



## Healthy Rivers Dubbo

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### Submission to Draft NSW Murray and Lower Darling Water Resource Plan

To: NSW Government

Department of Industry

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#### Introduction

Healthy Rivers Dubbo is a community grass roots group dedicated to providing a strong voice for our local rivers, aquifers, wetlands, and for the Murray-Darling Basin as a whole. As ambassadors for healthy rivers, wetlands and groundwater, we have been active in our community calling for transparency and accountability in all aspects of water management.

Healthy Rivers Dubbo pays our respects to the Traditional Owners, past, present and future, of the land we live in. We acknowledge that the land in which we live was never ceded.

Healthy Rivers Dubbo welcomes the opportunity to make a submission to the draft NSW Murray and Lower Darling Water Resource Plan (WRP).

**Do you have any comments on the proposed changes to allow the operation of Pre-requisite Policy Measures (PPMs) for held environmental water in the NSW Murray and Lower Darling Regulated Rivers Water Sources?**

The proposed rules to protect environmental flow reuse and piggy-backing (PPMs) are biased towards protection of the extractive industry.

The NSW PPM Implementation Plan<sup>1</sup> sets out that PPMs will be implemented only 'to the extent that impacts on third party licenced access rights can be mitigated or offset, whilst aiming to optimise environmental outcomes.' The NSW PPM Implementation Plan links the implementation of PPMs to Section 7.15 (1) (d) of the Basin Plan, which "represents a fundamental misunderstanding of the relevant provisions of the Basin Plan" according to the South Australian Murray Darling Basin Royal Commission Report.<sup>2</sup>

The approach being taken by the NSW Government in implementing the PPMs is not supported by Healthy Rivers Dubbo.

## Do you have any comments on the proposal to codify NSW Southern Basin Inter-Valley Trade (IVT) and refer to the IVT procedures in the WSP?

All IVTs should be assessed for environmental impacts. The nature of markets means that water from a source that has higher supply (lower cost) would be traded to sources with lower supply (higher value). This is how markets work. However, the natural world is not the same as a market, and applying the principles of markets to the natural world will inevitably damage it.

Rivers with less water have a reduced capacity to maintain resilience and environmental integrity when water is extracted and diverted.

Tagged trades (using water from a different water source) should be prohibited, as they are for the benefit of a few large licence holders. Tagged trade is not supported by Healthy Rivers Dubbo.

## Do you have any comments on the proposal to refer to the Operating rules for the Barmah-Millewa Environmental Water Allowance?

Healthy Rivers Dubbo does not support the ability to 'borrow' water from the Barmah-Millewa Forest Environmental Water Allowance (EWA), nor do we support the new operating rule regarding 4 monthly flood.

The Barmah-Millewa EWA must be fully available to be used for the benefit of the Ramsar listed wetlands, based on the wetlands requirements.

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<sup>1</sup> [https://www.water.nsw.gov.au/\\_data/assets/pdf\\_file/0004/723334/Pre-requisite-Policy-Measure-Implementation-Plan.pdf](https://www.water.nsw.gov.au/_data/assets/pdf_file/0004/723334/Pre-requisite-Policy-Measure-Implementation-Plan.pdf)

<sup>2</sup> <https://www.mdbrc.sa.gov.au/sites/default/files/murray-darling-basin-royal-commission-report.pdf?v=1548898371>

Australia has moral and legal obligations under the Commonwealth Water Act 2007 to maintain the functionality of wetlands for several international migratory bird agreements including the Ramsar Convention.

## Do you have any comments on the proposal concerning River Murray Increased Flows access licence(s)?

Healthy River Dubbo supports the management of River Murray Increase Flows as a special planned environmental account.

## Do you have any comments on the proposed Lower Darling Restart Allowance?

Healthy Rivers Dubbo supports the proposed Lower Darling Restart Allowance.

## Do you have any other comments on other proposed amendments to the Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Sources 2016?

