

Commonwealth Environmental Water Holder submission to the Natural Resources Commission review of the Intersecting Streams Unregulated and Alluvial Water Sources 2011 Water Sharing Plan

Introduction

The Commonwealth Environmental Water Holder (CEWH) role is established by the Commonwealth *Water Act 2007* to manage Commonwealth water holdings for the purposes of protecting and restoring environmental assets of the Murray-Darling Basin and to give effect to relevant international agreements. The Commonwealth Environmental Water Office (CEWO) supports the work of the CEWH. The CEWH acknowledges the important role of the Natural Resources Commission (NRC) in providing independent evidence-based advice towards the sustainable management of natural resources in NSW. With regard to water, the NRC has an important role in testing whether the objectives of the NSW *Water Management Act 2000* are being fulfilled through the provisions and implementation of water sharing plans.

The CEWH currently manages, in long-term average annual yield terms:

- 17,826 ML of unregulated entitlements in the NSW intersecting streams, mainly in the Warrego River at Toorale; as well as
- 113,862 ML of unregulated entitlements in the Queensland Lower Balonne, Condamine, Moonie, Nebine and Warrego catchments that contribute to flows to the NSW intersecting streams¹.

These holdings are approximately 40% of the Commonwealth's holdings in the northern Murray-Darling Basin.

Structure of the submission

This submission has an emphasis on environmental outcomes and provides several recommendations regarding two of the five submission questions nominated by the NRC:

1. To what extent do you feel the plan has contributed to environmental outcomes?
2. What changes do you feel are needed to the water sharing plan to improve outcomes?

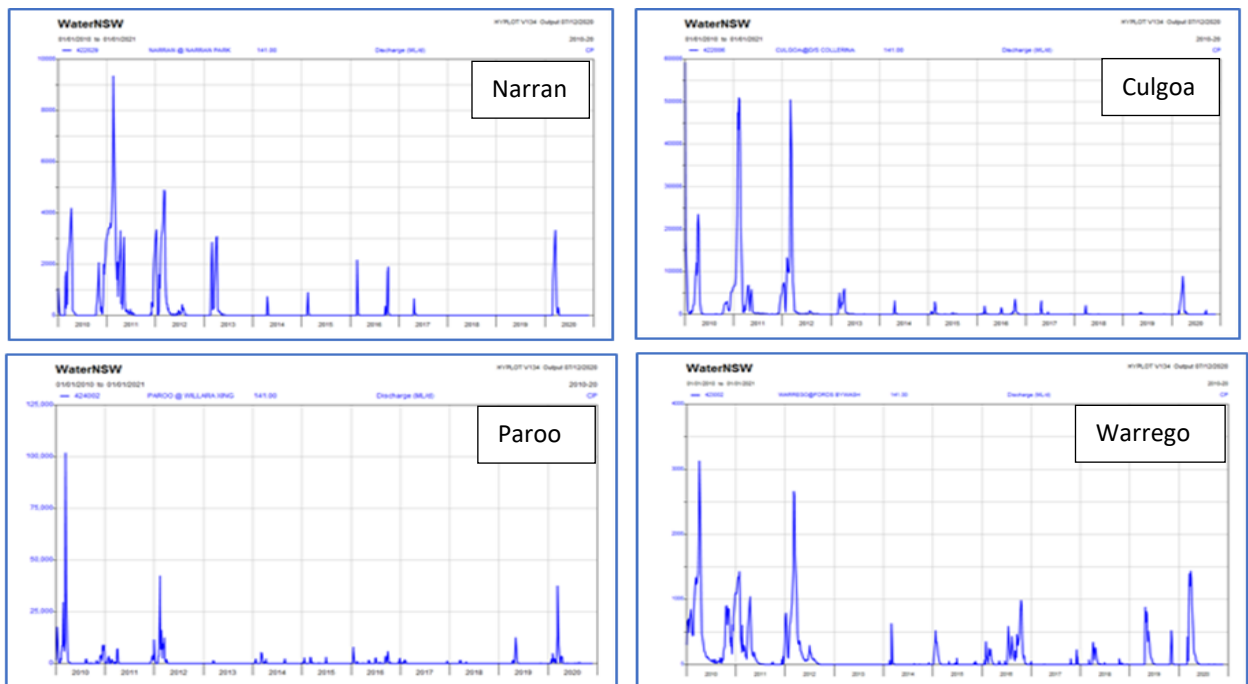
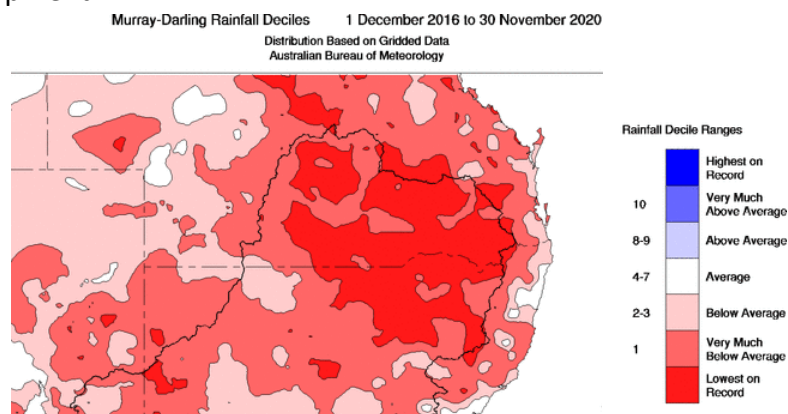
Discussion is provided and recommendations are made in relation to:

