Submission No 60

IMPACTS OF THE WATER AMENDMENT (RESTORING OUR RIVERS) ACT 2023 ON NSW REGIONAL COMMUNITIES

Organisation: Murrumbidgee Irrigation

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Submission

INQUIRY INTO THE IMPACTS OF THE WATER AMENDMENT (RESTORING OUR RIVERS) ACT 2023 (CTH) ON NSW REGIONAL COMMUNITIES

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NSW Legislative Assembly
Committee on Investment, Industry and Regional Development

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Introduction

Murrumbidgee Irrigation (**MI**) welcomes the opportunity to provide this submission to this '*Inquiry into the impacts of the Water Amendment (Restoring Our Rivers) Act 2023 (Cth) on NSW regional communities'.*

About MI

MI is one of the largest private irrigation companies in Australia serving over 3,093 landholdings that are owned by over 2,300 shareholder customers. Our core business is water distribution. We provide irrigation water and drainage services to the Murrumbidgee Irrigation Area (378,911 Ha) via a network of over 1,740 kilometres of supply channels and 1,547 kilometres of drainage channels. The MIA is one of the most diverse and productive regions in Australia. MI recognises the importance of a healthy river system and aquatic environments and works with irrigators and customers to promote enhanced environmental outcomes.

About the Inquiry

MI notes the Terms of Reference for this Inquiry, relating to *the Water Amendment (Restoring Our Rivers) Act 2023* (Cth) (herein, the **RoR Act**), and broader water reform impacts, is as follows:

a) the social, economic and environmental impact of repealing limits to the cap on Commonwealth water purchases

b) the risks to the effective implementation of the Federal Water Amendment (Restoring Our Rivers) Act 2023 including unlicensed take of water and options to address these risks such as rules for floodplain harvesting

c) the impact of Planned Environmental Water rules on the reliability of water allocations in NSW and the Commonwealth's environmental water holdings

d) the impact of rules-based changes on the reliability of water allocations in NSW, including their impact on different water license categories

e) the effectiveness and impacts of past water reforms, including community-based water reduction adjustment programs such as the Strengthening Basin Communities program and Murray-Darling Basin Economic Development Program

f) options to improve future community-based reduction adjustment programs including next rounds of the Sustainable Communities Program

g) any other related matter.

Contents

Executive Summary

Preliminary remarks

i. The *Water Amendment (Restoring Our Rivers) Act 2023* (Cth) (**RoR Act**), and preceding events in its development, showed a departure from what has been a bipartisan and multijurisdictional supported approach to Basin water management. It will be critical to not continue down such a divisive path.

ii. Stakeholders were left deeply disappointed by many elements of the RoR Act, particularly that expectations had been shaped in its development that 'alternative options' such as complementary measures would finally be brought into the Basin Plan, to target key ecological challenges (invasive species, barriers to fish passageways, riparian vegetation, etc), and move away from buybacks / water recovery as a single lever. This did not occur and remains one of the greatest gaps in the Basin Plan.

The reform journey so far

iii. **The Basin Plan has achieved its primary objective**, to reduce water use in the Basin, to the Sustainable Diversion Limits (**SDL**), which are now in-force and being fully complied with. This involved over 2,100 GL of water recovery from users to the environment.

iv. The RoR Act has led to increased purchases of 'additional environmental water' from NSW, despite SDL compliance already being achieved. This additional recovery is unnecessary, with the intended outcomes highly questionable.

v. **Most water in the Basin is for the environment.** Total diversions have significantly declined and are now just 28% of inflows in the Basin, well within global standards.

Recommendations 1

a) The Inquiry notes the step-change which has occurred in the Basin, regarding the significant decline in diversions, and the achievement of SDLs.

b) The NSW Government takes an active role in communicating the outcomes from the Basin Plan, to overcome the entrenched (and now outdated) public perception that drives low confidence in water management.

Remaining components of the Basin Plan

vi. **The largest remaining components of the Basin Plan relate to projects** (i.e. SDL Adjustment Mechanism (**SDLAM**) projects), designed to achieve enhanced environmental outcomes with less water. These projects (supply and constraints) underpin the environmental outcomes of the Plan (and cannot be achieved by 'just adding water') but also offset the need for further water recovery. These projects are a state government responsibility, and have a history of poor design and delivery, which meant many were not on track to meet original timeframes.

vii. **Positively, the RoR Act did enable a necessary change to extend timeframes and allow for new/amended SDLAM projects.** It will be critical for NSW communities that the NSW Government acts with haste to design and deliver new and existing projects – alongside communities – to deliver the full value of the SDLAM offset.

viii. **NSW communities are very vulnerable to the likely 'SDLAM reconciliation' in 2026**. If this occurs, it will likely lead to a reduction in SDLs in the Southern Basin. A SDLAM reconciliation in 2026 is premature (as important projects will not be delivered by this timeframe), not beneficial to any party (as an SDL reduction does not achieve the equivalent outcomes, such as enabling environmental water delivery), and not proper process (as the constraints project timeframes have been extended, and so too should be the equivalent

offset they support). NSW must seek for the SDLAM reconciliation not to occur until project delivery.

Recommendations 2

a) The NSW Government must urgently prepare for a SDLAM Reconciliation – by acting with haste to design and deliver new and existing projects – alongside communities – to achieve the full value of the SDLAM offset.

b) The NSW Government must not support a SDLAM reconciliation in 2026 and instead engage with the MDBA and Federal Government to align any SDLAM reconciliation with appropriate timeframes for project delivery. The SDLAM Reconciliation proceeding in 2026 is in no one's interest, given reduced SDLs do not achieve the outcomes required by the projects (i.e. enabling environmental water delivery).

c) The NSW Government must engage with the MDBA and Federal Government to reach agreement to secure SDLs in Southern NSW to avoid them being altered as part of a premature SDLAM Reconciliation.

ix. The RoR Act required the development of a 'Constraints Roadmap', which has now been prepared, finding (amongst other items) that successfully relaxing constraints across the Basin requires a 10-year program. Initial timeframes were unrealistic, and more time and funding is inevitably required, to progress community-supported projects that can enhance environmental water outcomes. MI recognises the concerns from landholders in our region and urges that impacted landholders and communities must have access to sufficient, timely information about increased flow events, to make informed decisions and mitigate impacts. **MI is concerned that despite constraints projects being a core part of SDLAM, the extension in time planned under the roadmap has not (to date) been matched with an extension of its offset component too.**

Recommendations 3

a) MI recommends the NSW Government request maintaining the Southern Basin SDLs (i.e. the SDLAM offset) for the life of the constraint's relaxation roadmap, as a condition to the state supporting the roadmap.

b) MI recommends an equivalent roadmap be developed for all SDLAM supply projects – i.e. a Supply Implementation Roadmap.

c) MI recommends that further work is undertaken to re-calculate the environmental outcomes from constraints management, which are understood to be much greater than initially calculated.

x. A key change from the RoR Act was enabling 'additional environmental water' to be purchased towards the 450 GL target (previously for efficiency measures), which has enabled more buybacks in NSW, than initially determined would occur under the Basin Plan.

Recommendations 4

a) MI recommends other essential components of the Basin Plan (i.e. SDLAM) are prioritised well before any additional environmental water is acquired, particularly noting funding limitations, current priorities, and impacts.

b) The NSW Government must hold the Federal Government to account on commitments in the 2023 Ministerial Agreement that sought to protect NSW communities from socio-economic impacts of water recovery. This must seek to ensure alternative options (such as complementary measures) are pursued to achieve environmental outcomes, beyond 'just adding water'.

c) Post the RoR Act, clarification is required on how the 450 GL now interacts with the SDLAM mechanism, noting it extends beyond the Southern Basin, and the timeframe for water purchases towards this target (until 31 December 2027) extends beyond the planned SDLAM reconciliation for 2026.

Socio-Economic Impacts

xi. Socio-economic impact assessments are poorly conducted, resulting in the impacts being understated, or overlooked.

xii. **Community support programs are inadequate** (compared to the size of the impact) and have been slow (compared to the pace of water recovery) and are not expected to be sufficient to mitigate impacts.

Recommendations 5

a) Establish a 'Regional Australia Productivity and Welfare Benchmarking Program' to undertake community benchmarking to understand regional policy impacts and strategically invest in at risk communities. This will require an investment in data.

b) Inquiry to note that community transition programs are inadequate to fully 'fix' the impacts of water reform.

