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Tuesday 29 October 2019

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Submission to Draft Policy on Active Management in Unregulated Rivers

The Inland Rivers Network (IRN) is a coalition of environment groups and individuals concerned about the degradation of the rivers, wetlands and groundwaters of the Murray-Darling Basin. It has been advocating for the conservation of rivers, wetlands and groundwater in the Murray-Darling Basin since 1991.

IRN appreciates the opportunity to comment on the draft Policy on Active Management in Unregulated Rivers (the draft policy).

Background

IRN notes that the NSW Government is signatory to an Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin (the IGA) that includes a commitment to establish a mechanism to protect environmental flows in the water resource plans submitted for accreditation by 31 December 2019, and is to be in place and operating by end 2020.

We also note that the protection of environmental water is a toolkit measure agreed to under the Northern Basin Review.

IRN wishes to raise the impost on community stakeholders of having draft major policy and draft Water Resource Plans (WRPs) on exhibition at the same time with a tight deadline.

The NSW Government has had 7 years since the gazettal of the Basin Plan in 2012 to prepare for its implementation through the development of WRPs and associated policy. The failure to have this work completed on time by June 2019 and then rush everything past the community with limited consultation is an indictment on the NSW Government commitment to the Basin Plan.

Introduction

1. Active Management Objectives

IRN supports the primary objective of the policy and the first two secondary objectives.

The third secondary objective should be altered to:

Provide for economic, social and cultural opportunities while meeting the primary objective.

An objective to maximise economic activity is counter to the principles of water sharing and sustainable use of a scarce resource.

2. Active Management Procedures Manual

The procedures manual contains all the detail for the implementation of active management in the priority catchments. It is critical that this document is developed in a transparent and consultative manner, particularly for the policy implementation in the Barwon-Darling.

Active management of environmental water is a critical tool identified in the risk assessment and water quality management plan in the Barwon-Darling WRP. The development and application of the procedures manual is an important process that must be undertaken as soon as possible.

3. Protection of first flush flow

The implementation of the Active Management Policy is expected to commence by the end of next year. Hopefully the Northern Basin will have received drought breaking rainfall before that time.

It is critical that section 324 orders be maintained to protect first flush flows and environmental water through the Barwon-Darling if they occur before the Active Management procedures manual is finalised. This should also be the case if flows occur in the tributaries of the Barwon-Darling prior to WRPs being accredited and turned on in July 2020.

Response to consultation questions:

Defining active environmental water

1. What are your views on what water will be defined as *active environmental water* and managed through an unregulated water source?

IRN supports the definition of active environmental water as defined in the policy.

We note that all the Queensland WRPs have been accredited. It is imperative that HEW reporting across the border be protected within the Barwon-Darling water sources.

We strongly object to this water not being protected until the end of 2020. The development of accounting methods supported by protocols and procedures must be given high priority so the Barwon-Darling water source receives the environmental benefit of this water.

HEW in Queensland was not purchased with public money to provide additional water access for extraction in the Barwon-Darling.

Similarly with HEW purchased in the Intersecting Streams. This water must be protected within the Barwon-Darling. A method of accounting for this volume of water must be given high priority and implemented at the commencement of the policy.

It is imperative that all HEW is protected from extraction to meet the objectives of Water Sharing Plans (WSPs), WRPs, the Basin Plan, NSW *Water Management Act 2000* and the Federal *Water Act 2007.*

2. Do you support inclusion and protection by active management of planned environmental water releases from upstream water sources that are additional to the inflows that were considered when the Barwon-Darling plan commenced?

It is critical that all water purchased with public money or provided as PEW through upstream WSPs is protected from extraction within the Barwon-Darling water source.

The NSW Natural Resources Commission has described this river system as being in ecosystem collapse. All HEW and PEW from upstream tributaries and regulated water sources, including from across state borders, must be protected from extraction.

To fail to do so will be a failure on the part of the NSW Government to address the real issues of an ecological crisis in the Barwon-Darling water source.

We note that the draft policy states '… *also considered the unique characteristics of the Barwon-Darling as the key conduit for the northern Basin, making it a high priority to protect HEW so that it can be used to achieve northern Basin connectivity outcomes'*.[1]

Connectivity across the Northern Basin and to the Southern Basin is critical for meeting the objectives of the Basin Plan.