- recognising and supporting connectivity along the intersecting streams from Queensland into NSW, and between the intersecting streams and the Barwon-Darling river, including through the protection of held environmental water;
- supporting the protection of planned environmental water;
- providing increased opportunities for community advice on the management of environmental water; and
- other matters.

¹ Commonwealth environmental water holdings website:
<https://www.environment.gov.au/water/cewo/about/water-holdings>

1. To what extent do you feel the plan has contributed to environmental outcomes?

One of the objectives of the WSP is to protect, preserve, maintain and enhance the important river flow dependent ecosystems. In the intersecting streams, these ecosystems include the internationally significant Narran Lakes, the Paroo River Wetlands, and the Lower Darling River aquatic ecological community listed under the NSW *Fisheries Management Act*². Since the WSP took effect, the intersecting streams have experienced long periods of below average rainfall and, in some areas, the lowest on record, particularly in the last four years, as shown below. While river flows across the intersecting streams are highly variable, cease-to-flow events have become longer and more common as a result of low rainfall, hot weather, and dry catchments, and possibly other factors including water resource development.



Monitoring has found that some high priority environmental assets in the intersecting streams have been stressed since the WSP took effect with some declining in health²³. In particular, the environmental values of the Narran Lakes Nature Reserve are stressed.

² this includes the intersecting streams

³ Rebuilding the waterbird habitat Narran Lakes:

<https://www.environment.gov.au/water/cewo/catchment/rebuilding-waterbird-habitat-narran-lakes>

Commonwealth Monitoring, Evaluation and Research program:

<https://www.environment.gov.au/water/cewo/monitoring>

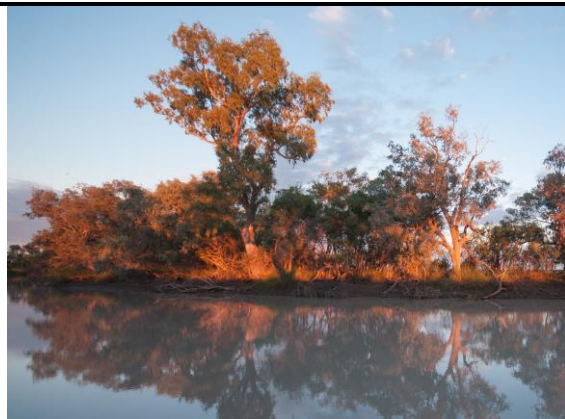
Despite receiving some recent flows (~90GL at Wilby Wilby gauge⁴) early in 2020, the condition of some of the Narran Lakes lignum community as well as the redgum and coolabah woodlands have been in decline for much of the WSP period, and the response has been patchy (see Figures below).



