). These enhanced environmental outcomes are dependent on progress in easing or removing constraints. As noted in chapter 4, constraints projects are unlikely to be fully operational by 2024 and may not deliver the full range of required constraint easing. **If constraints are not eased, rushing to recover the full 450 GL by 2024 would risk the Australian Government spending money on an asset that potentially cannot be used for some time.**

Recommendation: That the Commonwealth acknowledges the socio-economic test and findings from the Productivity Commission in 2018 that pursuing the 450GL without easing constraints is a waste of tax payer funds.

Delivery Issues

There is no acknowledgement by the Commonwealth that the 2,100GL of water already recovered cannot be delivered.

The Commonwealth Environmental Water Holder, Jodi Swirepik in 2020 stated that getting more water for the 450GL was not her priority and noted the environmental gains to date in a Senate Estimates hearing on 23 October 2020 that:

“Even in the record-breaking drought, environmental flows have provided positive outcomes across the basin. For instance, this year marks 10 years of continuous flows into the Coorong since the breaking of the millennium drought in 2010. This means that the Basin Plan has worked as the recent drought did not result in the same terrible impacts and the risk for the end of the river system”

The Productivity Commission in 2018 found that:

“There has been no update to the 2012 modelling to estimate what environmental benefits can be realistically achieved under the revised constraints proposals” (Pg 40)”

Recommendation 5.1: *The MDBA should comprehensively update and publish modelling to confirm, the enhanced environmental outcomes that can be achieved with additional water*

Recommendation The Commonwealth and MDBA should urgently examine the current deliverability issues before they pursue targeting additional water.

A Pristine Environment is Not Possible

The Commonwealth needs to acknowledge that the goal must be to achieve a “healthy working river”, not a pristine environment.

The Living Murray Program of 2002 noted the importance of a healthy working river, it stated that:

“a healthy working river is one that is managed to provide a sustainable compromise, agreed to by the community, between the condition of the river and the level of human use”.

Attempting to return the Murray Darling Basin to a pristine environment free of dams, weirs and lochs is simply not possible. We need to refocus our efforts (and language) on achieving a “healthy working river”.

Recommendation The Commonwealth and MDBA refocus their efforts and language to achieve a “healthy working river”.

New Ideas

Many believe the Basin Plan Act and Water Act are limiting the ability for new ideas. The VFF does not support this. The VFF believes a number of good projects were developed in 2012 for the Sustainable Diversion Limit Adjustment Mechanism but were not adopted at the time.

Given these projects are not new and still remain relevant today, the VFF believes there is sufficient flexibility to allow these new projects to commence.

Sustainable Diversion Limit Adjustment Mechanism Projects

Improved Regulation of River Murray

The Commonwealth were provided with a 70 page Business Case for the “Improved Regulation of the River Murray” project. The basic premise is that the river is being operated better and there are less losses and estimated an offset of 1,10GL.

It is thought this project would:

- achieve equivalent environmental outcomes with a lower volume of held environmental water
- have no detrimental impacts on reliability of supply to third parties
- will result in enduring environmental benefits
- can be realised in real-world river operations, and thus
- the proposal can contribute to a SDL adjustment.

We believe this project still has merit and could be easily adopted as it is not a new project and does not require legislative change.

Lindsay River Allowance

As agreed in 1979 the Lindsay River Allowance (LRA) requires Victoria to provide 91.25 GL/year down the Lindsay River in all years regardless of water resource availability in the Murray River. The flow provides allocations for Lindsay River irrigators, covers transmission losses and dilutes salinity concentrations in the Lindsay River so water is suitable for irrigation use.

Approximately 65 GL/year of this flow continues into SA as unaccounted for flows. This volume is above SA's 1,850 GL/year entitlement flow.

Victoria must set aside the 91.25 GL from its Murray River resources before making allocations to Murray high reliability water shares.

These arrangements are a significant issue for Victoria, particularly in severe droughts as the 91.25 GL/year is debited from Victoria's Murray Resources even though there may be no allocations to Lindsay River irrigators.

Conversely, in extreme droughts SA are permitted to use 13.92 GL more than their 1,154 GL Consumptive Entitlement (Clause 88A of the Murray-Darling Basin Agreement). In these years, when water is scarce and valuable, Victorian resources are effectively supporting consumptive use in SA at the expense of Victorian water users.

This anomaly was recognised in the Millennium Drought (2008-09 and 2009-10) when under special water sharing arrangements the provision of the LRA was delivered in proportion to Murray high reliability water share allocations. This change facilitated the use of LRA resources to support Victorian allocations.

Victoria sought to permanently institute the short-term arrangements into operational rules but was unable to get agreement from SA to do so. They consider the LRA as 'required flow' as critical for meeting environmental watering priorities and objectives in SA, especially those relating to floodplain and flow, water level and water quality in the Coorong, Lower Lakes and Murray Mouth. These matters were never the purpose of the LRA. No progress has been made on this issue since 2013.

Water savings

Accounting arrangements permit SA to divert dilution flows once they cross into SA, despite the flows:

- being taken from Victoria's share of Murray Resources
- Victoria not being permitted to use water for consumptive purposes because of the Cap on diversions
- the flows being provided to dilute salinity in the Lindsay River and provide for supply of water to Lindsay Point irrigators
- SA specifically refusing to have the flows recognised as part of their entitlement flow.

This project was also discussed in 2017 and is not new and should be further investigated.

