Murray Regional Strategy Group

Response to National Water Agreement
Discussion Paper - 2024

The Murray Regional Strategy Group (MRSG) is comprised of organisations from industry, irrigation, and community from the NSW Murray Valley. Rather than being a peak organisation, it is a collaborative voice for a united position on water issues.

Overarching Response to the National Water Agreement (NWI) Discussion Paper

A review of the 2004 Intergovernmental Agreement -National Water Initiative should build upon the principles of social, economic and environmental values established by Governments and stakeholders.

The draft discussion fails to recognise and seeks to substantially change the principles of the 2004 NWI. Principles that underpin, water markets, business investments and regional economies.

Any review should build on outcomes and identify how subsequent Government policies have retained, expanded or undermined the original agreements between the Federal and State Governments and Territories established in 2004.

Social and economic conditions in regional communities are at a critical junction. In the Southern Basin, the principles established in 2004 continue to be undermined by cumulative rule changes by subsequent Federal and State Government policy decisions, including decisions relating to the Murray Darling Basin Plan, all of which have created higher impacts on NSW Murray Valley and Northern Victoria.

The draft paper for a new NWI in 2024, in its current form will further change the principles of property rights and the assignment of risks established in the NWI 2004. This will have major ramifications for the economic base of irrigated agriculture, particularly in the Southern Basin, where highly regulated Water Sharing Plans and water market frameworks are already in place.

Stakeholders are being asked to provide feedback on a high-level overarching discussion paper. The framework for decisions via internal bi-lateral discussions within Governments and the lack of consultation for co-design of critical issues with stakeholders is at odds against all previous collaborative processes of both Federal and State Governments achieved through the 2004 NWI.

- Most significantly, there are deep concerns that the Commonwealth and States will sign off on an agreement based on feedback on this discussion paper.
- The draft NWI prepared by DCCEW, has not been developed in consultation with stakeholders and the narrow window for feedback and timeframe proposed at the end of 2024 for a new NWI is rejected.
- There is no recognition of the impacts on the viability of irrigated agriculture in the Southern Basin, a region that was developed by the Government and where stakeholder and Government joint planning for social, economic, and environmental outcomes has been incorporated into existing water management rules, water sharing plans, and all that underpin water trading markets.
- Climate Change provisions are already factored into Southern Basin water management decisions and re-assignment of risks further undermines principles of the 2004 NWI.

Comments on NWA Purpose

The National Water Agreement aims to develop the NWI further, improving water security for the future challenges of climate change and bringing best practices in water management to Australia. The 2024 NWI Discussion paper does not improve water security. Instead DCCEEW's approach aims to implement further protections for the environment and reduce the capacity for communities to meet challenges of climate change. There appears little recognition by DCCEW of how water management for climate variability and/or future climate risks actually are already developed within rules of Water Sharing Plans in the Southern Basin.

Prior to the 2007 Water Act and the implementation of the Murray Darling Basin Plan Australia was recognised as a world leader in water management in arid climates. However, according to the late Professor John Briscoe, this all changed. Professor Briscoe spent time in Australia as a Senior Water Advisor at the World Bank before taking on the role of Gordon McKay Professor of Environmental Engineering at Harvard University in 2009, where he directed the Harvard Water Program. He made this submission to The Standing Committee on Legal and Constitutional Affairs of the Senate, where he was scathing of Australia's changed direction in water management. His submission can be found here - Submission Briscoe.

Professor Briscoe's submission highlights what those directly impacted by the unintended consequences of the implementation of the MDBP have discovered, and these make some aspects of the NWI far from fit for purpose. Australia is no longer implementing best practice in water policy decision-making and management and is plagued by

- Policy to fit political timeframes, which is rushed and results in costly mistakes
- A top-down approach, where decisions are made to people, not with people
- Failure in implementing co-design frameworks, which is practiced globally and leads to community buy-in, which sees communities as the driving force behind sustainable practical changes
- An unfair playing field, where those with money and resources are able to influence policy decisions
- Science, which is cherry picked to suit a narrative

At a high level, the NWA must find every chance to utilise every drop of water in a continent with such a varied and unpredictable climate. To achieve this, we need to start thinking about the opportunities to meet dual purposes with as many megalitres of water as possible. Can a food production region or an irrigation channel support ecological outcomes?