Declining reliability of water on entitlements

xiii. **There is a declining reliability of water available to water access entitlement holders**, with a lack of established process and transparency to monitor and account for these changes. **Water users expect full and just compensation for any impact to reliability as a result of government policy change**, as per legislation and the National Water Initiative (**NWI**), and are concerned this is not occurring.

Other related matters: water pricing

xiv. MI also raise significant concerns regarding water pricing, as currently being reviewed by IPART. **The extent of proposed increases is significant and exorbitant**, with water users in the Murrumbidgee facing an increase of more than double over the next four-year determination period. Growing community expectations are driving water management costs higher and higher, beyond the capacity for cost recovery from direct water users (as per the current funding model in NSW).

Background

The RoR Act commenced on the 7 December 2023. The Act made changes to the *Water Act 2007* and *Basin Plan 2012*.

The RoR Act followed a Ministerial Agreement earlier that year (agreed by all Basin states, except Victoria, and with conditions by NSW), as well as public consultation (by both the Federal and NSW Governments) on options to deliver the Basin Plan, and calls to stakeholders to put forward new and innovative ideas.

The RoR Act made a number of changes, including (but not limited to):

- Expand the type of measures (e.g. water recovery) that can deliver 'the 450 GL' of additional environmental water;
- Remove the application of the socio-economic neutrality test in section 7.17 of the Basin Plan to water purchases towards the 450 GL (the test remains for efficiency measures projects) – instead, the "'Minister must consider the social and economic impact" (a lower requirement);
- Extend the timeline to deliver the Basin Plan 450 GL target (last date contracts can be entered into to achieve additional water for the environment towards the 450 GL target is 31 December 2027);
- Repeal the statutory 1,500 GL cap on Commonwealth water purchases (noting that 1,228 GL had been purchased by the Commonwealth at the time);
- Extend the deadline for completion of SDLAM supply projects by two and half years (to 31 December 2026), as well as more time for new SDLAM projects to be proposed (to June 2025);
- Provide new powers to the Inspector-General of Water Compliance (**IGWC**);
- Legislate water market reforms.

1. Setting the scene: the story so far

The Basin Plan has achieved its primary objective to establish SDLs

The Basin Plan was designed to reduce and limit the volume of water diverted from the Basin to a Sustainable Diversion Limit (**SDL**). To reduce water use from pre-Plan levels (called the Baseline Diversion Limit (**BDL**)) to the SDL, required a process of water recovery to 'bridge the gap'. The overall target to 'bridge the gap' was estimated at 2,075 GL/y of water recovery.

To date:

- **SDLs are now in force** (as of 2019), and being **fully complied with**[1];
- **The total amount of water recovered across the Basin is now higher than the overall target**, at 2,132.7 GL/y (as of 30 September 2024).[2]

In the latest report, the Inspector-General of Water Compliance (IGWC) said:

*"**All NSW surface water SDL resource units are within SDL compliance limits** for 2022-23. MDBA has published the 2022-23 interim Registers of Take for all NSW SDL resource units, and this shows compliance. There is further information at Sustainable diversion limit outcomes."*[3]

MI is therefore of the position that the Basin Plan has achieved its primary objective – to reduce water use to comply with the SDL.

As above, this outcome of SDL compliance was enabled via water recovery, where water previously used for irrigation has been 'bought back' for the environment. The below diagram from DCCEEW (Cth) shows accumulated total water recovery by financial year with key targets.[4]

[1] Sustainable Diversion Limit Compliance Statement for 2022-2023 Note: NSW is not covered in this IGWC report as Water Resource Plans had not been accredited at the time of publication, however, NSW compliance assessments are required under bilateral agreement between the Murray-Darling Basin Authority and the NSW Government which have indicated compliance (see Page iv).
[2] Note: there remain some SDL resource units with local water recovery targets that have not yet been achieved.
[3] Tracking surface water extractions against extraction limits | NSW Government Water
[4] Implementing the Murray–Darling Basin Plan dashboard - DCCEEW

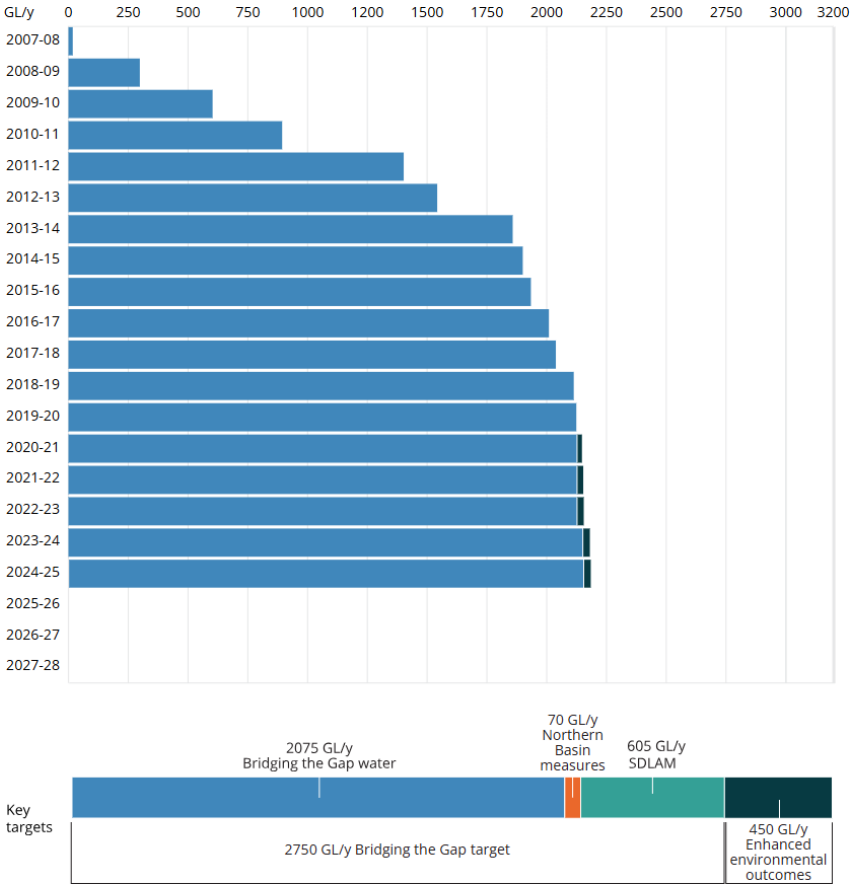


Figure: Accumulated total water recovery by financial year with key targets (source DCCEEW)

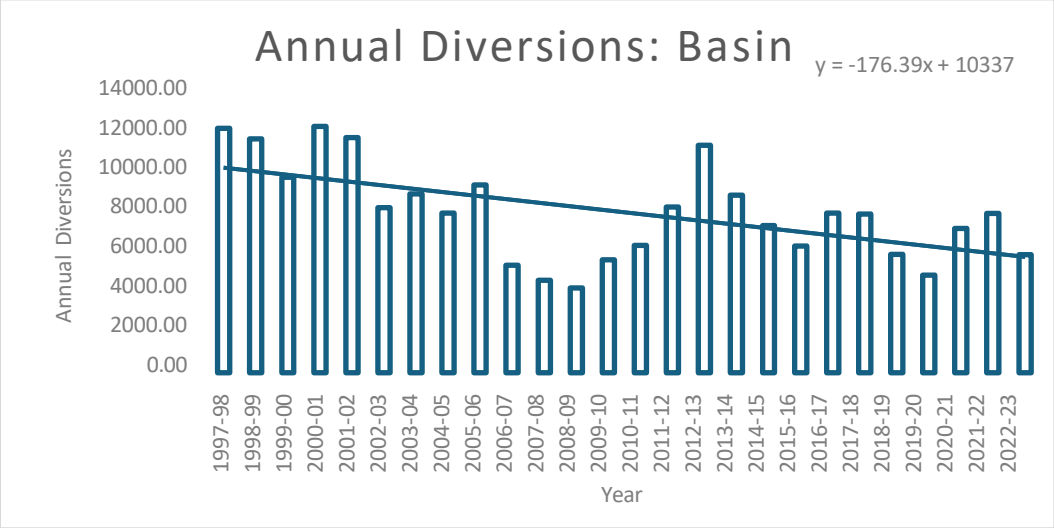
The above shows that:

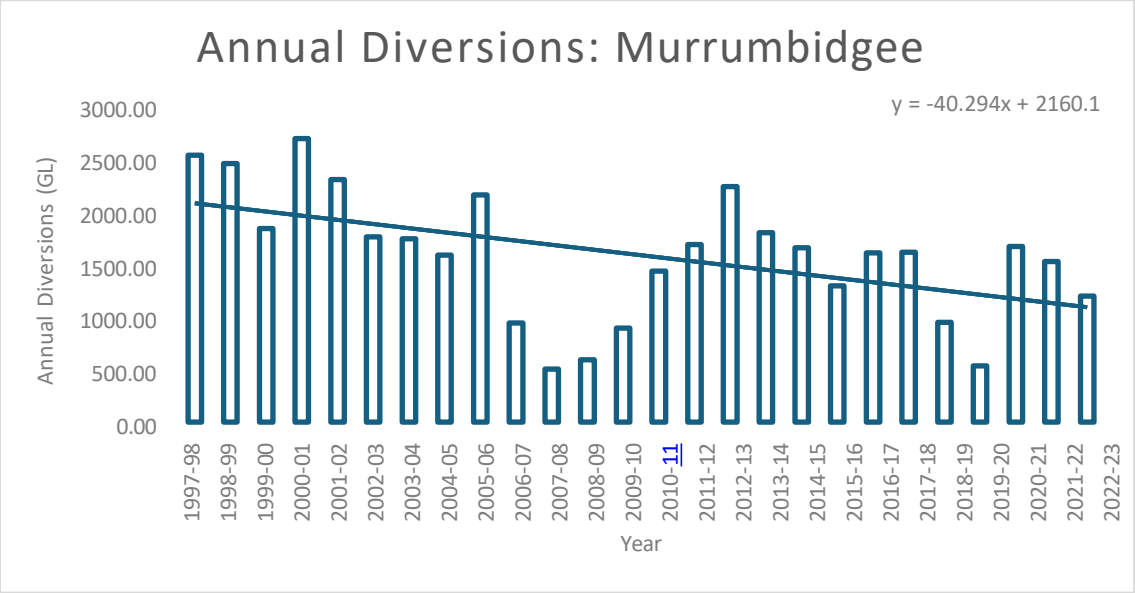
- Water recovery for 'Bridging-the-Gap' – the portion required to move from the BDL to the SDL - is largely complete (shared water recovery complete, local water recovery nearly complete).
- However, projects including SDLAM and the Northern Basin Toolkit are not yet fully implemented.
- Some purchases have occurred under the additional 450 GL/y, noting this is separate to bridging the gap from the BDL to SDL.

Water use is declining

The amount of water used in the Basin overall, and in the Murrumbidgee, has drastically reduced. The below diagrams shows annual diversions in the Basin, and in the Murrumbidgee, from 1997-98 to 2022-23, based on the latest Cap Register from the MDBA.[5]

[5] Murray–Darling Basin Cap register to 2022-2023





This reduction is due to a range of factors. A key factor has been the buyback of water from farmers by the Federal Government from reforms like the Basin Plan (and pre-Plan reforms). As above, across the Basin, the 2,075 GL/y target for water recovery has been exceeded, with over 2,132.7 GL/y recovered to date. For the Murrumbidgee, 442.4 GL/y has been recovered to date under this program, also exceeding the initial target.[6]

Water for the environment is increasing

Most water in the Basin is for the environment. There are two ways the environment gets water:

- Water that is the subject of a water licence but is used for environmental purposes - this is called '**Held Environmental Water'** or HEW.
- Water that is not the subject of a water licence, so remains in rivers - this is called '**Planned Environmental Water'** or PEW in NSW and is protected under Water Sharing Plans (**WSPs**).

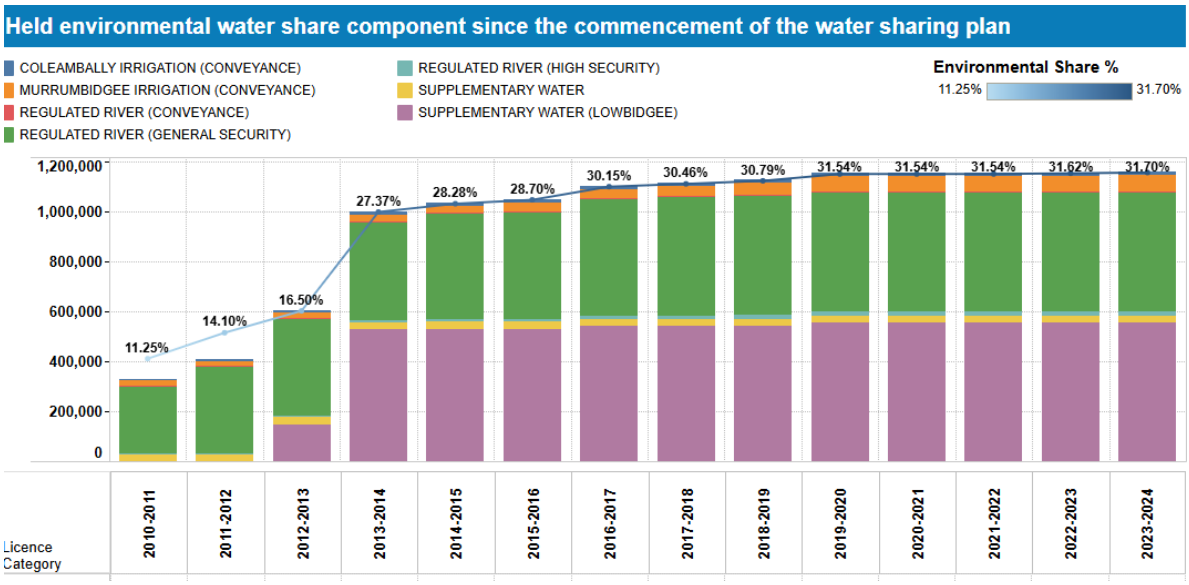
[6] Environmental water recovery estimates as at 30 September 2024

Held Environmental Water

Water recovery programs mean that the proportion of water access entitlements owned by the environment, rather than irrigators, has significantly increased over time. This is in addition to all the water not the subject of a water access entitlement, that flows in rivers and contributes to ecosystem health (PEW).

The Commonwealth Environmental Water Holder (CEWH) is now the largest water holder in Australia, by far. As of 31 December 2024, the CEWH held 2,041,989 ML (Long Term Diversion Limit Equivalent) across the Basin. This is in addition to state environmental water holders (and PEW).

To put this into perspective, 31.7% of water entitlements in the Murrumbidgee are now for the environment (in addition to water not on a water access entitlement - PEW). In 2010-11, this was 11.25% of entitlements for the environment. This growth over time can be seen in the below diagram sourced from the NSW Government.[7]



Planned Environmental Water

The WSP for the Murrumbidgee Regulated River Water Source states that:

"By limiting long-term average annual extractions to an estimated 1,925,000 megalitres per year, this Plan ensures that approximately 50% of the long term average annual flow in this water source (estimated to be 4,360,000 megalitres per year) will be preserved and will contribute to the maintenance of basic ecosystem health."

The WSP manages and protects this water in a number of ways, such as minimum daily flow rules, environmental flow rules, and environmental water allowances and release rules. This is available on the NSW Planned Environmental Water Dashboard.

[7] Held environmental water dashboard | NSW Government Water

NSW Planned Environmental Water

Darling nmental gency nce (ECA) | Macquarie environmental water allowance balance | Murrumbudgee Environmental Water Accounts (EWA) | Murrumbidgee Burrinjuck Dam Releases | Murrumbidgee Provisional Storage Volume (PSV) | **Murrumbidgee Water Delivered and End of Year balances** | NSW Murray Barmah-Millewa environmental allowance | NSW Murray Additional Environmental Allowance (AEA) | Peel Environmental Contingency Allowance

Water delivered - planned environmental water held in Burrinjuck Dam

Water Year	EWA1 delivered	Ewa2	Under release delivered	Planned Environmental Water De..
2004-05	0	0	0	0
2005-06	0	19,050	0	19,050
2006-07	0	0	0	0
2007-08	0	8,822	0	8,822
2008-09	0	22,714	0	22,714
2009-10	0	35,008	0	35,008
2010-11	38,319	65,901	89,798	194,018
2011-12	67,683	24,255	5,895	97,833
2012-13	0	26,511	2,843	29,354
2013-14	14,868	91,834	25,513	132,215
2014-15	33,499	39,569	6,130	79,198
2015-16	48,860	54,753	105,832	209,445
2016-17	5,667	61,980	44,594	112,241
2017-18	50,000	24,602	2,391	76,993
2018-19	49,518	68,006	7,158	124,682
2019-20	0	28,640	4,049	32,689
2020-21	44,235	68,160	40,043	154,065
2021-22	0	19,860	82,656	102,516