Lignum condition, Long Arm in poor condition in February 2020



Lignum condition showing only marginal improvement, October 2020



Tree stand in good condition along the Narran River near Bundah in August 2010



The same tree stand in poor condition. Narran River near Bundah in November 2020

Whilst the last decade has been particularly dry, recent experience since the WSP took effect suggests that the current provisions alone are unlikely to adequately protect some priority ecological assets such as the Narran Lakes in the context of recent climate. Future climate change may exacerbate this. Future evaluations of the Basin Plan are also important to consider whether the policy settings (including Sustainable Diversion Limits and settings in the WSP) are adequate to achieve the desired outcomes.

Recommendation 1: *That the NRC encourages NSW Department of Planning, Industry and Environment - Water (DPIE-Water) to continue working with relevant state (NSW & Queensland) and Commonwealth agencies to manage risks to environmental assets of international significance, including the Narran Lakes, Paroo River Wetlands, and the Lower Darling River aquatic ecological community, particularly during extended dry periods and in response to climate change.*

⁴ About 60 GL was recorded at Narran Park gauge on the Narran River

2. What changes do you feel are needed to the water sharing plan to improve outcomes?

Addressing the following issues would help to improve the health of the Intersecting Streams water dependent ecosystems, and the ecosystem of the Barwon-Darling.

Active management of held environmental water

The CEWO recognises that NSW has made significant progress by implementing active management arrangements in the Barwon-Darling, and in unregulated water sources in the Macquarie and Gwydir rivers, from 1 December 2020. It is noted, however, that there is a commitment made in the Intergovernmental Agreement for the development of an accounting method supported by procedures for held environmental water passing from Queensland into New South Wales to be implemented also by the end of 2020⁵.

The relevant Queensland agency⁶ is working on an accounting arrangement for held environmental water at the Queensland / NSW border and has made good progress. It is important for the DPIE-Water to proactively engage in this work to establish procedures to account for and protect flows from the border to those entering the Barwon-Darling river, and then to actively manage these flows downstream, as they are additional flows in the river as a result of water recovery.

Recommendation 2: *That the NRC encourages DPIE-Water and the relevant Queensland agency to finalise transparent accounting arrangements to protect flows of held environmental water across the Queensland-NSW border.*

Recommendation 3: *That the NRC encourages DPIE-Water to include provisions in the WSP which enable active management of accounted held environmental water from the Queensland / NSW border through the intersecting streams to the Barwon-Darling.*

Planned environmental water

Planned environmental water is foundational to the delivery of outcomes under the Water Management Act and the Basin Plan. The efficient and effective use of the Commonwealth water holdings are predicated on planned environmental water being protected as per the intention of the Basin Plan (s10.28). Any changes which reduce the protection of planned environmental water could increase the risk to priority environmental assets and the capacity of the CEWH to support targeted outcomes in the Intersecting Streams WRP area. To provide certainty to the management and protection of environmental water, further refinement of operational arrangements, improved transparency and clarification may be necessary. Suggestions to this effect are provided below.

Managing flows through Toorale National Park

Dams were built along the lower Warrego River at Toorale in the late nineteenth century. These dams were used to divert water onto the floodplains for irrigation. Some of this water

⁵ https://www.industry.nsw.gov.au/data/assets/pdf_file/0005/278996/active-mgt-unreg-rivers-draft-policy.pdf

⁶ DRDMW, the water functions were previously in DRNME

was licenced, some was not licenced but subject to works approvals. The Toorale Water Infrastructure Project⁷ is modifying and removing some of these storages to improve water delivery to the Darling River and improve fish passage, while maintaining capacity to water the Western Floodplain.

Most of the water that flows through the Toorale National Park is planned environmental water. However, this water is not formally recognised as planned environmental water under the current intersecting streams WSP. There has been some community concern expressed about how planned environmental water is managed through the Toorale National Park, particularly flows onto the Western Floodplain. An investigation by the Natural Resources Access Regulator (NRAR) this year in response to these concerns found that no breaches with the Water Management Act had occurred. However, NRAR affirmed that the accountability and transparency of water measurement at Toorale needs to be improved⁸. NRAR is working with New South Wales National Parks and Wildlife Service to install metering equipment at Boera Dam to improve transparency in water measurement.