Comments on Stage 1

The most important step for the NWA will be the process. There is a rare opportunity for the Australian government to reframe how it engages with communities and involves them in the process, and for this to occur, communities must be co-designers of the process; the how.

To bring people on the journey, government personnel need to meet with community members face to face. There has been a concerning loss of trust from those impacted by water policy decisions in the last three decades. The collaborative approach established by the Murray Darling Commission resulted in long-term mutual respect and friendships between departmental employees and water users in rural communities. Tough decisions were made, but they were done in a room where everyone had the opportunity to engage.

Those tasked with developing and rolling out the NWA cannot underestimate the power of face-to-face engagement. Co-designing of policy cannot genuinely be achieve through submissions and Have A Say surveys.

Objective 1 – Water Security

Improving water security will be a challenge for the NWA, as the proposed approach by DCCEW in 2024 undermines existing water security and makes no provision to improve water security. DCCEW also has not recognised the impacts of the Murray Darling Basin Plan (MDBP) in the Southern Basin which also directly contradicts this objective.
Political priorities for additional upstream flows by the Murray River in the Southern Basin to maintain the Lower Lakes as a freshwater system result in the evaporation of nearly one million megalitres of water a year, not including transmission losses along the way.
Furthermore, the MDBP has resulted in the closure of many food-producing systems that were built on carbon-neutral gravity-fed irrigation systems, which require no energy inputs and provide many ecological benefits.

Finding opportunities to provide secure water sources for regional communities in dry times is essential, but first, DCCEW needs to recognise what is already in place within water management rules in the Southern Basin. NWA needs to address –

- The impacts of the water market and water trading on water availability
- Opportunities to address evaporation, including investigating underground storage options in remote areas to secure town water supplies and incentivise the installation of rainwater tanks for domestic use
- To protect ourselves from the extreme weather events we are seeing, increased dam storages that are being filled without recognition of risks, to both capacity of irrigated agriculture to access water, and alternatively elevating regional flooding risks through an over reliance on the precautionary principles. This, together with political decisions associated with the Basin Plan in the Southern Basin, has ignored the limited capacity of major southern storages.
- Application of the separation of land and water, and associated water markets are also undermining water security. Losses are not being appropriately apportioned, water speculator's impacts on water availability to productive users, Government policy for 'water moving to highest value uses' ignore river system capacities and associated losses in water transfers below the Barmah Choke region in the Murray Valley

Objective 2 - Supporting Aboriginal and Torres Strait Islander Peoples' water interests and values

Indigenous knowledge and outcomes should be in harmony with existing social and economic value within regional communities, and decisions should be built upon frameworks of shared values, shared risks, and shared input.

Objective 3 - Climate resilient water management

As discussed in Objective 1, many of the unintended consequences of the MDBP are working against this objective. Changes in water ownership and behaviour are leading to increased volumes of water stored in upstream storage, resulting in elevated flooding risks. Government policies have led to many users engaging in over-conservative behaviour, adding to the problem, placing water managers in the position of managing reduced air space to mitigate flood risks during extreme rain events.

Climate resilient water management must include supporting agricultural and food production closest to the water storages, helping to utilise every drop more efficiently, preventing the waste of water and ensuring we are self sufficient as a nation when the next dry sequence eventuates.

Climate-resilient water management will see governments take necessary steps to embrace adaptive management practices that utilise new and emerging technology to ensure all Australians have access to safe water supplies, for example using renewable energy to power the South Australian desalination plant to reduce the demand on upstream communities and subsequent transmission losses. It would also include finding alternative management options for the Coorong, Lower Lakes and Murray Mouth, including engineering works to return volumes to the southern Coorong from the Upper and South East drains.

Objective 4 - Ensuring evidence-based decision making

Rural communities have lost confidence that independent scientific evidence is used as the basis for decision-making. Transparent, evidence-based decision-making is essential to trust and adaptive management practices.

Involving stakeholders and locally specific communities in monitoring projects and citizen science are examples of using local knowledge and experience to guide localised decision-making, which will result in the best outcomes for the environment and local communities.

