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# SUBMISSION

## **Draft framework for delivering the 450 GL of additional environmental water**

4 March 2024



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## Introduction

The Minister for the Environment and Water, Tanya Plibersek introduced the Water Amendment (Restoring our Rivers) Bill 2023 in September last year, saying: “Water purchase is never the only tool in the box, it’s not the first tool at hand.”<sup>1</sup>

She repeated the refrain many times as the Bill was debated through Parliament and media, and ultimately passed on 20 November 2023. However, water purchases of one description or another are the only tangible tool in the draft 450 GL recovery framework released on 30 January 2024.

The framework contains several options – purchases, land-and-water packages, temporarily leasing allocation back to entitlement sellers, rules changes – but each option involves the purchasing, or effective purchase, of water entitlements to permanently remove more water from the pool available to grow food and fibre.

The framework does have some non-purchase options, to be fair, but they represent either temporary reprieves (leasing allocation from entitlement holders to temporarily contribute to the 450 GL while purchases are sought) or have long lead times that may in practice mean they cannot progress fast enough to meet the 2026 and 2027 deadlines (State-led water saving infrastructure projects).

Water purchases targeting private diverters in the southern Basin will get underway in 2024 – possibly as soon as April, certainly by mid-year – while the Government explores how the other purchase options, infrastructure and community assistance might be designed and implemented in 2025 and beyond.

So, it is clear that buybacks are the very first tool the Government is reaching for.

It is worth noting that the federal Department of Climate Change, Energy, the Environment and Water (DCCEEW) specifies that all options contributing to the 450 GL must involve water entitlements being transferred out of the consumptive pool. However, the framework does not acknowledge that the Plan also provides that this additional HEW specification can be revoked, varied or amended.<sup>2</sup>

This flexibility would allow for a far greater range of projects and measures that would better deliver the much-needed step changes in river health consistent with the 450 GL’s environmental objectives, than just the singular focus on recovering more water from farmers.

The Productivity Commission in its final report on its 10-year review of the Basin Plan’s implementation noted that given the substantial water recovery task, the

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<sup>1</sup> <https://minister.dcceew.gov.au/plibersek/speeches/speech-introducing-restoring-our-rivers-bill>

<sup>2</sup> Note to Murray-Darling Basin Plan Clause 7.08b.



Australian Government should develop and implement – without delay – a renewed approach to water recovery. This framework falls far short what the Productivity Commission describes as a renewed approach.

Finally, the five-week consultation period is too short to expect informed feedback on the options and socioeconomic impact assessment, given the scant detail provided in the framework, and the specialist nature of several elements beyond the resources and expertise of many stakeholders including local government and industry.

The worst, but most likely outcome from this draft 450 GL recovery framework, based on past experience, will be yet another opaque, ad hoc and socioeconomically damaging water grab over the next four years, to deliver a headline recovery number.

## Key issues

1. Expecting informed public feedback in just five weeks is unrealistic, particularly when the framework has scant detail on critical aspects.
2. Informed feedback is impossible without the DCCEEW disclosing its purchase strategy, including how much water, from where, over what timeframe.
3. The framework's timelines do not give water licence and landholders the time or information needed to properly investigate and consider the relative merits of the options in 2024, being outright buybacks versus leasing options versus land and water packages.
4. The Department has not explained why it believes targeting southern Basin private diverters will have the least 'unintended' socioeconomic impacts, given:
  - a. the water market will socialise allocation price impacts;
  - b. the likelihood of arbitrage transferring impacts to communities outside the seller's location; and,
  - c. entitlement holders inside IIOs being able to transfer their entitlements to river licences, to sell to the Commonwealth as 'private diverters'.
5. Rules-based changes requiring the creation of new entitlements will likely result in permanent reductions in entitlement holders' water access, amounting to compulsory acquisition of their water rights.
6. It is unrealistic to ask for detailed expressions of interest in land and water packages, including specialist ecological assessments, in just five weeks.
7. The land and water package provides no guidance for landowners on how the environmental land management component will be funded in perpetuity.



8. Socio-economic impact assessment and mitigation are complex specialist areas outside the field of expertise for local government and communities. It is unreasonable to expect them to provide informed feedback to inform the updating of the Regulatory Impact Statement, in just five weeks.

This tight turnaround advantages modelling by academics and government agencies, and heavily disadvantages local governments and communities with lived experience. The result will be a repeat of past mistakes made in previous assistance programs

### ***Recommendations***

1. DCCEEW develop a renewed approach to the Basin Plan's implementation, including water recovery, that strengthens the community voice in Basin decision making and allows enough time for genuine consultation.
2. DCCEEW design and implement a cross-sectoral funding program that provides proponents the opportunity to develop integrated projects from several funding programs, including:
  - a. Program elements of Resilient Rivers
  - b. Voluntary Water Purchase
  - c. Structural Adjustment
  - d. SDLAM supply measures
3. Alternative funding arrangements (or a new program) are included to enable community-owned project development and implementation.
4. The Department publish a transparent water recovery strategy to 2027, including but not limited to:
  - a. Transparency on target purchase volumes, location and entitlement types.
  - b. The intended sequencing of recovery and constraints management to deliver the 'enhanced environmental outcomes' in schedule 5 of the Basin Plan.
  - c. The steps to address the risks identified by the Productivity Commission, including market disruption.
5. The Department identify and assess the risks of unforeseen and perverse impacts arising from its intention to target private diverters, including the risks to IIOs viability and sustainability.
6. A clear and transparent process to assess the viability of rules-based recovery options towards the 450GL program, to ensure they remain consistent with



water resource planning arrangements, water management agreements and the 2013 IGA.

