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SUBMISSION

EPBC nomination of Murray River downstream of the Darling River

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Introduction

The potential listing of the Murray River downstream of the Darling junction as a threatened ecological community under the Environment Protection and Biodiversity Conservation Act is problematic on several grounds.

In this short submission, we highlight key areas of concern that would render a listing at this time as premature, counterproductive and potentially unnecessary to enhance the protection and recovery of this ecological community.

Issues

[A barrier to non-purchase water recovery and community adjustment](#)

Claiming the proposed listing does not alter any requirements or directions under any other environmental plans, including the Murray-Darling Basin Plan, is disingenuous, as is the reassurance that EPBC listing will not prevent continuing use of land and water use.¹

These statements falsely create a public perception that the listing will not affect the implementation of the current Basin Plan or future iterations, including community and agricultural adjustment to a future with less water available for growing food and fibre. This only holds true '*as long as there is no major change or intensification of land-use activities.*'²

More significantly, listing will provide guidance for government decisions on *new developments* that may impact the environment³, and for setting approval conditions for relevant controlled actions under national environment law (the EPBC Act).⁴ It means any proposed new action that *could* have a significant impact on the threatened ecological community must be referred for assessment and approval by the Australian Government.

¹ 'River Murray—Darling to Sea ecological community – consultation guide'. DCCEEW, p8-9.

² Ibid, p8.

³ Ibid, p7.

⁴ Draft Conservation Advice for the River Murray downstream of the Darling River, and associated aquatic and floodplain systems Ecological Community, p98.



This has serious implications for many non-purchase water recovery projects under the Basin Plan, as well as community/farm adjustment to the impacts of water recovery over coming decades. By definition, many water recovery and adjustment projects will be 'proposed new actions' that require major changes in existing land and water use, and public and private infrastructure.

This includes SDLAM 605 GL environmental offset projects, and water saving infrastructure reconfiguration projects in irrigation districts intended to contribute to the 450 GL. These projects involve major changes in land and water use, and infrastructure. They would need to be assessed to determine if they are controlled actions under the EPBC Act. This will inevitably add costs, delays and complexity to these essential projects, many of which are themselves linked to better environmental outcomes.

There is also an emerging trend to challenge SDLAM 605 GL projects on environmental grounds.⁵ It is conceivable that listing the River Murray below the Darling junction under the EPBC Act will provide additional legal grounds to such challenges.

These projects have extremely tight deadlines to be assessed, funded and completed under the Restoring Our Rivers Act 2023. If they are not completed in time, then the Australian Government may return to the water market to make up the shortfalls in water recovery targets. Added delays for EPBC assessment all but guarantees these projects will not make their deadlines, much less providing additional grounds for legal challenges to these projects.

It is counterproductive to introduce an EPBC listing carrying a high risk of slowing down, if not stopping, projects intended to enhance environmental outcomes under the Murray-Darling Basin Plan. This listing would in effect set up non-purchase options towards the SDLAM 605 GL target and the SDLAM 450 GL target to fail, leaving buybacks or rules changes eroding the reliability of water entitlements as the only water recovery option.

It may also render any additional water recovery meaningless, as it could obstruct changes needed to implement environmental watering upstream, such as constraints relaxation.

Adjustment to the impacts of the current Basin Plan will also drive new projects in towns and communities looking to 'diversify' their local economies, while farmers reconfigure infrastructure on their properties to convert from different, potentially more intensive types of irrigation or to dryland production. These will result in changes in existing land/ water use and infrastructure. Many projects will therefore require assessment to work out whether they are exempt from the EPBC listing, inevitably adding cost and delays.

We are extremely concerned that this proposed EPBC listing would grind to halt non-purchase water recovery options, and adaptation to Basin Plan impacts, compounding the negative impacts on communities. This unintended and perverse outcome would be unacceptable.

[A rushed process without all relevant scientific knowledge](#)

The nomination has been released for public consultation without providing the public with the latest scientific information required to fully consider whether the proposed conservation

⁵ [Environmental group launches legal action over 'uber-engineering' of Victorian flood plains - ABC News](#)



status is appropriate. Without all information to hand, the draft Conservation Advice cannot be considered a comprehensive assessment to enable informed public feedback.

