

Submission by the Commonwealth Environmental Water Office on:

The NSW WATER STRATEGY

About the Commonwealth Environmental Water Holder

The Commonwealth Environmental Water Holder (CEWH) is a statutory position established under the *Water Act 2007* (Cth). The Water Act gives effect to relevant international agreements on the environment, including the Ramsar Convention for wetlands of international significance, and conventions that protect biodiversity, endangered and migratory species. The CEWH is responsible for managing the Commonwealth holdings of environmental water to protect and restore the environmental assets of Murray-Darling Basin in the national interest, including rivers, lakes, wetlands and floodplains. The CEWH's function is a part of the sustainable management of the Basin's water resources over the long-term for environmental, social, cultural, and economic outcomes. The CEWH is supported by the Commonwealth Environmental Water Office (CEWO).

Thank you for the opportunity to provide feedback on the NSW state-wide water strategy. The CEWH recognises the significance of this and the importance of the water strategies for planning for and balancing, the demands on river systems across NSW for future decades.

The CEWH acknowledges that the regional water strategies are in the context of the NSW *Water Management Act 2000*, which places a strong emphasis on protecting critical human and critical environmental needs, including during dry times. The CEWH also acknowledges the potential connections between the regional water strategies and the Basin Plan, particularly in regard to the protection of planned environmental water. For transparency and clarity, the community may benefit from a clear explanation of the relationship between the NSW Water Strategy and the Basin Plan.

As the Commonwealth environmental water holdings were recovered through publicly funded programs, there is a strong interest in achieving the outcomes required of the CEWH under Part 6 of the Water Act. The CEWH fully supports commitments made by NSW, in various reform processes and in this strategy, to the protection of held environmental water. Many of the agreed plans to implement protections are still in their initial stages. The CEWO looks forward to working together with NSW water agencies to develop active management rules, like those which have been applied successfully to protect recent flows in the Barwon-Darling.

Some of the options proposed in the strategy, for future review and possible inclusion, may have environmental benefits and/or impacts depending on different flow sequences. Given the CEWO's interest and expertise across the Basin and the statutory responsibilities of the CEWH, we would appreciate the opportunity to be involved in future discussions to help test and refine the state and regional water strategies and any projects or programs that may arise from them.

It may benefit the Strategy to include:

- A commitment to mitigate some of the risks to and protect the health and resilience of the environment, as many of the options being considered are likely to lead to reductions in water in rivers, creeks and possibly groundwater systems during dry times, exacerbating environmental impacts. The significance of these impacts needs to be determined before such options should be considered for implementation.
- More detail on measures for protection of held environmental water in storage and in stream/ floodplain flows, including options to address critical environmental needs during extended dry times.

- Positive actions for environmental outcomes. We note that in your implementation plan at Attachment 2, none of actions under 4.1, 4.2 or 4.3 mentioned the environment. Climate change, allocation policy and drought policy are critically important to the environment, which is amongst the highest priority outcomes under the Water Management Act 2000.
- Commentary on existing policy impediments to:
 - relaxation/ removal of constraints to the delivery of environmental water
 - The ability to deliver environmental water through piggybacking
 - Transparent accounting and charging for storage/delivery,
 - enhanced monitoring and compliance

The CEWH is in agreement that implementation of the Plan be adaptable and flexible, and that reform should proceed in a timely manner. For example, completion of projects addressing the removal of constraints is critical to the effective management of water, negating potential impacts on industry and property, providing certainty for multiple stakeholders.

The volume of water needed to achieve the CEWH's legislated outcomes was reduced in accordance with the predicted outcomes of the Sustainable Diversion Limit Adjustment Mechanism and Complementary Measures projects. Should the equivalent environmental outcomes not be achieved, the MDBA will need to consider amending the Basin Plan.