7. The Department should vary the additional HEW specification to enable rules changes to count towards the 450 GL without requiring the creation of new entitlements permanently reducing access.
8. The Department develop a more nuanced and sophisticated approach to leasing options to better support both production and the environment.
9. The Department provide more time and information for landowners to fully assess the conservation value of their land and the ongoing management expectations in a land and water package.
10. The rules for and management of over-recovered water must be determined in consultation with stakeholders in affected valleys, including compensation for legacy socioeconomic impacts of over-recovery.
11. Disclosure of DCCEEW's methodology to consider socio-economic implications of water purchase towards the 450GL program, including how community, local government and industry feedback will be incorporated.
12. The Government provide funding for each council to commission socio-economic condition analysis of their LGA, to provide a baseline against which impacts can be measured. This must be completed before buybacks begin.
13. The Government provide funding to councils for at least a decade to undertake annual, robust Monitoring, Evaluation and Reporting (MER) of changes in the key socioeconomic indicators against the baseline.



## Consultation approach

The federal Department of Climate Change, Energy, the Environment and Water (the Department) published the draft 450 GL recovery framework and supporting documents on 30 January 2024, requesting feedback by 4 March – just five weeks.

Expecting industry, local government, community, water licence and landholders to provide informed feedback in just five weeks is unrealistic, particularly when the framework has scant detail on critical aspects of what is being proposed.

For example, the Department has already decided to target private diverters in the southern Basin outside the irrigation districts for buybacks in 2024. It has not explained why it believes this approach will have the least ‘unintended’ socioeconomic impacts nor how this approach is consistent with the other two of the framework’s three guiding principles, being value for money and delivering environmental benefits. It is impossible to provide informed feedback on the merits or otherwise of this purchase approach in the absence of such detail.

Similarly, the Department is seeking input from stakeholders on appropriate evidence, indicators or measures of socioeconomic impacts by 4 March. It says this feedback will inform the Government’s impact analysis to update the 2012 Basin Plan Regulatory Impact Statement (RIS). The updated RIS is intended to meet the Water Amendment (Restoring our Rivers) Act 2023’s requirement that the minister consider social and economic impacts before approving a water purchase program.

However, socio-economic impact assessment is a complex specialist area. The Department has provided neither the time nor funding for key stakeholders such as local government to obtain the expert advice needed to provide informed feedback on the appropriate evidence, indicators and measures for the RIS.

It is difficult to see that feedback making any difference in any case. Government agencies are writing the RIS concurrently with public consultation and feedback period from 30 January to 4 March. It must be published before the buybacks start mid-year, even as early as April. It seems highly unlikely that the RIS methodology will be refined and the statement delayed to incorporate stakeholder feedback.

Finally, the framework’s timelines do not give water licence and landholders the time or information needed to properly investigate and consider the relative merits of the options in 2024, being buybacks versus leasing versus land and water packages.

The latter two options’ design ostensibly will be informed by feedback from the framework survey, but will not be available before the Department presses ahead with buybacks by mid-year. People will not be in a position at that point to make informed decisions on which option might work best for their circumstances and future operations. This heightens the risk of ‘unintended’ socioeconomic impacts.



It is unclear whether the Department subsequently intends to allow enough time to genuinely co-design water recovery measures and assistance packages with irrigation networks, industry, community and local government. History is not encouraging.

The shortcomings in the Department and other agencies' consultation approach since the Basin Plan was conceived in 2007 are well-documented in many reviews and reports, including the comprehensive Independent Assessment of the Social and Economic Conditions in the Murray-Darling Basin (the Sefton Report)<sup>3</sup>, published in April 2020, and Productivity Commission in 2018 and 2023.

The Commission has again set out effective engagement principles, including:<sup>4</sup>

- Partnership and collaboration with those affected by a decision throughout the decision-making process.
- Participants being given the time, information and evidence to support meaningful engagement with the issues.
- Decisions being communicated openly, transparently and in an accessible way
- An environment where decision-makers and those affected by decisions can engage in a meaningful and on-going fashion.

*For communities to observe that engagement has been genuine and meaningful, Basin governments should communicate how community participation influenced the decision-making process. This transparency can also incentivise meaningful engagement practices by Basin parties.<sup>5</sup>*

It is notable that the Department has not incorporated the recommendations of these and other reviews into its consultation model for the draft 450 GL recovery framework. Rather, it is repeating the same mistakes of the last 17 years that have made the Basin Plan a reform that being done to, not with, Basin communities.

It is hard to see this consultation process as anything other than token given the extremely tight timeframes, the lack of detail and the clear intent to fast-track purchases in early 2024 before any other options have been fully developed.

### **Recommendation 1.**

**DCCEEW develop a renewed approach to the Basin Plan's implementation, including water recovery, that strengthens the community voice in Basin decision making and allows enough time for genuine consultation.**

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<sup>3</sup> [Independent assessment of the social and economic conditions in the Basin - DCCEEW; Murray-Darling Basin Plan: Five-year assessment - Public inquiry - Productivity Commission \(pc.gov.au\); https://www.pc.gov.au/inquiries/completed/basin-plan-2023/interim](https://www.pc.gov.au/inquiries/completed/basin-plan-2023/interim)

<sup>4</sup> [pc.gov.au/inquiries/completed/basin-plan-2023/report/basin-plan-2023.pdf](https://www.pc.gov.au/inquiries/completed/basin-plan-2023/report/basin-plan-2023.pdf), p242.