We appreciate that the Threatened Species Scientific Committee will receive that information in the 'upcoming Murray-Darling Basin Plan technical reports to be released soon'⁶, but it intends to submit its final Conservation Advice to the federal Environment Minister on 29 November without seeking public feedback informed by the additional information in the MDBP technical reports.

As it stands, the 2024 nomination looks little different from the 2013 nomination, as if more than 10 years of water recovery for the environment, new knowledge of e-watering impacts, and investment in efforts to protect and restore this and other ecological communities have made no difference at all. If that is the case, then the \$13 billion Basin Plan must be said to have utterly failed, and recovery of another 450 GL from farmers will not make the difference.

However, it may well be that once the effects of water recovery, e-watering and other investment is taken into account, a critically endangered listing is not appropriate. Nor would it be needed to gain support for continuing work to protect and restore this ecological community, such as addressing erosion, salinisation, weeds, and feral animals.

The *2013 Conservation Advice* was developed over several years with input from over 100 experts, a review of over 400 papers and reports, the outcomes of two technical workshops, and consultation with a range of industry, government, First Nations, and other community stakeholders. On face value, it would appear it was a thorough process.

In 2024, it is acknowledged that the Threatened Species Scientific Committee has a short statutory timeframe to draft its Conservation Advice to be submitted to the minister by 29 November 2024⁷ – so short a timeframe that it has released a draft Conservation Advice missing critical new knowledge to inform public consultation. This is a perfunctory process.

The question must then be asked – what is the rush to meet the 29 November 2024 statutory deadline? The process appears driven by more political imperatives to deliver election promise before Australia goes to the polls in 2025, than a carefully considered scientific assessment drawing on new knowledge, with genuine community engagement and consultation.

[Prioritising South Australia over the rest of the Basin](#)

We are told the listing, and the associated Conservation Advice published at the time of listing, will help to, among other things⁸:

- prioritise and support government natural resource management initiatives and on-ground management and recovery activities, including environmental watering.

More specifically, the draft Conservation advice says the listing will guide the Australian Government in prioritising activities funding programs.⁹ The consultation guide also states

⁶ Draft Conservation Advice for the River Murray downstream of the Darling River, and associated aquatic and floodplain systems Ecological Community, pi.

⁷ Ibid, pii.

⁸ 'River Murray—Darling to Sea ecological community – consultation guide'. DCCEEW, p7.

⁹ Draft Conservation Advice for the River Murray downstream of the Darling River, and associated aquatic and floodplain systems Ecological Community, p101.



the listing would help land managers to access opportunities through current or future natural resource management programs and nature repair market initiatives.

It would appear the intent of the listing is to give South Australian land and water managers priority access to federal resources and funding over the needs of upstream Murray-Darling Basin ecosystems, and land and water managers in other Basin States.

This is unacceptable. The Murray River below the Darling River junction is not alone in the Murray-Darling Basin in having been 'heavily impacted by multiple threats (historic and current), such as land clearing, water extraction/diversion, invasive species, and climate change, leading to wide-ranging losses of biodiversity and ecological function'.¹⁰ It should not be prioritised over all other ecosystems and communities upstream, unless the Murray-Darling Basin Plan really is just all about South Australia.

Duplication of Basin Plan objectives

The draft Conservation Advice lists the main factors that make the Murray River below the Darling Junction likely to be eligible for EPBC, including:

- widespread declines or losses (including local extinctions).
- reductions in biodiversity; disruption of key ecological, hydrological, and geo-physical processes; and, conditions that favour invasive species (alien and pest); and,
- restoration of the biota and processes is unlikely in the immediate future, especially without further efforts to prevent and limit threats and support recovery.

It goes on to say the primary conservation objective of an EPBC listing is, among other things, to halt and reverse the ecosystem's decline, with the immediate and highest priority conservation goals including:

- Re-instate small to moderate within-channel and overbank flows.
- Re-establish a healthy macrophyte assemblage.
- Increase understanding of and reduce floodplain salinisation.
- Reduce, exclude, or eliminate common carp.
- Improve existing fish passage.

All the above is covered already under the Murray-Darling Basin Plan and its management actions. While the Conservation Advice acknowledges this, it implies the EPBC listing is needed because the 'Basin Plan will not be fully implemented for some time, and is unlikely to restore the integrity of the ecological community in the immediate future.'¹¹

This is not an argument to justify an urgent EPBC listing. A listing is not going to restore the integrity of this ecological community in the immediate future, either. Its only effect will be prioritising South Australia over other struggling ecological communities upstream in the competition for scarce government funds and resources.