End of year balances for total EWA, DRB and translucency/transparency under release

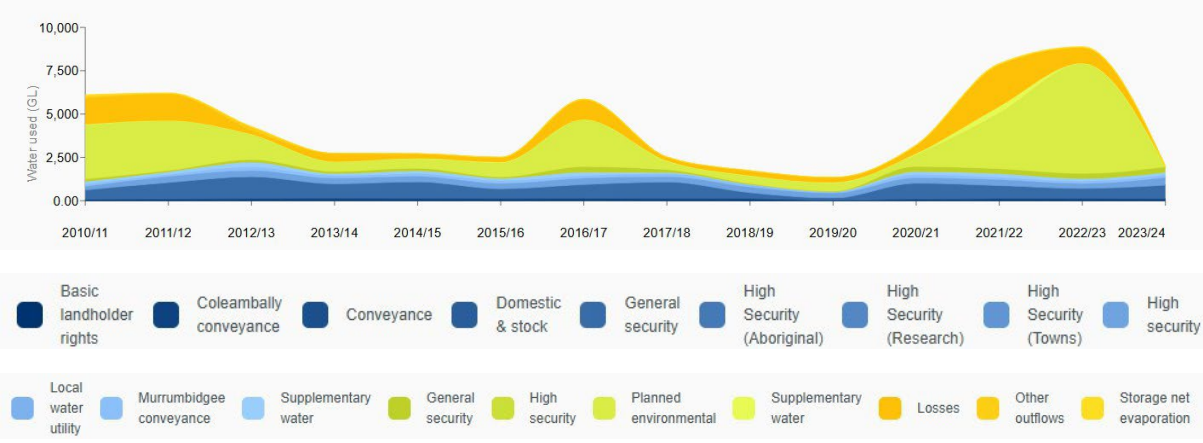
Water Year	Total EWA carry forward balance	DRB - Increase	DRB - Decrease	DRB - End of year balance	Credit	Usage	Payed Back from DRB	Net under releases end of year balance
2004-05	42,497	22,232	238	21,994	0	0	0	0
2005-06	96,607	15,091	8,879	28,206	26,328	0	0	26,328
2006-07	113,910	12,654	1,271	39,589	-26,328	0	0	0
2007-08	105,088	10,163	2,853	46,899	0	0	0	0
2008-09	82,374	25,479	911	71,466	0	0	0	0
2009-10	63,926	8,688	3,208	76,946	17,108	0	0	17,108
2010-11	50,000	33,000	11,097	98,849	72,690	89,798	0	0
2011-12	15,822	15,900	20,488	94,260	75,220	5,895	0	69,325
2012-13	72,295	9,956	96,193	7,875	25,059	2,843	87,886	3,655
2013-14	56,741	4,317	8,414	3,778	17,265	25,513	0	-4,593
2014-15	69,514	2,875	8,446	0	8,913	6,130	0	-1,810
2015-16	64,514	3,152	3,152	0	117,981	105,832	0	10,339
2016-17	56,720	1,595	634	961	27,852	44,594	0	6,387
2017-18	80,431	6,342	2,180	5,123	3,038	2,391	0	-1,002
2018-19	Null	20,127	0	25,250	1,285	7,158	0	-6,875
2019-20	49,243	15,073	1,116	39,207	2,092	4,049	0	-8,832
2020-21	20,553	28	13,015	26,220	46,604	40,043	0	-2,271
2021-22	68,701	0	23,900	2,320	67,107	82,656	0	-17,790

2006-07: The water sharing plan was suspended on 9 November 2006 and was not reinstated until 16 September 2011.
Usage: Under release water delivered to meet environmental requirements
Under Release: Under release is that water that was not delivered under the translucent/transparent release rules in the plan that will be paid back at a later date. The under release balance was zeroed once water sharing plan suspended.
Paid back from DRB: DRB balance was zeroed on 4 August 2012 to balance the borrowed volume accumulated since 1 July 2004. The figure used to zero accounts was 87,886 and was calculated based on corrected historical calculations of under release. These historical corrections have been retrospectively applied in the table.

The total water balance

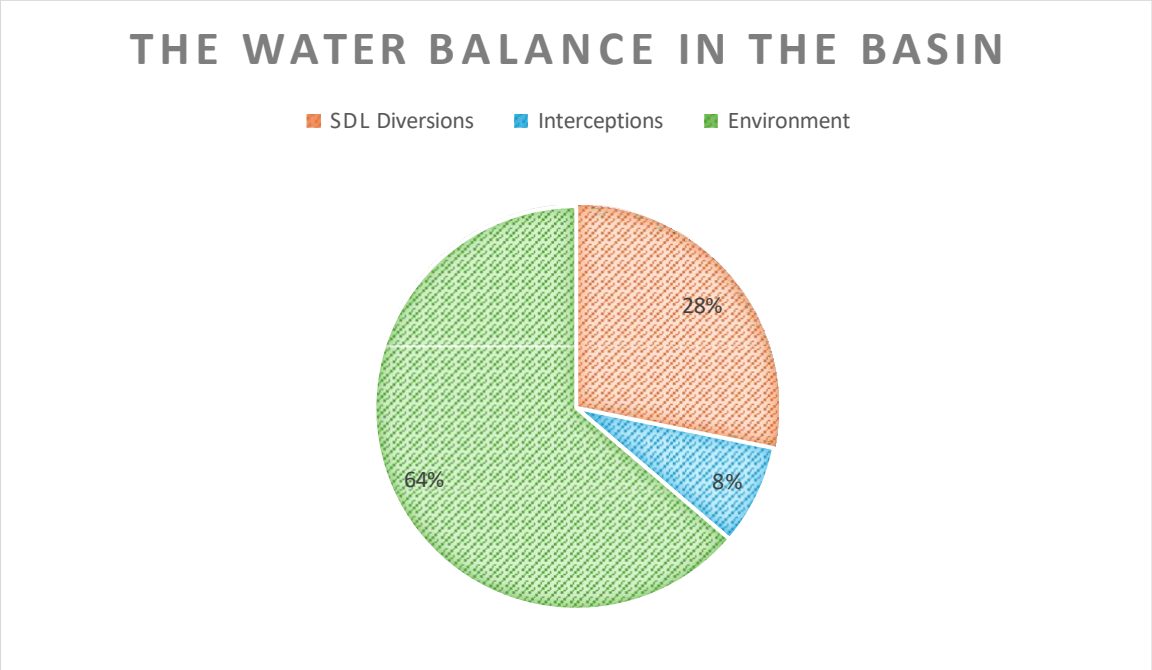
The total water balance in the Basin, and the Murrumbidgee, means irrigated agriculture only uses a relatively small portion of inflows.

This data is publicly available, from WaterNSW on the WaterInsights portal. For the Murrumbidgee (regulated water source), this is shown below.



As above, most water goes to the environment (green) and other river processes such outflows, evaporation or ‘losses’ (orange). The blue portion shows diversions, including irrigated agriculture, but also town water supplies and other industries.

Based on information from the National Irrigators' Council (NIC), across the Basin, **total diversions by all users (not just farmers) are now just 28% of inflows** – well within global standards.



Source: National Irrigators Council (NIC)

Considering this covers Australia's food bowl, vital for Australia's domestic food and fiber supply, as well as export markets, this is exceptionally low. This figure also includes other users, such as town water supplies (including major cities), and other industries (such as mining).

Recommendations 1

a) The Inquiry recognises the step-change which has occurred in the Basin, including the significant decline in diversions, and the achievement of SDLs.

b) The NSW Government takes an active role in communicating the outcomes from the Basin Plan, to overcome the entrenched (and now outdated) public perception that fuels low confidence in water management.

Achieving environmental outcomes requires more than 'just add water'

There is increasing recognition that achieving the environmental outcomes desired in the Basin requires more than 'just add water', which, to date, remains the primary mechanism of the Basin Plan.

The MDBA Early Insights Paper for the Basin Plan Review has said that:

"Providing water for the environment has been essential to achieving Basin management outcomes, but 'just adding water' is not sufficient."[8]

This is consistent with scientists who:

"argue that while recovering water will provide good outcomes, as a sole intervention, it is not enough to deliver the desired environmental benefits of the reform".[9]

[8] Basin Plan Review - Early Insights Paper
[9] Ten complementary measures to assist with environmental watering programs in the Murray–Darling river system, Australia - Charles Sturt University Research Output

Examples of these ‘complementary measures’ include: invasive species management (such as carp), fish passageways (for fish migration over weirs or other barriers), addressing cold water pollution, riparian land management, fish screens on diversion infrastructure, and more.