<sup>5</sup> [pc.gov.au/inquiries/completed/basin-plan-2023/report/basin-plan-2023.pdf](https://www.pc.gov.au/inquiries/completed/basin-plan-2023/report/basin-plan-2023.pdf), P242





## Program design and funding

The Department has identified three funding streams, being:

- Resilient Rivers Program: infrastructure projects, rules changes, land and water partnerships and other ways to recover water.
- Voluntary Water Purchase Program from willing sellers.
- Sustainable Communities Program: adjustment assistance for Basin communities impacted by voluntary water purchase.

However, siloing funding streams in this way precludes consideration of how elements in each of the program could be integrated to deliver optimal environmental results and minimise socioeconomic impacts.

We recommend the design and implementation of a cross-sectoral program that can include funding components of each program, together with new supply measures, to provide an integrated program option for broader scope projects.

Further, as the National Irrigators' Council has noted, different states have a different process of engagement with their industries and communities, and not all States have been capable of implementing integrated project ideas.

For these reasons, NSW Irrigators' Council agrees with an option for alternative funding arrangements to allow direct discussions between the proponents and the Australian Government, which may lend itself to more efficient but also more integrated projects.

### **Recommendation 2.**

**DCCEEW design and implement a cross-sectoral funding program that provides proponents the opportunity to develop integrated projects from several funding programs, including:**

- a. Program elements of Resilient Rivers**
- b. Voluntary Water Purchase**
- c. Structural Adjustment**
- d. SDLAM supply measures**

### **Recommendation 3.**

**Alternative funding arrangements (or a new program) are included to enable community-owned project development and implementation.**

## Water recovery framework: a lack of clear strategy

The Productivity Commission in its final report on its 10-year review of the Basin Plan's implementation noted that given the substantial water recovery task, the



Australian Government should develop and implement – without delay – a renewed approach to water recovery.

*A credible delivery pathway for water recovery over the next four years – including annual and catchment-specific targets – is needed to provide certainty to Basin communities and water market participants, and to inform planning and investment decisions.*

*Otherwise, the Australian Government risks being seen as just chasing a volumetric target, with no interest in the consequences or outcomes, or scrutiny on the costs.<sup>6</sup>*

The Commission also warned that undertaking a large program of water recovery in a tight water market and short timeframe risks sharply raising prices and causing significant angst and adjustment pressure for Basin communities.

It observed that over the last three years, average annual entitlement trade in the southern Murray–Darling Basin has been between 90–100 GL/y. Purchasing the 424 GL/y needed to complete the 450 GL/y target by 2027 would significantly increase volumes of entitlement trade in the Basin.<sup>7</sup>

*Recovering the remaining 424 GL/y via purchases by 2027 would, on face value, more than double the volume of entitlement trade in the southern Basin each year, which has averaged 98 GL/y in the last three years (Aither 2023b, p. 18).*

*This relatively low level of entitlement trade means that only a limited volume could be purchased each year without paying high premiums, and increasing water prices in ways that cause excessive disruption to water markets and Basin communities.<sup>8</sup>*

The Productivity Commission says a renewed water recovery approach requires:

- Greater transparency on government modelling, funding decisions, program design and community consultation, including demonstrating how Basin stakeholders feedback has influenced the above.
- Including all options, selected based on how cost-effectively they meet water recovery targets.
- Sequencing of water recovery targets, based on the progress of supply and constraints measure implementation.
- Purchases being undertaken gradually, to avoid driving water market disruption and community adjustment pressures.

<sup>6</sup> [pc.gov.au/inquiries/completed/basin-plan-2023/report/basin-plan-2023.pdf](https://www.pc.gov.au/inquiries/completed/basin-plan-2023/report/basin-plan-2023.pdf), P90.

<sup>7</sup> [pc.gov.au/inquiries/completed/basin-plan-2023/report/basin-plan-2023.pdf](https://www.pc.gov.au/inquiries/completed/basin-plan-2023/report/basin-plan-2023.pdf), P15.

<sup>8</sup> [pc.gov.au/inquiries/completed/basin-plan-2023/report/basin-plan-2023.pdf](https://www.pc.gov.au/inquiries/completed/basin-plan-2023/report/basin-plan-2023.pdf), P69.



- How different options will be used based on cost-effectiveness and likely socioeconomic impact.
- How community programs will be implemented, based on availability of projects, their cost-effectiveness and likely socioeconomic impact.
- When and how community adjustment programs will be implemented, based on socioeconomic monitoring.
- Monitoring, evaluation, reporting and improvement on adjustment program design.
- Careful design and engagement with communities, including to manage risks to irrigation network viability.<sup>9</sup>

The Department's 450 water recovery framework falls far short on the above.

The framework is essentially a blank sheet. It provides no detail on the Government's water recovery plans that would help to inform individual, industry, irrigation districts or local government decisions and planning now and in future.