The draft Conservation Advice also claims the EPBC listing is needed because 'the Basin Plan being primarily concerned with water, does not have the remit to fully address the myriad of other threats currently operating on this ecological community.'¹²

¹⁰ River Murray—Darling to Sea ecological community – consultation guide'. DCCEEW, p6.

¹¹ Draft Conservation Advice for the River Murray downstream of the Darling River, and associated aquatic and floodplain systems Ecological Community, p197.

¹² Ibid, p75.



This is an egregious historical revision. The Murray-Darling Basin Authority (MDBA) made the decision when modelling for the 2010 Guide to the proposed Basin Plan, to use water as a proxy for ecological health measured under five themes in the Sustainable River Audits, being Fish, Macroinvertebrates, Vegetation, Physical Form and Hydrology.

The SRA themes were chosen for their significance in river ecosystems, their sensitivities to interventions and their linkages to other features of river ecology. Each is amenable to sampling and measurement using proven methods.¹³ Yet, the MDBA deliberately chose just one theme – hydrology, specifically end of system flows – to be the proxy indicator of ecosystem health in the Basin Plan. This drove Government investment into water recovery alone, at the expense of complementary measures applicable to the other four themes.

The overwhelming failure of the Basin Plan since its inception is its singular focus on water volume alone. Now it is evident that this “just add water” approach is not delivering the kind of catchment and Basin-scale step change in water quality, habitat quality and extent, and ecosystem functions that Australians should expect for the investment of \$13 billion of taxpayers’ funds (and still spending).

An EPBC listing for just one part of the Murray-Darling Basin is not the solution to the Basin Plan’s shortcoming of focusing on water recovery alone. This shortcoming should be addressed in Basin Plan 2.0 by shifting the focus to the complementary measures consistent with the SRA’s four themes sidelined in Basin Plan 1.0.

Conclusion

The proposed listing of the Murray River below the Darling junction as a threatened ecological community under the EPBC Act is not warranted on grounds that:

- It is unnecessary as the conservation objectives and management activities are already covered under the Murray-Darling Basin.
- It will prioritise scarce federal funding and resources into South Australia at the expense of equally deserving Basin ecosystems and communities upstream.
- Community consultation has been undertaken without all new scientific knowledge provided to inform feedback.
- EPBC listing will add unacceptable costs and delays to Murray-Darling Basin Plan non-purchase water recovery options, SDLAM 605 GL projects, and community and industry adjustment projects, and in some cases the rejection of projects.
- The process appears driven by more political imperatives to deliver election promise before Australia goes to the polls in 2025, than a carefully considered scientific assessment and genuine community engagement and consultation.

NSWIC and our members are available at your convenience if you have any questions or would like any further information.

Kind regards,

NSW Irrigators’ Council

¹³ [sustainable-rivers-audit-summary.pdf \(mdba.gov.au\)](https://www.mdba.gov.au/sustainable-rivers-audit-summary.pdf)



NSW Irrigators' Council

The NSW Irrigators' Council (NSWIC) is the peak body representing irrigation farmers and the irrigation farming industry in NSW. Our members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton and horticultural industries.

Through our members, NSWIC represents over 12,000 water access licence holders in NSW who access regulated, unregulated and groundwater systems. 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.

Irrigation farmers are stewards of tremendous local, operational and practical knowledge in water management. With more than 12,000 irrigation farmers in NSW, a wealth of knowledge is available. Participatory decision making and extensive consultation ensure this knowledge can be incorporated into best-practice, evidence-based policy.

NSWIC and our members are a valuable way for Governments and agencies to access this knowledge. NSWIC offers the expertise from our network of irrigation farmers and organisations to ensure water management is practical, community-minded, sustainable and follows participatory process.

NSWIC sees this consultation as a valuable opportunity to provide expertise from our membership. Each 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”¹⁴

“The Australian rice industry leads the world in water use efficiency. From paddock to plate, Australian grown rice uses 50% less water than the global average.”¹⁵

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.

¹⁴ <https://www.agriculture.gov.au/ag-farm-food/crops/cotton>

¹⁵ <https://www.agriculture.gov.au/ag-farm-food/crops/rice>