Detailed comments:

Priority 4 - Action 4.1 New actions to improve and apply our understanding of climate variability and change

- The CEWO recognises the advancements in climate modelling being undertaken by NSW in the comprehensive NSW and ACT NARClIM project and supports access to the climate risk information. The data should be accessible to all users with a full description of the assumptions, limitations, goals of the modelling and underlying models and data used. This transparency allows the community to view/use the data with greater confidence.
- It is important that new climate data and updated modelling are shared with users and relevant agencies including the MDBA. The CEWO supports the action by NSW to share its results of preliminary modelling with the MDBA interjurisdictional climate change forum. As an observer and user of potential information at this forum, the CEWO supports a shared understanding of climate data as it impacts on the Basin's water resources and environmental assets.
- The CEWO supports the access initiatives by NSW to incorporate new climate data into NSW water models and promote risk management and adaptation. However, using the best available information requires updating data periodically to improve the accuracy of the data as our understanding increases of climate change impacts increases. The strategy requires a process to incorporate this new data as it becomes available. How will this impact frameworks which are dependent on this data going forward?
- While the use of a single climate risk methodology across the Murray-Darling Basin would be ideal, the CEWO understands that all users have very different risks. Perhaps

the best solution to use of multiple methodologies is the universal commitment to the provision of accessible, transparent data.

Action 4.2 Review water allocation and water sharing in response to new climate information

- Any reduction to current environment water settings is potentially concerning and must be performed within current regulatory frameworks in consultation with all stakeholders.
- For the CEWH to achieve environmental outcomes, it is important that the Commonwealth holdings maintain their function to protect and the maintain the environment. This will be especially important during drought times. As environmental water managers, the CEWO recognises the need to review allocation frameworks incorporating improved data. However, any changes must be carried out within current regulatory frameworks and within the sustainable diversion limit where noting the CEWH plans and makes decisions to fulfil legislated environmental outcomes under the Water Act 2007, Basin Plan and the Basin-wide environmental watering strategy.
- It is not clear whether changes to allocations extend to carryover rules. Carryover allows water entitlement holders to hold water in storages so that it is available for call later in a water year or in subsequent years in regulated parts of the Basin. Carryover is an essential management tool for any water user as a prudent risk management strategy.
- The expectation is that the Commonwealth's water entitlements held for environmental use will not be enhanced or diminished relative to like entitlements held and used for other purposes, except by agreement to facilitate improved environmental watering. This includes changes to fees and charges, access to allocations, and the capacity to use, trade, and carryover, compared to like entitlements held for other purposes, including irrigation. Any rule changes that disadvantage the Commonwealth's holdings compared to equivalent entitlements held by other users could devalue this public asset and would be contrary to Basin States' commitments under the 2013 IGA.
- It is not clear from the strategy what a 'cost to productivity across non-drought years' would practically mean. The strategy would benefit by clarifying what is included in this definition (p90).
- The CEWO recognises the need to safeguard water for critical human needs. However, there it is important to safeguard environmental water in parallel. Opportunities for environmental water managers and other water users to provide a consultative and joint approach to managing water resources during extreme events should be explored.

4.3 Improve drought planning, preparation, and resilience

- The CEWO welcomes the opportunity to work collaboratively with the NSW Government to improve their preparedness and resilience to drought and the proposal to provide greater clarity on definitions of town water restrictions.
- The strategy proposes a review of the Murray-Darling Basin Agreement regarding change in in water sharing arrangements. Any review of existing frameworks is conducted in line with legislated reviews scheduled in the primary legislation of the

Water Act 2007. Changes require cooperation and agreement from all states and territories.

4.4 Better integrate land use planning, development approvals and water management

- The CEWO welcomes the integration of land use planning and development approvals with water management frameworks.
- The CEWO welcomes early communication processes and more information on possible opportunities for the planning system to support water resource health and resilience. The protection of groundwater resources is supported.
- The strategy proposes a review of the Murray-Darling Basin Agreement regarding change in in water sharing arrangements. Any review of existing frameworks is conducted in line with legislated reviews scheduled in the primary legislation of the Water Act 2007. Changes require cooperation and agreement from all states and territories.

We look forward to working further with you to on this important NSW initiative.