The Government must be transparent about its purchase strategy, not least to avoid disproportionate recovery at a valley level. Industry and communities need to know:

- How much of the 450 GL is the shared downstream target for South Australia.
- The water recovery volumes sought in the northern and southern Basins.
- The volumes of water recovery being sought from each Basin valley.
- Whether some valleys will be excluded, such as the Lachlan and Wimmera which are treated as disconnected systems and therefore were excluded from contributing to shared downstream targets in the Murray-Darling Basin Plan.
- How much water is being targeted for recovery annually.
- For what purpose is water being recovered in each valley (i.e., how much for environmental watering within the valley, and how much for the shared downstream target to South Australia).
- Whether the buybacks are open to any/all licence types or will purchases be targeted to select licence types? Examples of licences in the Basin include:
  - **NSW**
    - regulated river (high security) access licences.
    - regulated river (general security) access licences.
    - regulated river (conveyance) access licences.
    - unregulated river access licences.
    - supplementary water access licences.
    - domestic and stock access licences.
    - floodplain harvesting (regulated river) access licences.
    - floodplain harvesting (unregulated river) access licences.
  - **Victoria**
    - High Reliability Water Shares.
    - Low Reliability Water Shares.

<sup>9</sup> [Inquiry report - Murray-Darling Basin Plan: Implementation review 2023 \(pc.gov.au\)](#), p97.



- Spill Reliability Water Shares.
- Take and use licences.
- **South Australia**
  - Class 1 entitlements (stock and domestic).
  - Class 3 entitlements (irrigation, recreation and environment).

A credible, transparent water recovery strategy is necessary for stakeholders and Australian taxpayers to have confidence that water recovery is being pursued in a strategic and systematic way consistent with the three guiding principles: value for money, environmental utility and minimising socioeconomic impacts.

The worst, but most likely outcome based on past experience, will be another opaque, ad hoc water grab over the next four years to deliver a headline recovery number.

#### **Recommendation 4:**

**The Department publish a transparent water recovery strategy to 2027, including but not limited to:**

- **Transparency on the target purchase volumes, location and entitlement types.**
- **The intended sequencing of recovery and constraints management to deliver the ‘enhanced environmental outcomes’ in schedule 5 of the Basin Plan.**
- **The steps to address the risks identified by the Productivity Commission, including market disruption.**

### **Targeting private diverters**

The framework says voluntary water purchase options with least unintended socio-economic impacts will be prioritised. As such, the Department says it will target private diverters outside the major irrigation networks in the southern Basin in 2024. It says this will allow time to work with the Independent Irrigation Operators (IIOs) and the States to identify the best water recovery opportunities inside the networks.

From an IIO’s perspective, this acknowledges the issues associated with shared infrastructure and the framework provides a small window to identify less harmful options.

However, the Department has not explained why it believes this approach would have the least ‘unintended’ socioeconomic impact in a highly interconnected water market. Nor has it explained how this approach is consistent with the framework’s other two guiding principles, being value for money and delivering environmental benefits.



Further, the Department has not explained its strategy. For example, will it buy water back from private diverters anywhere in the southern Basin, or will it be strategic depending on whether water is intended to meet the 450 GL as a shared downstream target, or be used in-valley?

Most Murray private diverters appear to be below the Barmah Choke. That makes their water highly deliverable to South Australia, but concentrates the reduction in the consumptive pool in one part of the southern Basin, leaving those communities fearful of bearing a disproportionate socioeconomic impact.

At the same time, purchasing entitlement from private diverters above the Choke is problematic if the intention is to move that water downstream to South Australia. Trading rules state water should not be moved through Choke unless equal amount of below Choke water is transferred upstream.

Over the years, large amounts of NSW and Victorian water have been transferred to the environment from above the Choke. When this entitlement was owned by irrigators, the water was used above the Choke. Now, as environmental entitlement, its allocations are being used below the Choke. This transfer outside the rules is considered to be a significant driver in the Choke's continuing degradation.

The Murrumbidgee valley also has many private diverters. But the valley is poorly connected if water is being recovered to contribute to a shared downstream 450 GL target, given the Inter-Valley Transfer (IVT) limit and the natural choke point at the end of the system before it enters the Murray River. Similar concerns apply to any water purchased in the Goulburn River system in Victoria.

The water market in the southern Basin is also highly connected. It does not matter where a tradeable entitlement is purchased from. Whether the purchase is from inside an irrigation network or from private diverter, the market will respond to the reduction in the overall consumptive pool with higher allocation prices, particularly in dry years. This means the socio-economic impacts of buybacks targeting private diverters will be socialised across all irrigation-dependent communities.

The only way to avoid this is to reduce demand commensurate with the reduction in supply. Controversially, this would involve, for example, making purchases conditional on the private diverter either transitioning to a dryland property, or removing irrigation infrastructure to reduce irrigated production commensurate with the entitlement volume sold.

Similarly, has the Department considered how private diverters may simply arbitrage by selling entitlement to the Commonwealth, and then replace it by purchasing entitlement out of the irrigation networks within a year or two? This displaces the socioeconomic impacts from the community in which the seller is located to another



community elsewhere. This dynamic was noted in the MDBA's 2018 southern Basin community profiles for several Riverland communities.<sup>10</sup>

In another example, water brokers are already advising entitlement holders how they can transfer their entitlements to river licences so they can sell to the Commonwealth as 'private diverters'.<sup>11</sup> This makes a mockery of the Commonwealth's 'strategy' to allow time to work with the (IIOs) and the States to identify the best water recovery opportunities inside the networks.