The NSW Murray is a long and complex part of the Basin; and the Lower Darling is a very unique, highly variable system. There is too much complexity in this part of the Basin for this one draft WRP to adequately provide rules that meet the environmental needs of these rivers.

Healthy Rivers Dubbo strongly objects to the proposal for high security licences to be converted to unregulated licences for upstream extraction.

The WRP states that there is no floodplain harvesting in the WRP area. Therefore, all provisions for floodplain harvesting should be removed from the associated Water Sharing Plans.

In general, Healthy Rivers Dubbo considers that the EWAs are too closely associated to the needs of other water users and water determinations, rather than to meeting the environmental needs of the river system.

The WSPs fail to meet their environmental objectives, particularly the unregulated WSPs, in regard to protecting low flows and hydrological connectivity. There should be no access to uncontrolled flows in the regulated rivers.

## Do you have any comments on how the NSW Government can improve the consultation process undertaken?

It has been seven years since the Murray-Darling Basin Plan was legislated, and yet the NSW Government seems to have left the important work of developing WRPs until very late in the process. Already, there has been the need to extend the deadline for accreditation of WRPs until 30.6.20, when they should have been accredited and operational by 30.6.19.

This late rush of plans on public exhibition for submission has placed unnecessary pressure on community stakeholders, who are often working hard to understand complex rules and policies on their own volunteered time.

The health and resilience of rivers, aquifers, floodplains and wetlands in our Basin are critically important to all Basin residents – perhaps more could have been done by the NSW Government to get the WRPs out for public comment earlier.

### Do you have any other comments on Chapter 1 or Schedule C?

This WRP covers a large, diverse and complex part of the basin. Consultation with First Nation Groups has only been conducted with the Wadi Wadi and Ngiyampaa Nations, which is inadequate.

Wadi Wadi Country is located just west of Swan Hill Victoria, extending westward towards Ouyen and south of Robinvale, straddling the Murray River.

Ngiyampaa Country is located South bank of Barwon and Darling rivers from Brewarrina to Dunlop; on Yanda Creek; south to head of Mulga Creek; on Bogan River.

The level of First Nation consultation is very inadequate for this entire WRP area. Healthy Rivers Dubbo considers that this WRP should not have been presented for public comment until significantly more consultation with First Nation groups had occurred.

### Do you have any comments on Chapter 3 or Schedule D?

## **SECTION 4.3 RISKS TO WATER AVAILABLE FOR THE ENVIRONMENT & CAPACITY TO MEET EWRS [E(W)] - UNREGULATED WATER SOURCES**

### **The Lakes:**

Lakes Cawndilla, Menindee and Wetherell have Not-Tolerable (N-T) risk ratings currently.

The current critical mechanism for reducing that N-T risk is to reserve all water over the Long Term Annual Average Extraction Limit (LTAAEL). The NRC report into the Barwon-Darling WSP had this to say about the use of LTAAELs:

“Use of this statistic as an indicator of environmental outcomes is highly misleading as this percentage is based on an average taken over more than 100 years and includes major floods that significantly skew the average. While the LTAAEL has a function in assessing long-term compliance with extraction limits, adherence to the LTAAEL is not appropriate for assessing whether the Plan has met its environmental and social objectives, particularly for such a highly variable system. When and where the water is taken is critically important in this system, not just volume extracted over many years.”

New critical mechanisms being offered in this WRP to reduce the N-T high risks identified in this risk assessment of water not being available to meet the environmental requirements, for the three Lakes mentioned include:

1. To protect a portion of high flow events in the Barwon-Darling WRP area.
2. New critical mechanisms to be engaged are rules that are proposed in the Barwon-Darling WRPA, which include:
  - Implementation of a first flush rule to manage the resumption of flows after a cease to flow period (proposed new active management option).
  - Protection of Held Environmental Water through water take restrictions (proposed new active management option).
  - Investigate and implement water/flow protection measures to improve northern hydrological connectivity between Northern Basin catchments (proposed new active management option).