A new operating strategy is also being developed to inform the management of planned environmental water and held environmental water under the Toorale Water Infrastructure Project. DPIE-Water is leading engagement on the operating strategy for the modified water infrastructure at Toorale and will be seeking input from stakeholders. The new strategy will be an important measure for demonstrating transparent management and accounting arrangements, and to give increased confidence to the community. The arrangements must make it clear that the Commonwealth water for the environment is to be protected by active management when it reaches the Darling River, as it is additional water in the river.

Recommendation 4: *That the NRC recommends the establishment of transparent management and accounting arrangements by DPIE at Toorale to provide for monitoring and reporting of planned environmental water, as required under the Basin Plan, and that the held environmental water from the Warrego is actively managed in the Darling.*

Community advice on the management of environmental water

NSW has successfully convened Environmental Water Advisory Groups (EWAGs) in many NSW valleys for years. The 'toolkit' following the Northern Basin Review includes coordination of flows in the Northern Basin. It is recommended that a mechanism be established for regional community input to environmental water decisions. This would build shared knowledge, understanding, trust, and foster stakeholder ownership of water management decisions.

The CEWH suggests that NSW establish an EWAG for NSW northern unregulated rivers, including the intersecting streams, and to include community representation from the

⁷ Toorale Water Infrastructure Project website: <https://www.environment.nsw.gov.au/topics/water/water-for-the-environment/planning-and-reporting/toorale-water-infrastructure-project>

⁸ Toorale Water Infrastructure Project website: <https://www.environment.nsw.gov.au/topics/water/water-for-the-environment/planning-and-reporting/toorale-water-infrastructure-project/rks-partner-to-improve-water-use-transparency-at-toorale>

Lower Balonne in Queensland, possibly as observers. This would enable stakeholder input to guidance on the management of planned environmental water and held environmental water in the intersecting streams, and improve transparency, including management of the water infrastructure at Toorale National Park. The EWAG would provide a forum to enhance understanding and transparency in environmental water management, particularly the relative contributions of planned environmental water and held environmental water across the intersecting streams.

Recommendation 5: *That the NRC recommends that NSW establishes an EWAG for NSW northern unregulated rivers, including the intersecting streams and the Barwon-Darling. The mechanism should encourage coordination with Queensland and the sharing of information.*

Interstate trade

The draft unregulated WSP⁹ includes new provisions that enable the interstate transfer (from NSW to Queensland) of licences and/or allocations. The introduction of these new provisions enabling interstate trade have not been considered within the draft Risk Assessment developed for the draft Water Resource Plan. ‘Sleeper’ licences may be activated. Any movement of entitlements upstream could result in reduced flow in river reaches, exacerbating the risks to water available for the environment, and the capacity to meet environmental water requirements of priority environmental assets¹⁰.

The CEWH is concerned that trade of licences into Queensland may potentially lead to reduced water availability and reliability of unregulated access licences in the Intersecting Streams WRP area; this includes Commonwealth held licences on the Warrego River at Toorale.

Any provisions introduced within the unregulated WSP to implement Basin Plan trade rules¹¹ should include a mechanism for considering restrictions to protect the reliability of existing water licence holders and to ensure that the operation of the WSP does not compromise environmental watering requirements.

Recommendation 6: *That the NRC recommends that the WRP risk assessment includes consideration of impacts from interstate trade on the capacity to meet environmental watering requirements; and, that a mechanism is included as part of any new trade provisions to enable allowable restrictions consistent with Basin Plan, to ensure that the environmental watering requirements of priority environmental assets are not compromised.*

Supporting cultural values and cultural flows

The CEWH acknowledges the Traditional Owners who have deep cultural, social, environmental, spiritual and economic connection to their lands and waters. Healthy rivers and full waterholes and weir pools contribute significantly to the health and wellbeing of

⁹ Draft Unregulated Intersecting Streams WSP – Clause 63(2), Clause 63(3)

¹⁰ Basin Plan – s10.17

¹¹ Basin Plan – s12.28

Aboriginal communities along the rivers. Events such as rivers ceasing to flow or fish death events can be concerning, or even traumatic, for Aboriginal communities.