Ensuring community assistance is genuinely place-based will require the Department to closely monitor entitlement trades and transfers for several years after the buyback programs, to ensure that assistance goes to the actual place impacted.

### **Recommendation 5.**

**The Department identify and assess the risks of unforeseen and perverse impacts arising from its intention to target private diverters, including the risks to IIOs viability and sustainability.**

## **Rules changes**

The framework observes that rule-based changes in the northern Basin that improve connectivity have potential to enhance environmental outcomes by leaving more water in rivers at key times. It identifies this as an option to count towards the 450 GL target.

However, the framework also stipulates that any rule-based changes still require the transfer of water entitlements. It is unclear what the Department has in mind to that end. Is it proposing to purchase existing entitlements equivalent to the additional water that would be left in rivers at key times?

Or is it proposing that new entitlements are created equal to the additional water left in the rivers at key times? This could have a direct impact on all existing entitlements by permanently reducing reliability, including entitlements held by the environment.

Such a policy would amount to compulsory acquisition. It is also inconsistent with the 2013 Intergovernmental Agreement (IGA), whereby the Commonwealth Government committed "to 'Bridge the Gap' between Baseline Diversion Limits (BDLs) and

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<sup>10</sup> For example: [community-profiles-renmark-june2018.pdf \(mdba.gov.au\)](#)

<sup>11</sup> Wilks Water email to subscribers, 28 February 2024: *The Government has announced that they will be interested in buying from Southern Basin Private Diverters (River Licences). If you are a holder of entitlement within an Irrigation Scheme you may be well advised to transfer your entitlement onto a river licence and improve your chances of being a successful seller in the Government Buy Backs once a date has been announced by the government ... Contact us to organise a River licence and the transfer of your Permanent Entitlement to be in the best position possible upon the government's announcement.*



Sustainable Diversion Limits (SDLs) in the Basin Plan, with the intent that “no water entitlements will be eroded or compulsorily acquired as a result of the Basin Plan.”<sup>12</sup>

The alternative option could be to trigger the risk assignment. However, as the Productivity Commission has warned, this is an expensive and controversial approach<sup>13</sup> that isn’t in the spirit of collaboration needed to implement the Murray Darling Basin Plan nor is it consistent with the IGA.

The NSW Government says a consideration of the Australian Government is an equitable distribution across valleys so that no one community bears a disproportionate share of the recovery burden, with consideration given to cumulative recovery to date and vulnerability to further impacts.<sup>14</sup>

This is relevant to rules changes. If the volumes of over-recovered water in the Macquarie (38GL) and Gwydir (5GL) valleys are repurposed to count towards the 450 GL, does that mean these valleys are then quarantined from additional water recovery through rules changes, given their already substantial contribution to the 450GL?

It should also be noted that while clause 7.08B in the amended Basin Plan specifies additional HEW to be a water access right, a water delivery right or an irrigation right, the note to 7.08B states such a specification may be revoked, amended or varied under subsection 33(3) of the Acts Interpretation Act 1901.

So, the Department does have flexibility on how the 450 GL is counted – transferring or creating entitlements out of rules changes is not in fact the only option available.

The Department should provide more transparency on how rules-based option will be accounted in terms of volumes and outcomes, and then implemented. This is important considering the lack of transparency around the NSW Government’s independent connectivity panel and its work to date.

The Department should be aware that rules changes in NSW water sharing plans in the Gwydir valley, for example, have typically not delivered the intended outcomes, and had third party impacts (e.g., displaced flooding impacts on private property).

The only time the rules changes have delivered the flow objectives is when there were significant flows across the border from Queensland as well as in NSW rivers. However, NSWIC is of the understanding that NSW connectivity modelling to support rules changes assumes no flow contribution from Queensland.

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<sup>12</sup> Intergovernmental Agreement on Implementing Water Reform in the Murray Darling Basin, 2013 – amended in 2017 and 2019. <https://federation.gov.au/sites/default/files/about/agreements/iga-on-implementing-water-reform-mbd-9-august-2019.pdf>

<sup>13</sup> PC, Final Report into 5-year Implementation of the Murray Darling Basin Plan, page 98.

<sup>14</sup> NSW Government Alternatives to Buybacks Plan, p17.



This will likely lead to unnecessarily large cuts in entitlement holders' access, particularly when droughts break (first flush) and farmers, as much as the environment, are desperate for water to restart production, hire workers and get money flowing again through the local economy.

Entitlement holders in the northern Basin have already had water “compulsorily” taken through rule changes to date with no compensation. There is also considerable concern that the rule changes will reduce water access in the upstream catchments without considering the need to balance each catchment’s potential to contribute to flows in the Barwon-Darling River. This is particularly the case in near terminal systems such as the Macquarie and the Gwydir, with poor connectivity to the Barwon-Darling River in anything other than major flooding years.

**Recommendation 6.**

**A clear and transparent process to assess the viability of rules-based recovery options towards the 450GL program, to ensure they remain consistent with water resource planning arrangements, water management agreements and the 2013 IGA.**

**Recommendation 7.**

**The Department should vary the additional HEW specification to enable rules changes to count towards the 450 GL without requiring the creation of new entitlements permanently reducing access.**

## **Leasing**

Leasing allocation from entitlement holders is supported. It provides additional water for the environment that can be counted towards the 450 GL. The program can be designed to provide certainty of water over the long-term, in the same way as leases for consumptive use constantly come onto the market as others expire.