Objective 5 – Transparent, strategic water infrastructure investment

Local knowledge and expertise are crucial to achieving transparent and strategic infrastructure investment. Local understanding can reduce budget overruns and costly mistakes that may result when decisions are made by those living outside the region.

The Koondrook-Perricoota Regulator is an example of when local knowledge and experience was not fully utilised, resulting in costly mistakes.

As highlighted in the previous objectives, investment in water infrastructure is critical to addressing future climate challenges, as such some states / regions will need incentivising to undertake strategic infrastructure investment to relieve pressure on upstream communities.

Objective 6 – Community Trust

Trust in water management and policy decision-making is at an all time low in rural communities. Decisions are made far from where they are implemented.

Decision-makers and those charged with implementing policy need to actively spend time in the communities affected by those decisions. Decisions need to be made with communities, and communities need to be involved in monitoring the outcomes of those policies.

When communities are effectively engaged in a process they have buy-in and are less likely to oppose those policies. It is essential that policies become more localised, with locals identifying and developing solutions for local problems.

Objective 7 – The efficient use of water

While the trade of water has provided a crucial tool for risk management for farmers, there needs to be a more accountable and transparent framework in place for the water market and ownership.

There is no doubt that water ownership changes over the last two decades have resulted in changes to water characteristics. The NSW Murray General Security Entitlement had a reliability of 84% prior to water recovery under the MDBP, and now that reliability has slipped to well 50% (excluding the recent very wet years).

Parking high-security entitlements on general security entitlements is also a matter of concern.

The push to support high-value crops is coming at the expense of the staple food producers, who are located closest to the water storage. While they cannot compete with the economic return per megalitre, our staple foods are much more water efficient in terms of produce per megalitre and transmission losses.

Finally, MRSG strongly advocate that the following agreements be carried over from the National Water Initiative to the National Water Agreement.

Preamble

- The Parties agree to implement this National Water Initiative (NWI) in recognition of the continuing national imperative to increase the productivity and efficiency of Australia's water use, the need to service rural and urban communities, and to ensure the health of river and groundwater systems by establishing clear pathways to return all systems to environmentally sustainable levels of extraction. The objective of the Parties systems to environmentally sustainable levels of extraction. The objective of the Parties in implementing this Agreement is to provide greater certainty for investment and the deal with change responsively and fairly (refer paragraph 23 of the NWI).

Objectives

23. Full implementation of this Agreement will result in a nationally-compatible, market, regulatory and planning based system of managing surface and groundwater resources for rural and urban use that optimises economic, social and environmental outcomes by achieving the following:

    i) clear and nationally-compatible characteristics for secure *water access entitlements*;

<u>Water Access Entitlements and Planning Framework</u>

Outcomes

25. The Parties agree that, once initiated, their *water access entitlements* and planning frameworks will:

    i) enhance the security and commercial certainty of water access entitlements by clearly specifying the statutory nature of those entitlements;

    iv) provide for adaptive management of surface and groundwater systems in order to meet productive, environmental and other public benefit outcomes;

    vi) clearly assign the risks arising from future changes to the consumptive pool;

    vii) in the case of water access entitlements, be compatible across jurisdictions to improve investment certainty, be competitively neutral and to minimise transaction costs on water trades (where relevant);

    xi) protect the integrity of water access entitlements from unregulated growth in interception through land-use change.

Actions

31. *Water access entitlements* will:

i) specify the essential characteristics of the water product;

ii) be exclusive;

iii) be able to be traded, given, bequeathed or leased;

iv) be able to be subdivided or amalgamated;

v) be mortgageable (and in this respect have similar status as freehold land when used as collateral for accessing finance);

vi) be enforceable and enforced; and

vii) be recorded in publicly-accessible reliable water registers that foster public confidence and state unambiguously who owns the entitlement, and the nature of any encumbrances on it (paragraph 59 refers).

<u>Assigning Risks for Changes in Allocation</u>

46. The following risk assignment framework is intended to apply to any future reductions in the availability of water for consumptive use, that are additional to those identified for the purpose of addressing known *overallocation* and/or *overuse* in accordance with pathways agreed under the provisions in paragraphs 41 to 45 above.

