

Gwydir Valley Irrigators Association Inc.

458 Frome St, PO Box 1451, Moree NSW 2400

Submission to Independent Expert Panel on

2014 Statutory Review of the Water Act 2007 (Cth)

Gwydir Valley Irrigators Association Inc

July 2014

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1 Purpose of this submission

This document has been developed by the Gwydir Valley Irrigators Association (GVIA) on behalf of its members as a formal submission to the Independent Expert Panel for consideration as part of the 2014 Statutory Review on the Water Act 2007 (Cth).

This document represents the concerns and views of GVIA's members. However, each member reserves the right to express their own opinion and is entitled to make their own submission.

This document has also been provided as written support for the NSW Irrigators Council and National Irrigators Council submissions on the topic.

2 Terms of Reference

- 1) A review of the *Water Act 2007* (the Act) will be carried out in 2014 in accordance with section 253 of the Act, which specifies the following mandatory terms of reference:
 - a) having regard to the extent to which water resource plans are in transition, the review will conduct an assessment of the extent to which:
 - i) the management objectives and outcomes of the Basin Plan are being met; and
 - (ii) long-term average sustainable diversion limits are being met; and
 - (iii) targets in the Basin Plan are being met; and
 - (iv) water trading is occurring effectively and efficiently; and
 - (v) other key elements of the Basin Plan are being implemented;
 - (b) an assessment of:
 - (i) the level of Basin-wide consistency in water charging regimes; and
 - (ii) the contribution made by those charging regimes to achieving the Basin water charging objectives;
 - (c) an assessment of the extent to which water is being used in higher value uses;

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- (d) an assessment of the progress in the implementation of improved water information systems, including the National Water Account.
- 2) In addition, the review will examine and report on:
 - a) the effectiveness of the Act in achieving its objects, as set out in section 3 of the Act; and
 - b) opportunities to reduce or simplify the regulatory and/or reporting burden while maintaining effective standards.
- 3) The review will also recommend appropriate future review points for the Act and Basin Plan, noting the 2019 implementation date of the Basin Plan.
- 4) The review will be undertaken in consultation with state and territory governments and stakeholders.

3 About the Association

3.1 *Where we are and what we do*

The Gwydir Valley Irrigators Association (GVIA) represents in excess of 250 water entitlement holders in the Gwydir Valley, centred around the town of Moree in North-West New South Wales. Our mission is to build a secure future for its members, the environment and the Gwydir Valley community through irrigated agriculture.

Our members hold entitlements within the Gwydir regulated and un-regulated surface water areas, in addition to groundwater resources. All of which are managed through water sharing plans with two of these plans under scrutiny as part of this submission.

The main broadacre irrigated crop is cotton with irrigated wheat, barley and Lucerne also occurring depending on commodity prices. Currently there are also pecans, walnuts, oranges and olives being grown within the region covering approximately 1,500 hectares. There is however, significant and potential for expansion into horticulture.

The Gwydir Valley Irrigators Association organisation is voluntary, funded by a cents/megalitre levy on regulated, unregulated and groundwater irrigation entitlement. In 2010/11 the levy was paid on in excess of 87% of the eligible entitlement (excludes entitlement held by the State and Federal Government).

The Association is managed by a committee of 11 irrigators and employs a full-time executive officer and a part-time administrative assistant, as well as hosting a Regional Landcare Co-ordinator.

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Much of the activity the association revolves around negotiating with government at a Federal, State and Local level to ensure the rights of irrigators are maintained and respected.

While the core activities of the Association are funded entirely through a voluntary levy, the Association does from time to time, undertakes special projects, which can be funded by government.

The GVIA and its members are members of both the National Irrigators Council and the NSW Irrigators Council.

3.2 Association Contacts

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4 Introduction

The Gwydir Valley Irrigators' Association (GVIA) welcomes the opportunity to provide a submission on the 2014 Statutory Review of the Water Act 2007 (Cth). We have provided comments on the terms of reference and other issues that are of direct interest to our members and our community, which relies on our industry.

The GVIA like others, feel that the review is premature in its timing due to the delayed implementation of the Murray Darling Basin Plan (the "Basin Plan"). This fact undermines

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the effectiveness of the review at being able to address many of the Terms of Reference and we recommend consideration be given to a review occurring following the implementation of the Basin Plan in 2019.