The data from the NSW Government River Condition Index (RCI)[10] supports this. The RCI is a long-term reporting tool for assessing river condition. The RCI includes riparian vegetation condition, geomorphic condition, hydrologic stress, biodiversity condition, catchment disturbance and water quality.

Of importance, for most of NSW, ‘hydrologic stress’ is not the lowest scoring indicator, in fact, it is often the highest scoring. In the Murrumbidgee, most sub-catchments show positive scores for hydrologic stress condition, but the overall score is reduced due to other indicators like river biodiversity or vegetation.

Murrumbidgee - Very Poor	
River Condition Index Catchment	Murrumbidgee
Subcatchment ID State	1960
Subcatchment ID Catchment	198
River Condition Index	Very Poor
Water Quality Index	Good
Catchment Disturbance Index	Poor
Riparian Vegetation Condition Index	Very Poor
River Biodiversity Condition Index	Poor
River Styles Geomorphic Condition Index	Poor
Hydrologic Stress Condition Index	Very Good

Murrumbidgee - Very Poor	
River Condition Index Catchment	Murrumbidgee
Subcatchment ID State	2064
Subcatchment ID Catchment	302
River Condition Index	Very Poor
Water Quality Index	Good
Catchment Disturbance Index	Moderate
Riparian Vegetation Condition Index	Very Poor
River Biodiversity Condition Index	
River Styles Geomorphic Condition Index	Very Poor
Hydrologic Stress Condition Index	Very Good

Murrumbidgee - Very Poor	
River Condition Index Catchment	Murrumbidgee
Subcatchment ID State	1961
Subcatchment ID Catchment	199
River Condition Index	Very Poor
Water Quality Index	Good
Catchment Disturbance Index	Moderate
Riparian Vegetation Condition Index	Very Poor
River Biodiversity Condition Index	Poor
River Styles Geomorphic Condition Index	Poor
Hydrologic Stress Condition Index	Good

Those poor scoring indicators are ones outside the scope of the current Bain Plan and will require government investment in complementary measures to address. It will be critical that the NSW Government emphasizes this as part of the Basin Plan Review process and seeks for any further investment in environmental outcomes in the Basin to be targeted to these indicators (and not just buying more water from farmers).

[10] NSW River Condition Index | NSW Government Water

2. Remaining components of the Basin Plan

Given the 'bridging the gap' targets to reduce water usage from prior levels (BDL) to the new SDL, have been achieved – the remaining *essential* components of the Plan are project-based.

SDL Adjustment Mechanism (SDLAM)

Explanatory note

In 2017, surface water SDLs in the Southern Basin were adjusted on the basis that 'SDLAM projects' would come into operation, improving environmental outcomes, thus offsetting the need for greater reductions in diversions.

The package of 36 supply and constraints measures increased the SDLs by 605 GL.

On the flip side, up to 450 GL of 'efficiency measure' projects (now expanded following the RoR Act) could also occur, decreasing the SDL.

The Basin Plan limits the amount that SDLs can be adjusted, to up or down by 5%. At the time of the original determination, the Basin-wide SDL was 10,873 GL, so 5% of this is approximately 543 GL.

Therefore, a minimum of 62 GL of additional water savings through efficiency measures (or now additional held environmental water) is required to pass the 5% rule (i.e. from "the 450 GL") and achieve the full effect of the 605 GL under SDLAM.

It is important to note that SDLAM supply (including constraints) projects are not just an offset but provide important environmental outcomes (such as delivering water to sites) that cannot be achieved by 'just adding water'.

Timeframes

The original timeframe for state governments to deliver and operationalise SDLAM projects was 30 June 2024.

However, state government delivery of SDLAM projects has been poor and significantly slow, with considerable problems: lack of community support for some projects which were poorly designed, unrealistic timeframes, insufficient or uncertain funding, and poor community consultation.

Under the RoR Act, the timeframe for SDLAM project delivery was extended to 31 December 2026, and new projects can be included (until 30 June 2025), or existing projects amended or withdrawn (until 30 June 2026).

While MI has significant concerns about the RoR Act overall, this component (timeframe extension for SDLAM, and opportunity for new projects) was fundamentally necessary. However, there remains concerns that projects will not be operational by the new timeframes – exposing NSW communities to further risk.

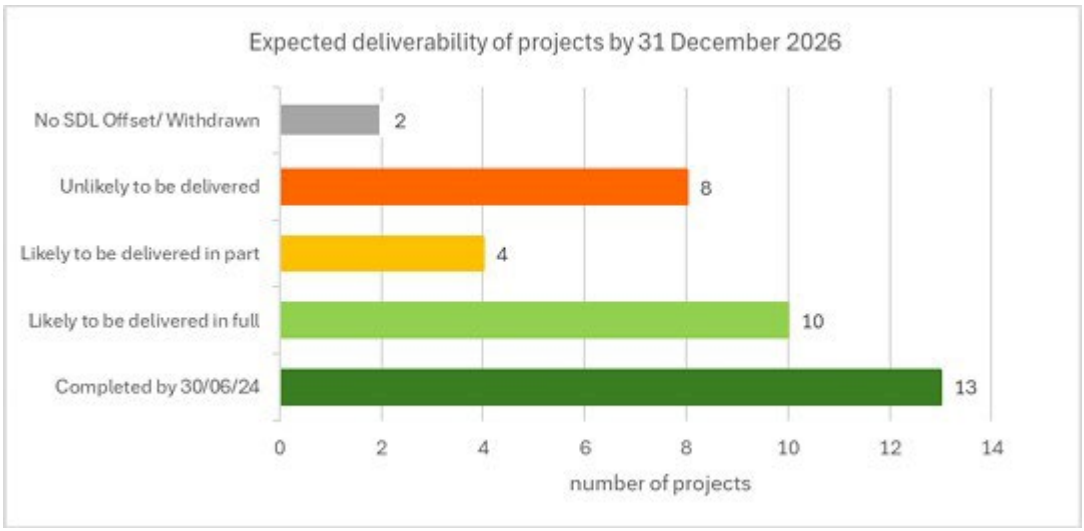
SDLAM Reconciliation

The 'SDLAM reconciliation' refers to the process by which an assessment is done to determine if the SDLAM projects have achieved the extent of environmental outcomes, as initially determined in 2017. The importance of this process is that it determines the extent of the SDL adjustment in the impacted valleys (Southern Basin). The MDBA has determined that a SDLAM reconciliation will occur (31 December 2026), and have published a SDLAM Reconciliation Framework, outlining how this will occur.

The MDBA anticipate the SDLAM reconciliation will result in a reduction to SDLs in the impacted water sources (Southern Basin), as a result of a shortfall (i.e. state governments not having implemented projects on time). If this occurs, and if legislative amendments are in effect by 30 June 2027, new SDLs will apply for the 2027 – 2028 water year. **This is a major concern for Southern NSW.** This will present a significant further impact to Basin communities, and the irrigated agriculture sector, in Southern NSW – in addition to the impacts of the Plan (and other reforms) to date.

MI is strongly opposed to any further reduction in the SDL, and any further water recovery (of any means) from our communities and industries. MI emphasises that communities and our industry should not have to bear the impacts from a failure of state governments to deliver on their SDLAM project commitments. MI calls on the NSW Government to do all within their means to secure the current SDLs – making good of commitments under the Plan to deliver SDLAM projects (securing the offset) – alongside communities.

If SDLAM Reconciliation proceeds as planned - the extent of this reduction – and the method to which it will occur – is unknown. Recent estimates (MDBA SDLAM 2023 Assurance Report) showed an estimated supply contribution of between 209 to 415 GL/y (assessed for delivery by 30 June 2024) – therefore a **shortfall of 190-315GL/y** (likely to be at the higher end of the range) from the 605GL/y contribution. However, with the RoR Act (more time and new projects) this may change to a degree – provided state governments act in good-faith to make good on these commitments (i.e. new projects).



[11]

This shortfall volume is apportioned between states (as agreed in 2017): South Australia 8.6%, Victoria 44%, New South Wales 47.4%. The apportionment is not related to a Basin State's success in SDLAM delivery. For example, if the total shortfall volume is 315 GL, NSW will face 47.4% of this, so 149.3 GL.

It is not known how this reduction will occur. It will ultimately be up to the Federal Government (at the time) to determine how to bridge the gap to the new SDL. It is commonly assumed that this will occur via further buybacks (which is one option) but again is subject to the decision of the Federal Government.