That said, the framework’s leasing options are too binary and require further exploration and discussion. A more nuanced approach to develop more sophisticated options may genuinely deliver a better result for both production and the environment by reflecting natural climatic wetting and drying cycles.

The leasing program should embed this flexibility to support both environmental watering and production. Models include the Murray-Darling Basin Balanced Water Fund partnership between Kilter Rural, The Nature Conservancy and the Murray Darling Wetland Working Group.

**Recommendation 8.**

**The Department develop a more nuanced and sophisticated approach to leasing options to better support both production and the environment.**





## Land and Water Packages

The Department is calling for Expressions of Interest in land and water packages by 4 March. These packages are included as an option in the 450 GL recovery framework. They are not, however, an alternative to buybacks.

The packages require participants to sell water entitlements (but not land) to the Commonwealth. Presumably, this means the participant retains land ownership, but must manage some or all of it to support environmental outcomes in perpetuity.

Alternately, a land manager might be identified that is willing and able to take ownership and be responsible for future management. These may include Basin governments, First Nations groups, philanthropic entities and NGOs.

The Department says land and water packages must contribute to and support the delivery of water for, but not limited to:

- relaxing physical constraints,
- repairing nature in significant Basin ecosystems,
- providing First Nations outcomes, including increasing involvement in water management, and enhancing First Nations self-determination, living culture, cultural economies, and ability to care for Country,
- increasing protected areas under the National Reserve System, contributing to biodiversity conservation and protection targets and contributing to biodiversity restoration targets.

Expressions of Interest need to identify the biodiversity values of the land including its bioregion and the known native species and ecological communities present.

It is unreasonable to expect land-and-water owners to put together a coherent Expression of Interest meeting the above criteria in less than five weeks by 4 March.

The Department has also failed to provide vital guidance to potential participants. For example, does the Department expect the landowner to cover all the financial costs of managing the land in the package to meet the above criteria in perpetuity?

If not, then where will that funding come from? Are the landowners or managers expected to cover the time and any financial costs incurred in trying to raise funds from elsewhere? Similarly, what is the administration burden expected in time and resources to manage the land and its watering in conjunction with State and Commonwealth Environmental Water Holders?

And can a landowner still use land subject to the package for production at times when environment watering is not occurring, including for livestock grazing, dryland cropping, or even opportunistic irrigated cropping?



The risk is that in the absence of guidance and adequate time, the Department may receive few Expressions of Interest from land-and-water entitlement holders. It may then wrongly conclude this option has little support and drop it from the toolbox.

### **Recommendation 9.**

**The Department provide more time and information for landowners to fully assess the conservation value of their land and the ongoing management expectations in a land and water package.**

## **Over-recovered water**

The draft 450 GL recovery framework assumes that water purchased in past buyback rounds in excess of what was required to meet Sustainable Diversion Limits in some valleys, will simply be repurposed to count towards the 450 GL target.

Water users in over-recovered valleys such as the Macquarie and the Gwydir have sought clarity for almost a decade on how the Department would return the over-recovered entitlements. They have been stonewalled, and are now being told the entitlements will be repurposed without any local consultation.

The 2012 Basin Plan set Sustainable Diversion Limits taking in account what the Murray Darling Basin Authority considered to be acceptable socio-economic impacts, as well as the environmental benefits possible within a constrained system. Over-recovery beyond what was required to meet the SDLs has imposed a greater socioeconomic burden than necessary on the affected communities.

The NSW Government says the Australian Government must consider an equitable distribution across valleys so that no one community bears a disproportionate share of the recovery burden, with consideration given to cumulative recovery to date and vulnerability to further impacts.<sup>15</sup>

For example, the 38 GL of water over-recovered in the Macquarie valley equates up to \$90M of lost production per annum just at the farm gate. Beyond the farm gate, the harm extends to lost local employment, population decline in small regional towns, difficulty maintaining businesses and local community services like schools and doctors. No community assistance has been provided to address these socioeconomic impacts.

Similarly in Moree and Collarenebri in the Gwydir valley with 5GL over-recovery, social and economic indicators declined throughout 2001-2011 including education, economic resources, and social disadvantage.

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<sup>15</sup> NSW Government Alternatives to Buybacks Plan, p17.



So, if the volumes of over-recovered water in the Macquarie (38GL) and Gwydir (5GL) valleys are repurposed to count towards the 450 GL, does that mean these valleys are then quarantined from additional water recovery through buybacks and rules changes, given their already substantial contribution to the 450GL?

Further, given these two valleys are terminal systems with poor connectivity to the Barwon-Darling River in all but the wettest years, it is an open question how this over-recovered water will contribute to additional environment outcomes linked to the 450 GL, given it has already been used for environmental watering in the Ramsar-listed Macquarie Marshes and Gwydir Wetlands for more than a decade.

Another open question is if the over-recovered water is counted towards the shared 450 GL downstream target, does that mean the CEWH will attempt to bypass the Macquarie Marshes and Gwydir Wetlands, denying them water while it tries to shepherd the water to South Australia to deliver the enhanced environmental outcomes in Schedule 5 of the Basin Plan?