The expected residual risk ratings for the three lakes after the new rules are applied will reduce the number of risk ratings that are in the N-T range.

The Monitoring and Evaluation (M&E) for the three Lakes is “planned for the Menindee Lakes Savings project”.

This controversial project has not been assessed or approved, it should not be assumed it will go ahead in this document. Therefore another strategy for monitoring and evaluation should be presented in this risk assessment:

- Lake Cawndilla
- Lake Menindee
- Lake Wetherell

**Healthy Rivers Dubbo is extremely concerned that the Menindee Lakes Savings Project is mentioned in this risk assessment.**

We now, after seeing this project mentioned in this document don't think it is clear if the low residual risk rating of Lake Cawndilla, Lake Menindee and Lake Wetherell after the new critical mechanisms are enforced is because the implementation of the Menindee Lakes Savings Project has been assumed.

### **Lower Darling:**

Currently there are a lot of risk ratings in the N-T range for this river area.

Improvements to the management and protection of environmental water are the new critical mechanisms proposed to reduce the high number of N-T risks identified currently, including:

- Adherence to the Sustainable Diversion Limits
- Use of Lower Darling River Flow Restart allowance – Healthy Rivers Dubbo supports this proposed Allowance.
- Strategic use of environmental water – Healthy Rivers Dubbo supports an Environmental Water Advisory Group (EWAG), with environmental interests represented, be mandated for both the Lower Darling and NSW Murray.
- Protection of environmental water by PPMs – we have detailed our concerns about PPMs policy interpretation by the NSW Government above.
- Constraints management.

### **NSW Murray:**

Current critical mechanisms are around strategic and co-ordinated use of EWA, and normal access to supplementary flows.

Strategies moving forward involve limiting extraction, protecting high flows, low flow habitats from drying out etc. – they seem general strategies with not much detail about how they will be achieved.

The new critical mechanisms to use to enforce those general strategies are:

- Adherence to the Sustainable Diversion Limits
- Strategic use of EWA – EWAGS should be mandated. EWAs are too closely associated to the needs of other water users and water determinations, rather than to meeting the environmental needs of the river system.
- Protection of environmental water by PPMs – we have detailed our concerns about PPMs above.
- Constraints management – very complex in the Murray. We have no confidence that there is enough appetite by agencies and government departments to adequately address constraints that restrict the ways environmental water can be used. There is generally too

much focus on not having any 'third party impacts', and not enough priority given to the requirements of the environment.

#### **SECTION 4.4 RISKS TO WATER AVAILABLE FOR THE ENVIRONMENT FROM EXTRACTION UNDER BLR [E(BLR)] - UNREGULATED WATER SOURCES ONLY**

Risks of over extraction under Basic Landholder Rights in the Upper Murray River are high and Not-Tolerable.

The strategy offered to minimise these high risks seem aspirational, not practical: "Protect the other water users from changes in flow attributable to growth in BLR extractive use." – does not inspire confidence that anything will be done. Reliance on temporary restrictions by the Minister to BLR access is not adequate.

BLR extraction must be metered in the Upper Murray – you cannot manage what you do not measure.

#### **SECTION 4.6 RISKS TO WATER AVAILABLE FOR THE ENVIRONMENT DUE TO CLIMATE CHANGE**

All areas listed have Medium or High N-T risk rating currently.

The current critical mechanisms engaged to deal with the risk are:

- to reserve all water above the LTAAEL for the environment as PEW under WSPs, and
- AWDs adjust extractive use according to water availability

As discussed above, the use of LTAAELs as an indicator of environmental outcomes is misleading.

Using AWDs to adjust extractive use according to water availability is not currently possible in NSW. The 2014 amendment to the Water Sharing Plans via the Water Management Act disallows inflow data from the most recent drought of record to be used when calculating the Available Water Determination for each valley.

The strategy for new critical mechanisms is to use SDLs to protect the environment and water users from changes in flow attributable to climate change. We consider this strategy to be more of an aspiration than a well described plan.