What it would almost certainly mean, however, would be a situation of SDL non-compliance (against the new, lower SDL). While the MDBA suggested that states are likely to be able to claim 'incomplete

[11] independent-assessment-murray-darling-basins-supply-constraints-measures.pdf

water recovery' as a 'reasonable excuse' for non-compliance, this (i) will ultimately be up to the Inspector-General of Water Compliance (IGWC) to adjudicate, (ii) risks states being required to reduce usage via other means (i.e. via the allocation process and reliability reductions) instead, and (iii) is an intolerable (and avoidable) scenario for both the State Government and water users.

For this reason, MI urges the importance of NSW making the most of the opportunity under the RoR Act to make good of SDLAM commitments, to avoid this situation from occurring, and secure SDLs in Southern NSW from further reductions by the Commonwealth.

Recommendations 2

a) The NSW Government must urgently prepare for a SDLAM Reconciliation – by acting with haste to design and deliver new and existing projects – alongside communities – to achieve the full value of the SDLAM offset.

b) The NSW Government must not support a SDLAM reconciliation in 2026 and instead engage with the MDBA and Federal Government to align any SDLAM reconciliation with appropriate timeframes for project delivery. The SDLAM Reconciliation proceeding in 2026 is in no one's interest, given reduced SDLs do not achieve the outcomes required by the projects (i.e. enabling environmental water delivery).

c) The NSW Government must engage with the MDBA and Federal Government to reach agreement to secure SDLs in Southern NSW to avoid them being altered as part of a premature SDLAM Reconciliation.

Constraints Roadmap

Part of the RoR Act was for the MDBA to develop a Constraints Relaxation Implementation Roadmap by 31 December 2024. This has now been published by the MDBA.

The Roadmap makes 12 findings, and recommended steps to move forward. The full Roadmap can be read here.[12] Key findings include:

- Successfully relaxing constraints across the Basin requires a 10-year program
- It is essential to continue to support the delivery of existing constraints projects where good progress is being made
- The contribution of constraints relaxation to Basin Plan outcomes should be, if possible, recognised through reduced water recovery.

MI recognises that constraints management underpins the environmental objectives of the Basin Plan, and is therefore, one of the most important outstanding components of the Basin Plan in terms of realising its environmental objectives.

However, MI also recognises the concerns from landholders in our region, and the frustrations about the process undertaken to date – including insufficient information, poor consultation, and concerns relating to compulsory acquisition which has broken down trust with those impacted.

MI therefore supports many principles of the Roadmap, noting the initial timeframes were unrealistic, and more time is needed to work with those landholders directly impacted, to understand concerns, build confidence and trust, provide appropriate information, and find mutually agreeable ways forward in-partnership.

[12] Constraints Relaxation Implementation Roadmap

MI is concerned that the Constraints Roadmap has not been aligned to the SDLAM Reconciliation Framework, despite being an important component of SDLAM. Put simply, while timeframes for constraints management will be extended, there is currently no further plan to extend the SDLAM offset from these projects too. This offset must be maintained as a core part of SDLAM – an extension of time for SDLAM projects (i.e. constraints) must be met with an extension of time for the offset to which it is associated.

MI is also of the view that since the initial determination, the value of constraints management has increased, in terms of the important environmental outcomes it can deliver. MI urges further work is done to understand these environmental outcomes, to inform the extent of the offset these projects can deliver.

Further, MI notes that there is no equivalent Roadmap for other SDLAM supply projects (beyond constraints) – despite these projects having encountered similar challenges and also requiring a roadmap forward.

Recommendations 3

a) MI recommends the NSW Government request maintaining the Southern Basin SDLs (i.e. with the SDLAM offset) for the life of the constraint's relaxation roadmap, as a condition to the state supporting the roadmap.

b) MI recommends an equivalent roadmap be developed for all SDLAM supply projects – i.e. a Supply Implementation Roadmap.

c) MI recommends that further work is undertaken to re-calculate the environmental outcomes from constraints management, which are understood to be greater than initially calculated.

The 450 GL

Background

As above, "the 450 GL" is the flip side of the SDLAM equation, in that additional water could be recovered up to 450 GL, initially via 'efficiency measures'. The effect of this is to further reduce the SDL (as opposed to the SDLAM supply/constraints projects which increase the SDL).

Prior to RoR Act

The 450 GL originally related to 'efficiency measure' projects. This involves the transfer of water entitlement to the Commonwealth (as per a buyback), in exchange for investment in water efficiency projects that generate water savings. These could be either on- or off- farm projects, including upgrading irrigation systems, lining water delivery channels, productivity gains leading to less water being used, and changes in water management practices.

Importantly, the 450 GL is not part of the 'bridging the gap' water recovery required to achieve the SDL. It has always been referred to as 'up to 450 GL', noting it's additional nature. This was also subject to a socio-economic neutrality criteria.

The objectives of the 450 GL were written into legislation – Part 2AA – Water for the Environmental Special Account. These objectives largely related to environmental outcomes in South Australia.

Challenges with the 450 GL

A number of challenges arose relating to the 450 GL, as highlighted in a range of inquiries and reports.

Financial: The second review of the Water for the Environment Special Account (WESA) found: "*Putting aside program and timing limitations, the estimated cost to recover the full 450 GL through efficiency measures is between $3.4 billion and $10.8 billion*"[13].

Environmental outcomes: The Productivity Commission's 2018 five-year assessment of the implementation of the Basin Plan found: "*Recovering water through efficiency measures has become increasingly divorced from the environmental outcomes it is meant to achieve. The current focus of the program is on meeting the legislated target of recovering an additional 450 GL by 2024. There is little evidence that it has been designed to recover water in the places needed to effectively achieve the enhanced environmental outcomes."*[14]

Deliverability: The First Review of the Water for the Environment Special Account (WESA) says: "*Constraints measures program will not be delivered by 30 June 2024*". The Productivity Commission's five-year assessment of the Murray-Darling Basin Plan advised that rushing to recover 450 GL without constraint relaxation projects in place would likely result in a large volume of water being 'recovered' but unable to be used.

Post RoR Act

The RoR Act involved a number of changes to the 450 GL, in particular. This included:

- Expanded the type of measures (e.g. water recovery) that can deliver 'the 450 GL' of additional environmental water;
- Removed the application of the socio-economic neutrality test in section 7.17 of the Basin Plan to water purchases towards the 450 GL (the test remains for efficiency measures projects) – instead, the "'Minister must consider the social and economic impact" (a lower requirement);
- Extended the timeline to deliver the Basin Plan 450 GL target (last date contracts can be entered into to achieve additional water for the environment towards the 450 GL target would be 31 December 2027);
- Repeal the statutory 1,500 GL cap on Commonwealth water purchases (noting that 1,228 GL had been purchased by the Commonwealth at the time);
- Expanding the scope to outside of the Southern Basin.

The outcome of this has been additional water purchases. Recent announcements have shown this to now include 'over-recovered' water, which is water that was purchased under the 'bridging the gap' program in excess of what was required (which had been recommend by reviews, such as the Productivity Commission, to be returned to the productive pool).

Alternatives to Buybacks

MI welcomes the NSW Government not supporting buybacks, stating NSW "'*does not support water purchases; however, it recognises that the obligation rests with the Commonwealth government to deliver the Basin Plan*"[15] and the publication of the 'Alternatives to Buybacks Plan'[16].

Disappointingly, despite the Federal Government committing to 'all options being on the table', very few non-purchase options have progressed in comparison to water purchases. These non-purchase options were a key mitigation strategy given the community impacts from water purchases and were a key part of gaining state support in the lead up to the RoR Act (particularly by NSW).

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[13] Second Review of the Water for the Environment Special Account

[14] https://www.pc.gov.au/inquiries/completed/basin-plan/report

[15] Paragraph 9, Agreement of Murray Darling Basin Ministers to Deliver the Basin Plan in Full 2023, DCCEEW, viewed 24 January 2024, https://www.dcceew.gov.au/sites/default/files/documents/agreement-mdbp-delivery-full.pdf

[16] NSW Alternatives to Buybacks Plan

Recommendations 4

a) MI recommends other essential components of the Basin Plan (i.e. SDLAM) are prioritised well before any additional environmental water is acquired, particularly noting funding limitations, current priorities, and impacts.

b) The NSW Government must hold the Federal Government to account on commitments in the 2023 Ministerial Agreement that sought to protect NSW communities from socio-economic impacts of water recovery. This must seek to ensure alternative options (such as complementary measures) are pursued to achieve environmental outcomes, beyond 'just adding water'.

c) Post the RoR Act, clarification is required on how the 450 GL now interacts with the SDLAM mechanism, noting it extends beyond the Southern Basin, and the timeframe for water purchases towards this target (until 31 December 2027) extends beyond the planned SDLAM reconciliation for 2026.