As the Water Act made the legislative provision for the development of the Basin Plan, we cannot comment on the Water Act without addressing the outstanding issues we have with the Basin Plan. In fact, in preparing for this submission we had difficulty in determining if these issues are because of the Water Act itself, or the Murray Darling Basin Authorities (MDBA) interpretation and implementation of the Act in developing the Basin Plan. In providing this submission, we are asking the expert panel to investigate this issue as a means of clarifying the issue.

Due to technical flaws and a lack of consideration of socio-economic impacts, the GVIA cannot accept the Basin Plan as a plan to deliver a healthy working basin. The latter factor, we believe as being attributed directly to the Water Act and its inability to clearly outline objectives to achieve a triple bottom line outcome.

The GVIA do not accept that any more water above the current water sharing plan arrangements outlined within the Gwydir's major Water Sharing Plan¹ is required for the environment as justified setting of new Sustainable Diversion Limits in the Basin Plan. Not only is the water sharing plan more than adequate, the methodology to determine water requirements in the Gwydir was flawed and is not considered by the GVIA as utilising the best available science². Not to mention to our knowledge there has been no consideration (or transparency around considerations) of the socio-economic impacts resulting from the Basin Plan in our region.

As the Basin Plan is focused on flow based requirements and water recovery rather than allowing a holistic approach to integrated catchment management and socio-economic outcomes, it will be fundamentally flawed and its effectiveness undermined by competing issues. All of which will limit the Plan's ability in achieving a healthy working basin.

The GVIA is focused on helping build a sustainable and secure future for our industry, the environment and the local community. As a result, we have provided five recommendations for consideration by the Expert Panel to amend the Water Act to result in better outcomes for all. We welcome further discussion on these matters with the Expert Panel and are available to provide clarification if needed.

¹ [Water Sharing Plan for the Gwydir Regulated River Water Source \(2004\)](#), which is also currently under review by the NSW Government.

² See the GVIA's submission on the draft Murray Darling Basin Plan (attached and referenced Section 8.1) and joint technical issues with other Northern NSW valleys for the Northern Basin Review as attached (referenced Section 8.2).

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5 Recommendations

The following represent a concise list of recommendations outlined within this submission.

1. The GVIA recommend the inclusion of socio-economic objectives in relevant Sections of the Water Act where environmental objectives exist, namely Section 6, Section 20, Section 22, Section 28 and Section 86AA.
2. The GVIA recommend that integrated catchment management principles are included in environmental objectives under the Water Act.
3. The GVIA recommend that Section 106 be removed in its entirety so that the CEWH has the ability to achieve environmental outcomes outlined within the Basin Plan through a variety of mechanisms.
4. The GVIA recommend that all relevant sections of the Water Act including Section 18H, Section 31, and Section 114 be amended so that the CEWH are delegated full responsibility for Commonwealth Environmental Water including the long-term and annual planning for it use.
5. The GVIA recommend a review of the roles and responsibilities of the agencies outlined within the Water Act to reduce duplication and allow for efficient policy implementation, including but not limited to:
 - a. Bureau of Meteorology;
 - b. Australian Bureau of Agricultural and Resource Economics and Science;
 - c. National Water Commission;
 - d. Australian Competition and Consumer Commission;
 - e. Commonwealth Environmental Water Holder; and
 - f. Murray Darling Basin Authority.

6 Specific Comments

6.1 *Objects of the Water Act*

The GVIA have long held concerns that there is ambiguity around the Water Act being able to deliver a triple bottom line approach to water policy as desired through the National Water Initiative. We note that the Water Act requires a consideration of the social, environmental and economic outcomes as a core Object of the Act in Section 3(c).

However, the overall emphasis of the Water Act remains with environmental targets and outcomes. This is evident when the various environmental targets (Section 6, Section 20, Section 22, Section 28 and Section 86AA) are assessed. Similar prescriptive targets for social and economic targets are not provided.

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The extent of reviews and subsequent reports³ and most prominently the changes around the theory of the Basin Plan⁴ are evidence that there remains ambiguity within the Water Act on the treatment of socio-economic considerations.