IRN objects strongly to the emphasis on protecting downstream water users reliability. Water access purchased upstream and instream as HEW would have been extracted in the past and not be available for access by downstream users. The presence of HEW serves to increase water users reliability if it is not properly protected from extraction.

PEW arising from upstream water sources that is discretionary in nature must be considered as additional inflows and protected from extraction.

The presence of this water instream is a result of decision-making to meet environmental objectives.

The bias of the NSW Government to protect water user rights over and above the meeting of environmental objectives to restore river health and ecosystem function will cause a failure to meet statutory requirements.

Areas where active management will apply

3. Do you support the criteria for where active management is to be applied?

[1] Draft policy p 13

IRN supports the criteria.

IRN does not support that the priority area for the Barwon-Darling is to the last flow gauge at Wilcannia. HEW flows must be protected so that they can enter the Menindee Lakes system if not attenuated before that reach.

We do not support that the '*Recognition of a volume of active environmental water that may flow into the Lower Darling water source would be dependent on future management decision for Menindee Lakes, amendments to the Murray – Darling Basin Agreement and a method agreed by NSW for determining the volume of active environmental water that flows into Lake Wetherell.*'[2]

The connectivity of the Barwon-Darling to the Lower Darling is a critical issue. The rule in the draft Murray-Lower Darling River for a 60GL first flush flow will be better met by protection of HEW inflows into the Menindee Lakes.

The Intersecting Streams water source must also be included as a priority area. HEW purchased in these streams is an important additional flow to the Barwon-Darling that must be protected.

Amendments to the Intersecting Streams WSP must be included within the policy adoption.

Managing active environmental water in-stream

4. What are your views on how accounts will be managed for in-stream use of unregulated held environmental water licences?

IRN supports the proposed management of unregulated HEW licences.

5. Do you support assigning river transmission losses proportionally to active environmental water?

IRN does not support the proportional assignment of transmission losses to active environmental water. This is because extraction of basic rights is currently assessed as a transmission loss. *'Unmetered use where metering is not required such as access for basic landholder rights is generally captured in the estimates for river transmission losses'*.[3]

Losses to alluvial aquifers can also be extracted by groundwater licence holders.

The draft policy also notes that '*Access under licence categories other than unregulated river access licences (for example, local water utilities and domestic and stock licences), will not be changed by implementation of active management unless evaluations demonstrate a significant risk to active environmental water from extraction under these licences and there has been assessment of effects, risks, feasibility and cost effectiveness of amending access*. [4]

HEW and PEW do not have an objective to supply basic landholder rights, domestic and stock licences and town water supply. This water take should be supplied through rules in WSP.

[2] Ibid p 14
[3] Ibid Appendix 2 p 29
[4] Ibid p 21

The socialisation of transmission losses will allow for the social benefits of the above extraction that is part of the calculation of the Long-term Average Annual Extraction Limit (LTAAEL) in water sources where active management is proposed.

The definition of PEW within WSPs includes all water outside the LTAAEL.

The environmental benefit of HEW and PEW is already compromised by extractions that are not proposed to be managed under the active management process.

The socialisation of transmission losses will go some way to offset the use of environmental flows for other purposes.

Access for unregulated river access licences

6. What are your views on concept of adjusting commence to pump/cease to pump thresholds to protect active environmental water from extraction?

IRN supports that an adjusted flow class or CtP threshold and/or individual volumetric limits will be announced so that HEW and PEW water remains instream to meet environmental objectives.

IRN strongly objects to the proposed default position that if there is a mix of water instream and the volume of active environmental water cannot be determined the current access conditions will apply. This does not provide protection for environmental water and sets a poor precedent in a policy developed to protect HEW and PEW under various agreements and statutory requirements.

It is imperative that priority be given to installing necessary infrastructure in all water sources where active management will be necessary. If gauging stations fail, it is inappropriate that extraction is prioritised over environmental objectives.

The default position in the circumstance of a failed gauge while HEW or PEW is instream should be a water sharing arrangement or a cease to pump announcement.

IRN is unclear whether the proposed default position is intended to appear in the Active Management Procedures Manual and the implications this may have in the application of the Barwon-Darling WSP rules in Cl 49 (4), (5) and (6)

7. What are your views on proposed amendments to water sharing plan access rules to protect active environmental water in each of the water sources where active management is proposed?