Healthy Rivers Dubbo considers that:

- The risks to all water sources in this WRP area of reduced water availability from climate change are underestimated in this risk assessment, especially in the Lower Darling.

- We have a low level of confidence that the SDLs have been developed to adequately account for climate change.
- The 2014 amendment to the WSPs through the NSW Water Management Act 2000 that restricts drought of record data from after implementation of each WSP means climate change must be ignored when determining the AWDs.
- In 2013 a NSW Government report Assuring Future Urban Water Security<sup>3</sup> was shelved in draft form. This draft report details the impacts that a drying climate will have by way of a reduction of potable water in urban areas. This report should be finalised and used in AWD calculations.

## **SECTION 5.3, 5.4, 5.5 RISKS TO THE HEALTH OF WATER DEPENDENT ECOSYSTEMS FROM POOR WATER QUALITY**

Healthy Rivers Dubbo believes the risks from salinity and blue-green algal blooms are much higher than identified in this risk assessment.

New critical mechanisms proposed to reduce N-T risks include the strategic use of EWAs, and the support of constraints management strategies. As previously mentioned, Healthy Rivers Dubbo:

- Supports the mandatory establishment of EWAGs in the Lower Darling and NSW Murray Rivers, with environmental representation, to facilitate the strategic use of environmental water to improve water quality.
- Has little faith that there is enough appetite from those in power to manage constraints, and prioritise environmental outcomes over third party impacts.

To summarise our study of the risk assessment offered up in this WRP, there are a lot of intolerable high risks that will not be mitigated through the rules in the associated WSPs. We recognise that the emphasis on no third party impacts (especially around constraints management), is threatening the long term health of the river systems in the WRP area.

## **Do you have any comments on the protection of environmental water?**

Active Management Policy to facilitate the protection of environmental water in NSW is under development.

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<sup>3</sup> [http://www.water.nsw.gov.au/\\_data/assets/pdf\\_file/0005/665609/assuring-future-urban-water-security-draft.pdf](http://www.water.nsw.gov.au/_data/assets/pdf_file/0005/665609/assuring-future-urban-water-security-draft.pdf)

## Do you have any comments on cultural connections to surface water and the protection of Indigenous values and uses?

We have described above our serious concerns about the appropriateness of the consultation with First Nation Groups for this WRP.

With such poor levels of consultation for such a complex area, Healthy Rivers Dubbo is comfortable to assume that considerations of the protection of Indigenous values and uses regarding the cultural connections to surface water would be inadequate.

## Do you have any comments on Chapter 5 or Schedule F?

Healthy Rivers Dubbo:

- Supports proposed Lower Darling Restart Allowance
- Supports the broadening of the use of the Lower Darling EWA and an increase in the volume to achieve improved water quality.
- Supports the management of River Murray Increase Flows as a special planned environmental account.
- Does not support the ability to borrow water from the Barmah-Millewa Forest EWA or the new operating rule regarding 4 monthly flood. This EWA must be used for the benefit of the Ramsar listed wetlands based on their requirements.
- Supports the mandated creation of EWAGs with environmental representation for both the Lower Darling and NSW Murray.

## Do you have any other comments on Chapter 5?

Healthy Rivers Dubbo strongly objects to the proposal for high security licences to be converted to unregulated licences for upstream extraction.

The WRP states that there is no floodplain harvesting in the WRP area. Therefore, all provisions for floodplain harvesting should be removed from the associated Water Sharing Plans.

In general, Healthy Rivers Dubbo considers that the EWAs are too closely associated to the needs of other water users and water determinations, rather than to meeting the environmental needs of the river system.

## Do you have any comments on Chapter 6 or the Water Quality Management Plan (Schedule H)?

As mentioned above in our comments on the risk assessment, Healthy Rivers Dubbo believes the risks from salinity, blue-green algal blooms and from climate change are much higher than those identified in this WRP.

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12<sup>th</sup> October 2019