Regional communities, like Moree and the surrounding area, are highly dependent on agriculture with a strong sensitivity to changes in government policy to this sector. Coupled with a high degree of remoteness and a population that does not pass the 'critical mass' test, these regions are more at risk to change⁵. Analysis by for the Cotton Catchment Communities Cooperative Research Centre (CRC) socio-economic assessment program⁵, outlines these risks more clearly in relation to changes in water policy under the proposed Murray Darling Basin Plan. These works highlight the need for governments to consider socio-economic indicators as part of policy and legislation.

Hence, given the significant impact that the Water Act and the Basin Plan has had and will continue to have on Basin communities like Moree, we believe greater emphasis must be placed within the Water Act on social and economic targets.

The GVIA recommend the inclusion of socio-economic objectives in relevant Sections of the Water Act where environmental objectives exist, namely Section 6, Section 20, Section 22, Section 28 and Section 86AA.

Further to this the many of the environmental objectives of the Water Act have resulted in a focus on only hydrological outcomes and ignored broader natural resource management issues which will undermine the effectiveness of the Water Act and the subsequently developed Basin Plan at meeting its objectives. Water alone will not be able to deliver a healthy working Basin if non-hydrological issues are not adequately addressed.

It is now a reality that the "just add water" approach is engrained within the Basin Plan and its implementation, as the Commonwealth Environmental Water Office (CEWO) are unable to address non-hydrological issues like invasive species in key assets like the Gwydir Wetlands. Although the CEWO would be considered, the best positioned (at a Commonwealth level) to identify and understand the limitations of their watering actions, they are restricted in dealing with the problem as defined by the Water Act. Without a holistic approach with integrated catchment management, the effectiveness of environmental watering will be ultimately undermined.

³ For example, 2011 Senate Inquiry report; ['A Balancing Act: provisions of the Water Act 2007'](#), 2011 House of Representatives Inquiry report, ['Of Drought and Flooding Rains'](#).

⁴ Methodology change from the [Guide to the Proposed Murray Darling Basin Plan](#) to the Murray Darling Basin Plan's [Environmentally Sustainable Level of Take](#).

⁵ Cotton Catchment Communities Co-operative Research Centre commissioned a series of socio-economic analysis on cotton communities in preparation for understanding the impacts that reducing water availability will have. See for full list of reports

http://www.cottoncrc.org.au/communities/Cotton_Info/Socio-Economic_Reports

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The GVIA recommend that integrated catchment management principles are included in environmental objectives under the Water Act.

6.2 Water Trading and Markets

As the Basin Plan trading rules have only come into effect on 1 July 2014, the GVIA considers it premature to comment on the effectiveness of the Water Act in assisting with the development of water trading in the Murray-Darling Basin.

However, the GVIA do believe that the water market locally in the Gwydir Valley has developed considerably overtime, most significantly since the separation of land and water rights. An analysis of the water market in our region⁶ highlighted that more recently; the largest cumulative volume of water was traded in our region and a new peak price per megalitre was reached.

Indicating that the market has allowed for allocations to be easily transferred between users for the highest value purpose and price. However, it must be said that markets are only efficient at delivering on this outcome when there are multiple buyers and sellers and the market behaviour during the drought periods highlights this.

The GVIA cannot more strongly support a free market development principle, which we believe will continue to drive market development and maturity. We would be interested in seeing in-stream/real time trading as a new form of trading into the future.

However, we believe that the Water Act does constrain water market development by limiting management options of one significant entitlement holder, the Commonwealth Environmental Water Holder (CEWH). The rules limiting the disposal of allocation and entitlement are too restrictive to enable effective and efficient management of Commonwealth environmental water.

The Basin Plan in conjunction with the Water Recovery Strategy outlines that the CEWH will have the largest and most complex portfolio of water entitlements in Australia; with at least 2750 gigalitres of long-term average yield of entitlement across each of the 23 river valleys with various levels of security and reliability⁷. The CEWH have had no control over where this entitlement exists but are required to meet objectives of the Basin Plan regardless of entitlement type and location.

The GVIA believe that it is essential that the CEWH has the opportunity to manage this portfolio to best meet environmental outcomes and achieve their legislative requirements within the Basin Plan, Chapter 8. Currently, Section 106 (1) and (2) limit their ability to manage their portfolio holistically for the benefit of the basin resources.