**Recommendation 10.**

**The rules for and management of over-recovered water must be determined in consultation with stakeholders in affected valleys, including compensation for legacy socioeconomic impacts of over-recovery.**

## **Understanding socioeconomic impacts**

The draft community adjustment principles in the draft 450 GL recovery framework do not demonstrate a substantial change in direction from past approaches that have been widely criticised.

While the principles ‘support diversification and resilience’, the focus is nonetheless on transitioning communities away from dependence on irrigated agriculture. They do not give sufficient weight to resilience in communities that have few, if any, diversification options. A case in point is the Coleambally irrigation district, whose future depends on the viability of the remaining farmers; it is not going to become a tourism mecca.

The principle of investment being placed-based and proportional to the impacts observed is problematic, given no effort has been made to assist local government and stakeholders to set baselines against which impacts can be measured.

A one-size fits-all approach to proportionality is also problematic when the impacts of buybacks are magnified in smaller communities with a narrow social and economic base.



Further, the nexus between buybacks out of one community and socioeconomic impact is not linear. The water market, particularly in the southern Basin, means the impacts of buybacks can be transferred to other communities through the arbitrage described earlier in this submission.

Similarly, the people who lose their jobs may not live in the community from which water was purchased, but in surrounding towns which instead feel the ripple effects down their Main Street. In another example, buybacks in one community may lead to reduced production that means dairy, rice and other food processing facilities in other towns are no longer viable, costing jobs, population and income.

The Productivity Commission has recommended the Australian Government's water recovery strategy should incorporate socioeconomic monitoring that identifies the likely adjustment pressures exacerbated by specific purchases or projects, and their cumulative impact, to inform more effective targeting of transitional assistance. It says this will also provide greater transparency on the expected socioeconomic impacts of Basin Plan water recovery, compared to other drivers of change.<sup>16</sup>

The Commission says any future Basin adjustment program should include a robust evaluation framework and be based on the lessons learnt from past programs, and the regional economic context. It recommends the water recovery program should be coupled with a monitoring program to assess the broader community impacts of water recovery in the Basin and help target and design effective structural adjustment assistance.

These recommendations are in the Productivity Commission's final Basin Plan evaluation report released after the 450 GL draft framework was published for feedback. But they are consistent with multiple earlier reviews and reports, including the comprehensive Independent Assessment of the Social and Economic Conditions in the Murray-Darling Basin (the Sefton Report)<sup>17</sup>, published in April 2020.

The draft 450 recovery framework's survey asks:

1. What are key lessons learned from previous water recovery programs that can inform practical approaches to minimising socio-economic impacts in the future?

It is notable that the Department has apparently not incorporated the lessons learned in past reviews into its community assistance principles or its consultation approach. Rather, it is repeating the same mistakes of the last 17 years that have made the Basin Plan a reform that being done to, not with, Basin communities.

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<sup>16</sup> [pc.gov.au/inquiries/completed/basin-plan-2023/report/basin-plan-2023.pdf](https://www.pc.gov.au/inquiries/completed/basin-plan-2023/report/basin-plan-2023.pdf) p97.

<sup>17</sup> [Independent assessment of the social and economic conditions in the Basin - DCCEEW; Murray-Darling Basin Plan: Five-year assessment - Public inquiry - Productivity Commission \(pc.gov.au\); https://www.pc.gov.au/inquiries/completed/basin-plan-2023/interim](https://www.pc.gov.au/inquiries/completed/basin-plan-2023/interim)



We suggest the Department apply what it should already know from these multiple reports and reviews to co-designing practical approaches to minimise socio-economic impacts with local government, industry and communities. Similarly, other reviews and reports, such as the MDBA's community profiles in the northern and southern Basin, have demonstrated how local knowledge can be captured.

The Department is seeking input from stakeholders on appropriate evidence, indicators or measures of socioeconomic impacts. It says this feedback will inform the Government's impact analysis to update the 2012 Basin Plan Regulatory Impact Statement (RIS). The updated RIS is intended to meet the Water Amendment (Restoring our Rivers) Act 2023 requirement that the minister consider social and economic impacts before approving a water purchase program.

The Department wants local government and other stakeholders to provide all the above by 4 March 2024. It is simply unreasonable to expect local government and stakeholders to provide informed feedback in such a short time.

This tight turnaround advantages modelling by academics and government agencies, and heavily disadvantages local governments and communities with lived experience. The result will be a repeat of past mistakes made in previous assistance programs.

Socio-economic impact assessment and mitigation are complex specialist areas outside the field of expertise for local government and communities. The Government has provided neither the time nor funding for stakeholders and local government to obtain the expert advice needed to provide informed feedback on appropriate evidence, indicators and measures by 4 March and beyond.

The Department says the Sustainable Communities program aims to put mechanisms in place for regular community, industry and local government participation in developing practical approaches to minimise negative socioeconomic impacts. This will require the Department to provide the following:

- Funding for each council to commission socio-economic condition analysis of their LGA, to provide a baseline against which impacts can be measured. This must be completed before buybacks begin.
  - Analysis could include: the types and economic multiplier effects of irrigated agriculture, local agricultural processing facilities, number and types of other business, jobs in each sector, current services such as health, current school enrolments, teacher numbers, sports clubs and teams, social and physical infrastructure, population, demographics of the population.
  - Analysis could include qualitative research: i.e., surveys of diverse businesses and their employees, including farmers, to measure community confidence in the way consumer confidence is tracked.