IRN supports the proposed amendments to the WSP for the Macquarie Bogan unregulated water source and the WSP for the Gwydir unregulated water source.

We also support the proposed amendments to the Barwon-Darling WSP where the implementation of this policy is a major critical mechanism towards meeting objectives of the Basin Plan.

8. Do you support distributing the available volume between licence holders in the Barwon-Darling based on Individual Daily Extraction Limits?

The amended Barwon-Darling WSP appears to have renamed provisions for the implementation of Individual Daily Extraction Limits (IDELs) as an Individual Daily Extraction Component (IDEC). We see this renaming as an unnecessary confusion and wish to understand the difference between a 'limit' and a 'component'

There is provision in the WSP for Total Daily Extraction Limits (TDELs) that has not been implemented. The management of extractions on daily and on an individual limit is paramount for the restoration of river health in this highly damaged water source.

IRN supports the provision of IDELs and TDELs in the Barwon-Darling WSP. Both these management tools need to be activated to better manage extraction in all river reaches.

IRN does not support the granting of a new property right in the form of IDELs for trading purposes. IDELs should only be used as a management tool to ensure that the TDEL is met and that PEW and HEW within the Barwon-Darling is protected. Likewise in the Gwydir and Lower Macquarie.

9. Do you support distributing the available volume between licence holders in the Barwon-Darling to individuals who have expressed an interest based on Individual Daily Extraction Limits?

As stated above IRN does not support a trading mechanism for IDELs. This will further complicate water management and create a new market. Problems with the water trading market are being highlighted by water users and are now subject to an ACCC review.

The expression of interest process is complex, costly and will distract river managers from their current operational responsibilities. IRN does not support the proposed amendment to the Barwon-Darling WSP under cl 84 (8) to allow for the implementation of an expression of interest process as part of alternate arrangements to protect Active Environmental Water.

The announcement of TDELs and IDELs is sufficient and water users can make their own decisions about accessing the available water.

10. Do you support access being announced? What issues need to be considered in making announcements?

IRN agrees that under active management the Minister will announce what flow class applies or the CtP threshold for any particular day and any volumetric limits that may apply.

These announcements need to be timely so that the full benefit of environmental flows are met.

The draft policy states that '*active management will manage take of water so that an equivalent volume to that defined as active environmental water remains in-stream for environmental purposes*'.

Also that '*The closer this can be done in time to a volume of environmental water flowing past a given licence holder, the more closely active management will be able to approximate the protection of an actual environmental volume of water'*. [5]

New satellite imagery and telemetry have now provided more sophisticated and accurate methods of forecasting flows.

If forecasting inflows becomes too difficult for a timely Ministerial announcement of active management then a 324 order should be announced to place an embargo on water take. This method of protecting environmental water has been successful with the recent Northern Basin connectivity flows.

Forecasting flows and managing uncertainty

11. What are your views on how loss estimates will be forecast and how operational uncertainty is proposed to be managed?

We note that forecasting is considered the primary operational risk in implementing active management.

The experience of managing two connectivity flows into the Barwon-Darling has increased knowledge and operational response to the protection of environmental water.

As mentioned above new available technology is helping to improve flow forecasting. IRN supports that an increase in measurement points, including rainfall measurement will reduce flow forecasting uncertainty. This will also reduce costs in the longer term by reducing the level of resourcing for each event.

IRN supports that the losses be estimated based on average losses from previous similar events and as stated above, that these losses are socialised.

12. What other options should be considered?

N/A

Adaptive management

13. What information do you consider is important to document and consider in order to continuously improve active management?

Antecedent conditions, hydrographic shape of environmental flow, reinstatement of more natural flow curves, purpose of environmental order (eg fish connectivity flow), tools used to forecast flow event, calculation of first flush losses and impact on predicted flow rate, extraction volumes for basic rights, stock & domestic, town water supply, attenuation of flow, number of announcements needed to protect flow.

Additional issues or information

14. What risks need further consideration?

Climate change impacts on water availability, declining water quality, growth in basic rights

[5] Ibid p 15

15. What additional issues should be considered in actively managing flows?

It is important to ensure that the “hydographic shape” of flows through and to the environment has maximum environmental benefit and least environmental risk, for example by being similar to natural events with tails and without sudden falls due to big pumps being turned on suddenly in the same part of the flow.

For more information in regard to this submission please contact:

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