3. Socio-economic impacts

Outcomes

Recent work by ABARES (June 2024)[17] looks at the impacts of the 450 GL on water prices and water use (including at a regional and industry scale). This covers a few scenarios for how much of the 450 GL is recovered (125 GL, 225 GL, and 325 GL).

Note: some argue it is now mandatory to recover the full additional 450 GL, but it is important to note that the legislation requires the Minister to take all reasonable steps (noting there are significant barriers to recovering this full volume).

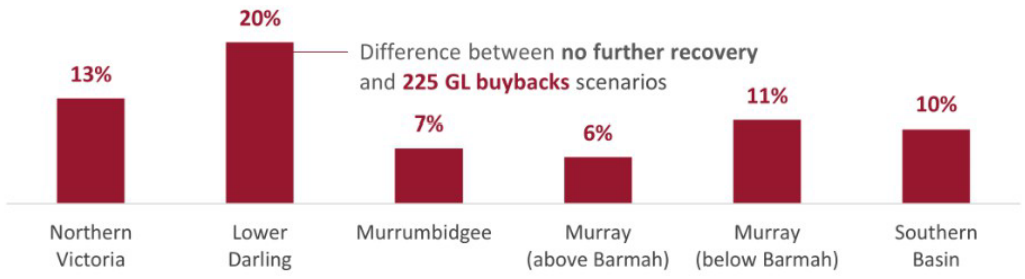
Key findings of the ABARES study are outlined below, based on the 225 GL recovery scenario. Under this scenario, average water allocation prices across the southern MDB are estimated to increase by $45/ML (10%).

Table 1 Summary results for the southern Murray–Darling Basin

Variable	Baseline scenario (No further recovery)	125 GL buybacks	225 GL buybacks	325 GL buybacks
Average water allocation prices ($/ML)	474	498	519	545
% change in average water allocation prices		5.0	9.5	15.0
Average water use (GL/yr)	3,748	3,675	3,616	3,571
% change in average water use		-2.0	-3.5	-4.7
Average GVIAP ($b/yr)	6.87	6.81	6.76	6.72
% change in average GVIAP		-0.9	-1.6	-2.2

Note: Values reported in $2022–23 dollars. "No further recovery" includes all water recovery as of October 2023, but no additional recovery. Water recovery volumes expressed as long-term average annual yield. GVIAP denotes gross value of irrigated agricultural production.

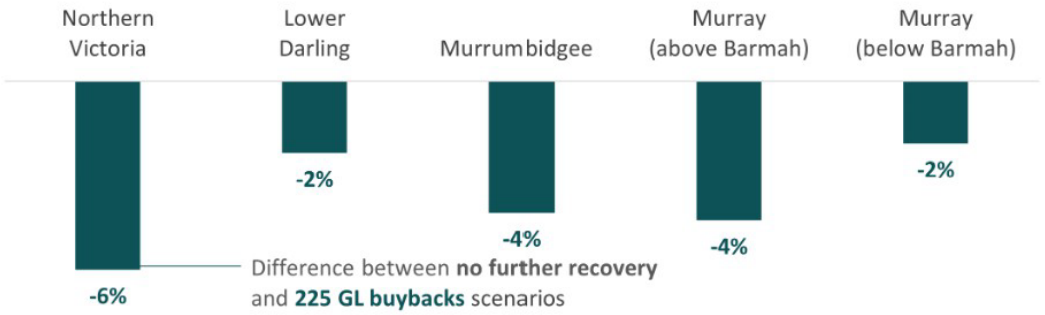
Figure 6: Change in average annual water allocation prices, by region



Note: Estimates for the Lower Darling are less reliable but have been included for completeness. "No further recovery" includes all water recovery as of October 2023, but no additional recovery.

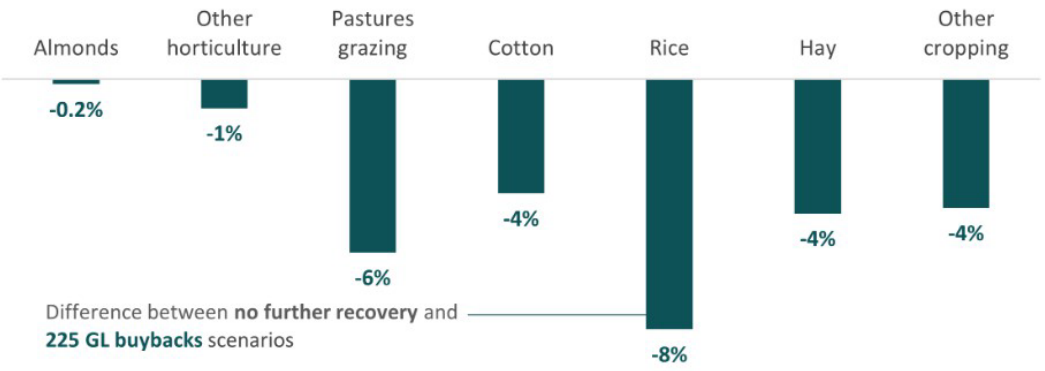
[17] The impacts of further water recovery in the southern Murray–Darling Basin - DAFF

Figure 10: Change in average annual water use, by region



Note: Estimates for the Lower Darling are less reliable but have been included for completeness. "No further recovery" includes all water recovery as of October 2023, but no additional recovery.

Figure 8: Change in average annual water use, by industry



Note: "No further recovery" includes all water recovery as of October 2023, but no additional recovery. "Pastures grazing" includes pastures for dairy and other livestock.

Assessment limitations

There are significant concerns that socio-economic impact assessments on the Basin Plan are not properly occurring, resulting in these impacts being understated. This makes it impossible for the (Federal) Minister "to give consideration" to these impacts, as required of the legislation for additional water purchases. This was evident in the recent evidence provided to the Minister in signing off on another 170 GL of water purchases.

Concerns include:

- Data is outdated, or no longer collected by government (including changes to the collection of data on the Gross Value of Irrigated Agricultural Production)
- Assessment is done in a piecemeal approach, not accounting for cumulative impacts (i.e. recent analysis of just 170 GL, not the full 2100 GL, presented a skewed indication of impacts);
- Assessment occurs at a regional level smoothing over impacts in small communities.

Community support programs inadequate

MI notes the programs designed to support communities impacted by water reforms are small (inadequate funding in contrast to the extent of impacts), and slow (in comparison to the pace of water recovery). Communities have described these programs as just a 'scrape of vegemite' in comparison

to the impacts they are intended to cover or mitigate. This has been an ongoing concern, as noted by the 'Sefton Inquiry' in 2020:

"Based on available evidence and community consultation, the Panel is concerned that much, and probably most, past funding to support Basin communities impacted by water reform, was not effectively targeted. We are concerned that current funding is not enough to support communities to transition through water reforms in ways that will help sustain and develop those communities."[18]

The Productivity Commission's Five-year Assessment of the Basin Plan[19] also found little evidence that transition assistance programs were effective in supporting regional communities to transition through Basin water reforms.

MI is concerned that there is a perception that the community impacts of water reform can be patched up with small pools of funding, which ignores the reality that these reforms often lead to a fundamental reshaping of a local economy, with impacts extending well beyond the farm gate.

Recommendations 5

a) Establish a 'Regional Australia Productivity and Welfare Benchmarking Program' to undertake community benchmarking to understand regional policy impacts and strategically invest in at risk communities. This will require an investment in data.

b) Inquiry to note that community transition programs are inadequate to fully 'fix' the impacts of water reform.

[18] Independent Panel Assessment of Social and Economic Conditions in the Basin (2020): https://www.mdba.gov.au/sites/default/files/publications/seftons-report-september-2020.pdf
[19] Murray-Darling Basin Plan: Five-year assessment - Public inquiry - Productivity Commission

4. Declining reliability of water entitlements

MI is concerned by the lack of established process and transparency regarding declining reliability of water entitlements in NSW. This is an erosion of the water property right, without the consent of the holder, or without fair and just compensation for the impacts.

The system of water management, designed from the blueprint of the National Water Initiative (NWI), is based around water access entitlements (unbundled from land). This unbundling, and establishment of water entitlements with their own essential characteristics (NWI clauses 30-32), enabled many of the modern mechanisms of water management to manage water as a distinct resource, including the setting of sustainable extraction limits, the development of water markets, the recovery of water where desired by governments, amongst others – which have now become standard practice.