- This baseline analysis will also then help to inform the potential for diversifying a community's economy if irrigated agriculture declines.
- Funding for at least a decade to undertake annual, robust Monitoring, Evaluation and Reporting (MER) of changes in the key indicators against the baseline. This would include ongoing qualitative MER.

The above approach reflects past impact analysis approaches in which the community felt it was properly heard, it was taken seriously, and an effort was made to drill down into understanding the ripples of impact throughout a community. These approaches include the MDBA's southern and northern Basin community profiles and the 2020 Independent Assessment of Social and Economic conditions in the Basin (the Sefton Report).

It would not be acceptable for the Department to discount these and other reports such as Victoria's [2022 Frontiers Economics](#) analysis. The Department should not be in the business of picking and choosing the analysis and methodology that will support the Australian Government's preferred political narrative that buybacks have minimal, if any, impact.

#### Evidence, indicators and measures of impact

- Place-based assistance is calculated as a multiplier on the value of the water purchased, paid each year for at least a decade to support local government and communities to adjust.
- Place-based assistance must recognise that the impact may not be felt in the community from which the entitlement was purchased, and that impacts can take up to a decade or more to emerge after the buybacks occurred.
- For example, the 2018 sMDB community profiles recorded that while the Government purchased more than 20% of Riverland SA entitlements, irrigators there in part replaced what was sold by purchasing entitlements from upstream communities. This reduced the socioeconomic impact in the Riverland but transferred those impacts to other communities.
- The same arbitrage is highly likely with the Government's decision to target private diverters in the 2024 water purchase program. Diverters who sell to the Government but continue their irrigated production are highly likely to replace what they sold by purchasing out of IIOs upstream in the NSW Riverina and northern Victoria.
- The Government must track this arbitrage in entitlement trades, to ensure that place-based assistance is directed to the community where the impacts occur. This may not be the community in which the seller to the Commonwealth operates. Arbitrage must be tracked for at least five years, as sellers may wait to purchase replacement entitlements if, for example a series of wet years means they can meet their water needs cheaply through the allocation market.
- Other potential indicators:
  - Local population and demographic trends.



- Agricultural service and other business changes.
- Food manufacturing and processing facilities contracting or closing.
- School enrolments and health services.
- Recreational trends, for example sporting clubs fielding teams.
- [SEIFA](#) indicator trends, where the trajectory changes soon after water purchasing has occurred (this was reported in the sMDB profiles)
- Trends in water entitlement trades out of IIOs following the 2024 program to target private diverters.

**Recommendation 11.**

**Disclosure of DCCEEW’s methodology to consider socio-economic implications of water purchase towards the 450GL program, including how community, local government and industry feedback will be incorporated.**

**Recommendation 12.**

**The Government provide funding for each council to commission socio-economic condition analysis of their LGA, to provide a baseline against which impacts can be measured. This must be completed before buybacks begin.**

**Recommendation 13.**

**The Government provide funding to councils for at least a decade to undertake annual, robust Monitoring, Evaluation and Reporting (MER) of changes in the key socioeconomic indicators against the baseline.**



## Conclusion

The draft 450 GL recovery framework provides little scope for genuine co-design of water recovery options with community, local government and industry, to ensure the least possible socio-economic harm to Murray-Darling Basin communities.

NSWIC and our members are available for further discussion on how to create a framework that will free up more water to deliver the enhanced environmental outcomes sought, and the much-needed step-change in the Murray-Darling Basin's environmental health that simply adding more water will not achieve.

Kind regards,

The NSW Irrigators' Council





## NSW Irrigators' Council

The NSW Irrigators' Council (NSWIC) is the peak body representing irrigation farmers and the irrigation farming industry in NSW.

NSWIC represents more than 12,000 water access licence holders in NSW who access regulated, unregulated and groundwater systems. NSWIC has member organisations in every inland river valley of NSW, and multiple coastal valleys. Our members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton and horticultural industries.

NSWIC engages in advocacy and policy development on behalf of the irrigation farming sector. As an apolitical entity, the Council provides advice to all stakeholders and decision makers.

Each Council member reserves the right to independent policy on issues that directly relate to their areas of operation, expertise or any other issues that they deem relevant.

## NSW Irrigation Farming

Irrigation farmers in Australia are recognised as world leaders in water efficiency. For example, according to the Australian Government Department of Agriculture, Water and the Environment:

*“Australian cotton growers are now recognised as the most water-use efficient in the world and three times more efficient than the global average”<sup>18</sup>*

*“The Australian rice industry leads the world in water use efficiency. From paddock to plate, Australian grown rice uses 50per cent less water than the global average.”<sup>19</sup>*

Our water management legislation prioritises all other users before agriculture (critical human needs, stock and domestic, and the environment), meaning our industry only has water access when all other needs are satisfied.

Our industry supports and respects this order of prioritisation. Many common crops we produce are annual/seasonal crops that can be grown in wet years, and not grown in dry periods, in tune with Australia's variable climate.

Irrigation farming in Australia is also subject to strict regulations to ensure sustainable and responsible water use. This includes all extractions being capped at a sustainable level, a hierarchy of water access priorities, and strict measurement requirements.

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<sup>18</sup> <https://www.agriculture.gov.au/ag-farm-food/crops/cotton>

<sup>19</sup> <https://www.agriculture.gov.au/ag-farm-food/crops/rice>