47. The Parties agree that an effective risk assignment framework occurs in the context that: the new share-based water access entitlements framework has been established; water plans have been transparently developed to determine water allocation for the entitlements; regular reporting of progress with implementing plans is occurring; and a pathway for dealing with known *overallocation* and/or *overuse* has been agreed.

48. *Water access entitlement* holders are to bear the risks of any reduction or less reliable water allocation, under their *water access entitlements*, arising from reductions to the consumptive pool as a result of:

(i) seasonal or long-term changes in climate; and

(ii) periodic natural events such as bushfires and drought.

49. The risks of any reduction or less reliable water allocation under a *water access entitlement*, arising as a result of bona fide improvements in the knowledge of water systems' capacity to sustain particular extraction levels are to be borne by users up to 2014. Risks arising under comprehensive *water plans* commencing or renewed after 2014 are to be shared over each ten year period in the following way:

i) *water access entitlement* holders to bear the first 3% reduction in water allocation under a *water access entitlement*;

ii) State/Territory governments and the Commonwealth Government to share one-third and two-thirds respectively reductions in water allocation under *water access entitlements* of between 3% and 6%; and

iii) State/Territory and Commonwealth governments to equally share reductions in water allocation under *water access entitlements* greater than 6%.

50. Governments are to bear the risks of any reduction or less reliable water allocation that is not previously provided for, arising from changes in government policy (for example, new environmental objectives).

51. Alternatively, the Parties agree that where affected parties, including *water access entitlement* holders, environmental stakeholders and the relevant government agree, on a voluntary basis, to a different risk sharing formula to that proposed in paragraphs 48 - 50 above, that this will be an acceptable approach.

Water Markets and Trading

58. The States and Territories agree that their water market and trading arrangements will:

i) facilitate the operation of efficient water markets and the opportunities for trading, within and between States and Territories, where water systems are physically or hydrologic connections and water supply considerations will permit water trading;

iii) enable the appropriate mix of water products to develop based on access entitlements which can be traded either in whole or in part, and either temporarily or permanently, or through lease arrangements or other trading options that may evolve over time;

Actions

59. The States and Territories agree to have in place pathways by 2004, leading to full implementation by 2006, of compatible, publicly-accessible and reliable water registers of all water access entitlements and trades (both permanent and temporary) on a whole of basin or catchment basis, consistent with the principles in Schedule F. The Parties recognise that in some instances water service providers will be responsible for recording details of temporary trades.

60. The States and Territories agree to establish by 2007 compatible institutional and regulatory arrangements that facilitate intra and interstate trade, and manage differences in entitlement reliability, supply losses, supply

iv) in respect of any existing institutional barriers to intra and interstate trade:

b) immediate removal of barriers to permanent trade out of *water irrigation areas* up to an annual threshold limit of four percent of the total water entitlement of that area, subject to a review by 2009 with a move to full and open trade by 2014 at the latest, except in the southern Murray-Darling Basin where action to remove barriers to trade is agreed as set out under paragraph 63; and

Conclusion

Rural communities are concerned that the NWA process is being rushed, and that agreements will be made between the states and commonwealth behind closed doors, without adequate input to the details from those best placed to provide practical input to achieve the desired objectives of the NWA.

Governments, departments and those implementing this process must engage with communities face to face, and co-design the process with communities.

The NWA needs to use this opportunity to address unintended consequences of the MDBA / Murray Darling Agreement, considering –

- Why the Murray must meet the shortfall of SA border flows when the Darling is offline, and the conveyance losses to supply the shortfall
- The relevance of dilution and additional dilution flows now that the environment owns so much water, and SA border flows have significantly increased since water recovery under the MDBP
- Implementing a one trade rule – that is a water entitlement can only be traded once per water season, and needs to be traded to a water user
- Address the most recent evidence and science about the Coorong, Lower Lakes and Murray Mouth
- Supplementary water licences/entitlements must be protected. Supplementary water has been critical to the NSW Murray in recent years. It has allowed farmers to finish winter crops, when allocations have not permitted, it has allowed additional hectares of summer crops to be planted, especially when so many farmers lost crops or were not able to sow crops due to flooding. All resulting in creating wealth and jobs for the regions, and as a natural extension for our nation.