⁶ See the GVIA's 2014 Market Report attached referenced Section 8.3.

⁷ CEWH's current [portfolio](#) equals 1,729 gigalitres with the Commonwealth and Basin States committed to bridge the gap to implement the Basin Plan by 2019.

The GVIA recommend that Section 106 be removed in its entirety so that the CEWH has the ability to achieve environmental outcomes outlined within the Basin Plan through a variety of mechanisms.

6.3 Reducing Regulatory Burden

The GVIA is becoming increasingly concerned with the over regulation of the irrigation industry, as a result of the changes policies around water, much of this stems from the Water Act and the implementation of the Basin Plan. Figure 1 below highlights the involvement of 13 different Departments in the water sphere for both the Australian and NSW Government.

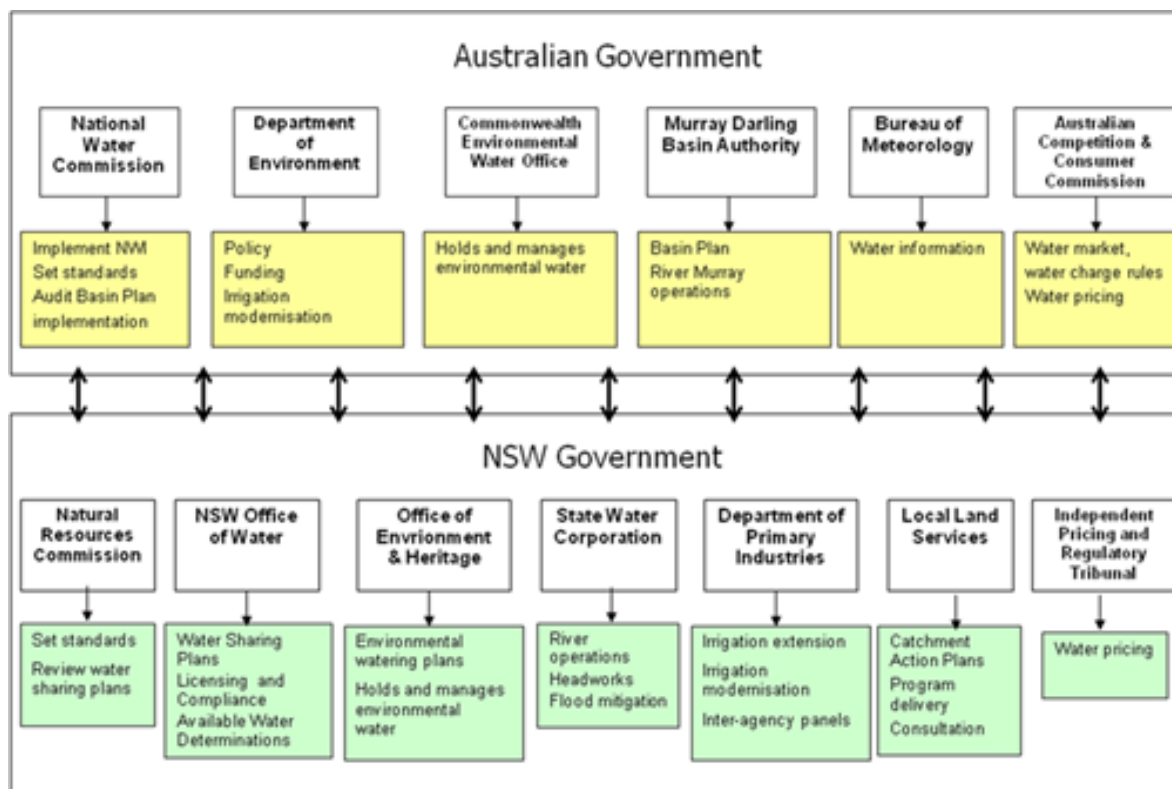


Figure 1 Government Regulation in the Water Industry⁸

Irrigators (let alone the community, who are even more confused) are left questioning who it is they need to talk with when they have an issue and most commonly questioning, is there 'doubling' up of resources between Departments and/or Governments.