The Traditional Owners have longstanding and continuing ties to country, and the rivers, wetlands and floodplains in the intersecting streams. Many important sites and artefacts exist across the intersecting streams including traditional burial sites, scar trees, Aboriginal Ceremony and Dreaming sites. Some sites may be significant because they are a rare example of an ecosystem; others may contain habitat for rare or endangered species, while others provide habitat for migratory bird species. Some species are considered to be totemic by Aboriginal communities. Some localities may be particularly significant because they hold spiritual or cultural significance for Aboriginal people. The NRC has made recommendations to support cultural values in other valleys, including recently in the Barwon Darling.

Recommendation 7: *That the NRC recommends that suitable and enduring steps are taken to enhance engagement with the Aboriginal community in relation to cultural flows and water management including WSP objectives, and if appropriate, establish cultural licences in the intersecting streams.*

Other matters

Stakeholder engagement

As part of the development of the Intersecting Streams WRP, DPIE Water did not establish a Stakeholder Advisory Panel (SAP) as a mechanism for policy discussions. Given there has been limited opportunities for stakeholders to discuss risks and mitigation strategies associated with the WSP and broader WRP, some issues remain to be addressed, while other aspects would benefit from clarification to improve transparency and understanding.

Recommendation 8: *That the NRC considers further engagement on the review of the Intersecting Streams WSP to ensure stakeholders have adequate opportunity to provide feedback, and that this engagement includes stakeholders in Queensland with an interest in the intersecting streams.*

Regional water strategy

The CEWO notes that the Department is currently preparing a Western regional water strategy that may include the intersecting streams. It is imperative that the strategy develops solutions that are balanced across a range of objectives in the Water Management Act.

Recommendation 9: *That the NRC recommends that the development and implementation of the Western regional water strategy reflects the objectives of the NSW Water Management Act 2000 and the Commonwealth Water Act 2007.*

Reasonable use guidelines for basic landholder rights

Currently, riparian landholders can take water from the river (including environmental flow events) for stock and domestic purposes under basic landholder rights. While NSW has a Natural Resource Access Regulator, it currently does not have rules or guidelines that this regulator can use to assess whether the take of water for basic landholder rights is reasonable in terms of the volume of take. The CEWH is aware that this issue has been raised by the NRC, including in the Barwon-Darling WSP review. The CEWH suggests that these guidelines need to be finalised by NSW as a matter of priority. The CEWH notes that the NRC recommendations on the Barwon-Darling WSP includes a recommendation that these guidelines are in effect by the end of 2020.

Recommendation 10: *That the NRC recommends that DPIE Water complete and publish 'reasonable use guidelines' for the take of stock and domestic water and basic landholder rights as a matter of priority, to support the work undertaken by the NSW Natural Resources Access Regulator.*

Cross-border reporting

Queensland produces reports on flow events through the Lower Balonne system¹². Following the flow event in early 2020, some stakeholders in the lower Balonne system in NSW requested that a report is prepared that described where flows passed for the whole lower Balonne, irrespective of the Queensland / NSW border. Such a report would be a step towards shared learning between the community and government agencies. The CEWO commissioned a report on a flow event down the Warrego in 2019¹³, but as Commonwealth environmental water is often much less than planned environmental water in a flow event, this reporting function would better sit with another agency. Each flow event report should discuss the relative contribution of each intersecting stream to flows in the Barwon-Darling. For example, community expectations of what the Warrego River contributes to the Darling River can be considerably more than actual measured volumes for past flow events¹⁴. There is an opportunity to use satellite imagery to provide insights remotely.

Recommendation 11: *That the NRC recommends that DPIE-Water facilitates a process to produce cross-border flow event reports for the intersecting streams.*

¹² DNRME, 2020, Lower Balonne Water Management Area, February to March 2020 flow event report

¹³ Report onto the Warrego River flow into the Darling: April - June 2019 2018:

<https://www.environment.gov.au/system/files/resources/29dcbee3-dc1b-4418-b1d6-09fa77f4d34d/files/report-warrego-river-flow-darling-april-june-2019.pdf>.

¹⁴ Figure 10 of the report at the above footnote.