The Risk Assignment Framework (**RAF**) is an integral component of the NWI, to outline how risks are managed where the reliability of a water entitlement is impacted. This is based on the cause of the impact to reliability (i.e. climate, new knowledge about sustainable extraction levels since 2014, or change in government policy such as new environmental objectives), to determine who bears the risk, and to what extent. A key component of this is that Government is to 'bear the risk' (i.e. pay compensation) for 100% of the impact to reliability if a result of a change in government policy.

MI is concerned that: (i) the NSW Government has not adhered to these provisions, as per the NWI and NSW legislation; or (ii) has argued that a change in government policy is instead 'new knowledge' in order to bypass paying compensation for impacts less than 3%; and (iii) has no established process in place to monitor and account for changes in reliability, resulting in the cumulative impacts of small reliability changes now becoming a problem.

Case study: Proposed amendments to the Murrumbidgee Regulated River water sharing plan

Background:

- In March 2025, the NSW Government published a Fact Sheet outlining proposed amendments to the Murrumbidgee Regulated River Water Sharing Plan (WSP).
- The first amendment (Matter 1) relates to issuing a new specific purpose water access licence (14 GL) to Riverina Water County Council to enable an alternative water source for Wagga Wagga, if groundwater PFAS contamination exceeds the Australian Drinking Water Guidelines.
- The second amendment (Matter 2) relates to developing a trading framework to enable temporary trading between the ACT and NSW (Murrumbidgee Regulated water source), up to 7 GL/y.
- The Department estimated that the impact to the reliability of water entitlements in the Murrumbidgee would be 1% and 0.5% respectively (with no information on how these calculations occurred, the assumptions, and the time period to which this water modelled).
- In response to questions asked by water users, the Department said: "*The Water Management Act 2000 provides for compensation to be paid in certain, limited circumstances. Licence holders will only be eligible for compensation if they meet the requirements set out in the Water Management Act 2000. All relevant aspects of the compensation regime are contained within the Act."* No information has been supplied on what these requirements are, or if these circumstances are eligible.

Position:

- We respect the prioritisation of water for town water supply / critical human needs and share the view that if a communities' water supply falls below the Australian Drinking Water Guidelines, due to PFAS contamination, it absolutely must be addressed.
- Maintaining water quality must be prioritised to avoid situations like this from occurring. Responses must maintain incentive on impacting parties to clean up contamination and protect water sources (and existing users). We are concerned that simply switching to a new water source, with no liability for those additional impacts on existing water users,

removes incentive on the impacting party to undertake best endeavours to clean up contamination.

- Water users expect full and just compensation if the reliability of water access on a water access entitlement is impacted (directly or indirectly), by any policy change, but particularly by water contamination by other parties upstream (or slow or improper response processes).
- Both amendments proposed are a result of changes in NSW Government policy. We are concerned by commentary from NSW DCCEEW that suggests because impacts are less than 3%, compensation is not payable (our understanding is that those provisions relate only to circumstances of 'new knowledge' about the amount previously allocated to the environment, but changes to government policy, such as this, are fully compensable under NSW legislation, as per the NWI).
- To our knowledge, the Order does not include a statement outlining the purpose of the reduction (in order to inform the compensation payments), as required under section 46 of the WMA.

For the avoidance of doubt – this is not to suggest not addressing this important issue - rather, to ensure these outcomes can be achieved in a way that respects the established water management framework in NSW, including the potential impacts on other users in the region, with transparency, proper process and full and just compensation of any impacts, as per NSW legislation.

Water users in the Murrumbidgee have written to the NSW department asking the following questions:

- How does the NSW Government intend to apply the compensation provisions set out in the Water Management Act 2000 in these circumstances?
- What methods were used to calculate the extent of the impact of these proposals (e.g. over what time period)? What assumptions were used in these calculations (e.g. is the volume of the SPAL set aside every year in the AWD process, even if not activated, thereby having a greater impact)? How will cumulative impacts be factored into these calculations (noting the numerous drivers on declining reliability at this time)?
- What advice has been received by the valuer-general in regard to the amount of compensation?
- What processes will be followed, including engagement with water users and the Commonwealth Government (as relevant), as well as timeframes (noting the short timeframes for these regulatory amendments to commence)?
- What alternative avenues have been explored to prevent or mitigate these impacts (such as purchasing an existing entitlement)? Has a business-case been developed to investigate these alternatives?

In addition to this case study, we are also concerned by potential future reforms where the NSW Government may seek to impact water reliability without proper process. For example, the upcoming Minimum Inflows Review has many water users concerned, in terms of how (or if) the NSW Government will respect the integrity of the established water entitlement framework.

5. Other matters

Water Pricing

MI also raises the ongoing IPART Pricing Determinations as a related matter to this inquiry.

Background

IPART sets the maximum prices that the WAMC and WaterNSW can charge their customers for water services. These prices are determined on a four-yearly basis, with the outcome of the current review process set to apply from 1 July 2025.

WAMC prices are to cover the costs for water agencies (DCCEEW, NRAR, WaterNSW) to undertake management activities such as planning, licensing and compliance, which covers all users in regulated, unregulated and groundwater systems. WaterNSW regional and rural bulk water charges cover water storage and delivery services in regulated rivers.

Costs are allocated between water customers and the NSW Government on behalf of other uses, based on an 'impactor pays' principle (i.e. depending on which party created the need for the activity).

WAMC and WaterNSW are both proposing large price increases. As a statewide average, analysis suggests proposed prices would increase over the next 5 years (on top of inflation) by:

- 3% to 35% a year on average for regulated rivers;
- 9% to 23% a year on average for unregulated rivers;
- 15% a year on average for groundwater systems.

The proposed increases for the Murrumbidgee are:

- Regulated:
  - High security: 142% (19% annually)
  - General security: 130% (18% annually)
- Unregulated: 99% (15% annually)
- Groundwater: 97% (15% annually)

Issues

- The proposed price increases are exorbitant and are far beyond the capacity and willingness to pay for water users. MI is concerned that the proposal will lead to a significant exit of the irrigation industry, as farm businesses will become financially unviable with such large costs. The social impact of this (on the regional and national economy), as well as on food and fibre production capabilities, must be considered.
- Even with the proposed price caps, there remains a significant price shock, and ongoing concern of the ability for water users to pay. IPART must consider these price increases in the context of the cumulative impacts of many ongoing reforms on water users, which collectively are increasing the cost of doing business. MI is concerned that the socio-economic assessment is based on heavily flawed methodology, and the findings are therefore highly inaccurate.
- The current model to determine water pricing is not fit-for-purpose (i.e. the impactor-pays model, based on a no-development scenario). Water management is in the public-interest, and increasingly the cost drivers are to meet growing community expectations for higher standards and regulations (typically to the detriment of consumptive water users).
- The current water pricing model is becoming evidently financially unviable, as we are simultaneously experiencing a decline in the customer base (i.e. declining water availability

and reliability driven by reforms) and the ability to pay (driven by ongoing reforms, increasing the cost of doing business), and an increase in community expectations bringing new and enhanced costs. MI is concerned that we have reached the cross-over point, where community expectations for water management have exceeded what customers can pay. Further, the 'customer' is now no longer the water user, but a broader general public demanding water management outcomes to meet increased community expectations.

- The pricing proposals of both WAMC and WaterNSW must be scrutinised, given the significant proposed increases in costs, as well as historical overspends, to ensure it is prudent and efficient. IPART must also closely scrutinise the standard of services, to ensure reasonable levels of service are being provided (including both to avoid unreasonably and unnecessarily high standards in policy settings/design which comes at high cost, as well as unreasonably low standards in implementation and delivery, which also comes at a cost – both of which we are observing).

MI ultimately recommends that the funding model for rural water management must be reconsidered, so that the NSW Government are paying a larger proportion of costs, particularly for public interest items, and where community expectations have driven the standards of activities to a gold-standard beyond what is reasonably required (or demanded from customers). This will ensure customers are protected, and the NSW Government are accountable and have the incentive for cost-effectiveness and efficiency in the design of policy settings and regulatory requirements that meet an appropriate standard.

Further information can be found in the MI submission to IPART (December 2024).

Conclusion

Thank you for your consideration of the matters raised in this submission. Please let us know if you have any questions or would like to discuss these matters further.

Yours sincerely,

Michael Turnell
General Manager, Legal & Regulatory Services