The concerns were highlighted more recently to the GVIA during a meeting with the MDBA over environmental water planning. As background, the Gwydir Valley has had held and planned environmental water since 1977 (one year after the final construction of the Valley major dam), well before the development of the Water Sharing Plan for the region in 2004

⁸ Source: Macquarie River Food and Fibre

and the Basin Plan. Hence there is a history of planning and implementing environmental water management locally. However, under the Basin Plan, environmental water planning has evolved into its own industry with duplication. Below outlines the organisation and the type of planning they undertake:

1. MDBA – Basin Plan plus, long term and annual water use plan;
2. Commonwealth Environmental Water Holder – 5-year plan and annual water use strategies;
3. NSW Government – Water Resource Plans with environmental watering plans;
4. Gwydir Environmental Contingency Allowance Operational Advisory Committee – 5 year strategic plan and annual water use strategies.

However, it's interesting to note, that while all these groups are actively undertaking planning and preparing reports, only the CEWH and the NSW Government own water and both manage it through the Gwydir ECAOAC. The GVIA believe that the responsibility to plan for and use environmental water should rest with those entities that actually have environmental water and that at each level of government this should be centralised to streamline management.

There is no requirement for the MDBA to provide annual or long-term water use strategies when the Basin Plan provides the CEWH the clear objectives to be achieved. The CEWH have the responsibility to meet the requirements of the Basin Plan therefore, they should be the lead Commonwealth agency in planning strategies to meet this objective.

The GVIA recommend that all relevant sections of the Water Act including Section 18H, Section 31, and Section 114 be amended so that the CEWH are delegated full responsibility for Commonwealth Environmental Water including the long-term and annual planning for it use.

Another concerning issue for the GVIA is the further creation of 'silos' within Departments, further enhancing concerns overing doubling up but also constraining Governments to adequately deal with the issues at hand. As the Water Act outlines the roles and responsibility of a large number of agencies and is the foundation for subordinate legislation the opportunity to review and clarify the roles and responsibility should form part of this review.

Whilst the GVIA have ideas on proposed organisational structures, we in the first instance advocate for a specific in-depth review of all government agencies associated with water and water accounting and reporting in consultation with industry. A review should focus on how to best streamline and reduce both the regulatory burden and costs and how to improve efficiency of water policy implementation.

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The GVIA recommend a review of the roles and responsibilities of the agencies outlined within the Water Act to reduce duplication and allow for efficient policy implementation, including but not limited to:

- ***Bureau of Meteorology;***
- ***Australian Bureau of Agricultural and Resource Economics and Science;***
- ***National Water Commission;***
- ***Australian Competition and Consumer Commission;***
- ***Commonwealth Environmental Water Holder; and***
- ***Murray Darling Basin Authority.***

In the absence of a specific review, the GVIA support the following changes including:

- For the Bureau of Meteorology to collect, hold, manage and disseminate Australia's water information. In addition, the Bureau should also compile and maintain water accounts, including the National Water Account, and set information standards.
- For the Australian Bureau of Agricultural and Resource Economics and Science (ABARES) to conduct all research and science related assessments relevant for Water Resources in the Murray-Darling Basin.
- For the audit functions of the National Water Commission (NWC) to be transferred to either the Productivity Commission or the ACCC to utilise the existing knowledge and expertise in this area.
- For the CEWH to plan for and manage Commonwealth environmental water.
- For the MDBA to oversee shared / joint river operations.

7 Conclusion

The GVIA welcomes the opportunity to provide comment to the Independent Expert Panel on the statutory review of the Water Act 2007 (Cth). We believe that there are some key areas where the Act can be improved in particular the objectives of the Act, water trading and reducing regulatory burden and duplication.

We have as part of this submission provided five recommendations for considerations by the panel. We ask that these be considered as amendments to the Act.

Whilst proving our own submission, we also give our full support to the submission made by the NSW Irrigators Council and National Irrigators Council, of which the GVIA and individual irrigators are also members.

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8 Attachments

- 8.1 *Gwydir Valley Irrigators Association submission to the Murray Darling Basin Authority on the draft Basin Plan***
- 8.2 *Northern Irrigators Technical Questions for consideration in the Northern Review***
- 8.3 *Water Market Paper 2014***

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