Improved fishways

One of the greatest impacts to native fish populations and recreational fishing is the impediments (weirs and dams) to native fish reaching their spawning grounds or recolonization of parts of rivers after a natural disaster/fish death event such as a toxic blackwater event or drought with low flows causing native fish to die due to extremely low dissolved oxygen in the water

Weirs and dams have had considerable benefits but come at a cost of fragmenting the river. Fishways (engineered ramps so that fish can pass a weir) were constructed throughout the length of the River Murray and in many of the tributary rivers

The [Sea to Hume fishway](#) Program was undertaken along the Murray from Lake Hume to the sea between 2001-2010. At the time this was one of the world's largest fish passage programs (over 2,200km) that retrofitted fishways to twelve of the fourteen weirs and five barrages for both small and large fish, costing over \$60M at the time

However they were constructed many years ago and based in the existing flow regimes of the river. More recent science and understanding of native fish needs has highlighted that the existing fishways are likely to need significant upgrading. This is recognised by native fish ecologists in NSW and Victoria

Upgrading and ensuring maintenance of the fishways would provide significantly greater outcomes to threatened and recreational native fish in addition to environmental water alone – it is relatively easy to do and doesn't impact landholders or take away from other elements of the environment.

MDBA Reconciliation Flexibility

The VFF believes the MDBA has sufficient flexibility to ensure these projects are achieved, albeit a little later than 2024.

The Basin Plan Act states:

7.11 Reconciliation adjustments to be proposed in 2024

- (1) If it appears to the Authority that a new determination, as at 30 June 2024, of the appropriate adjustment amounts resulting from the notified measures and any additional efficiency measures would produce a result different from the determination made for the purpose of section 7.10, the Authority must, by that date:
 - (a) determine the amounts of proposed adjustments for each affected unit resulting from the notified measures and any additional efficiency measures, in accordance with Division 4; and
 - (b) propose accordingly, under section 23A of the Act:
 - (i) an adjustment of the SDL for each affected unit; and
 - (ii) an adjustment of the SDL for the Basin water resources equal to the net effect of the adjustments for all the affected units.

Note 1: Under section 23B of the Act, the Authority is then required to prepare appropriate amendments of the basin Plan, for adoption by the Minister.

Note 2: This section might apply if, for example, a notified measure has been withdrawn or an additional efficiency measure has been registered.

Note 3: It is expected that the Authority will propose adjustments under this section in sufficient time for the amendments to commence by 30 June 2024.
- (2) The Authority must advise the Minister on the implications of a proposal for any declared Ramsar wetland.

The VFF believes this clause provides the MDBA with some discretion. The legislation does not say they have to be completed by 2024, rather **if** they are not complete, the MDBA has to be confident that they will be finished and will deliver the similar environmental benefits to what was originally proposed.

This discretion was also acknowledged in the SA Royal Commission:

[Murray-Darling Basin Royal Commission Report \(environment.sa.gov.au\)](https://environment.sa.gov.au) Pg 298

Reconciliation in 2024

The Basin Plan offers the MDBA an opportunity to revisit the SDL adjustment by 2024, by way of a so-called ‘reconciliation’ under sec 7.11. This section invests the MDBA with a discretion, in the sense that it must make a new determination only ‘if it appears’ that a new determination would produce a different result from that already achieved. Nonetheless, a modestly purposive reading of this section would require the MDBA actually to consider the exercise of that discretion. No guidance is given in the Basin Plan regarding the basis upon which the MDBA should exercise that discretion. If

the discretion is exercised, and an amendment is proposed as a result, as discussed above, it would of course need to be on the basis of the best available scientific information in accordance with subsec 21(4).

If it does appear to the MDBA that a new determination is required, sec 7.21(3)(a) requires the MDBA to determine the adjustments that would be appropriate to 'reflect the notified measures'. No more precise guidance is given as to what is meant by 'reflect' in this section.

The 2022 SDLAM Assurance Report also talks about the MDBA's discretion:

[Sustainable Diversion Limit Adjustment Mechanism: 2022 Assurance Report \(mdba.gov.au\)](#)

capable of operating by 30 June 2024 and the expected environment outcomes the measure is capable of supporting at this time. The Authority intends to be practical in its assessment, if required and as part of preparing to conduct a reconciliation will publish any principles it will apply in exercising any discretion it has under the Basin Plan.

Recommendation That the MDBA exercise discretion in relation Basin Plan Projects and make assessments on whether reasonable progress has been made if some projects are not complete.

Damaging Project Ideas Not Supported by the VFF

Water Buybacks

The VFF is very disappointed the Commonwealth is intending to pursue water purchases before looking for other alternatives.

The Commonwealth has announced a tender for water buybacks totaling 49GL in Queensland and NSW. While no water is to be purchased in Victoria, given that Victoria operates in a Southern Connected water market, it risks those selling to the Commonwealth just re-entering the market and purchasing Victorian water.

Victoria was unfairly targeted in the 2008 water buybacks. Victoria has a much more secure and reliable water product. Over 600GL of high reliability was purchased as part of the 2008 buyback program and over 500GL came from Victoria. Over 1200GL was recovered through direct water purchases that negatively impacted communities due to stranded irrigation infrastructure.

ABARES concluded that

"buybacks reduce the supply of water available for irrigation so therefore increase allocation prices"

A 2022 Independent report found that if the 450GL and a 300GL are purchased it would result in a \$900 million reduction in agricultural output in the Southern Basin.

On-Farm Modernisation

The VFF nor the Victorian Government support on-farm projects as while they may benefit the individual farmer, the negative flow on impacts to rural communities have been shown to be even greater than water buybacks.

ABARES concluded that: “water use was estimated to increase by 23% as a result of the program” and increased water prices by \$72 per ML.”