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SUBMISSION

2014 REVIEW of the *WATER ACT 2007*

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President

INTRODUCTION:

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.

Member groups include the Australian Conservation Foundation; the Nature Conservation Council of NSW; the National Parks Association of NSW; Friends of the Earth; Central West Environment Council; the Coast and Wetlands Society and the Wilderness Society, Sydney.

IRN welcomes the opportunity to participate in the review of the *Water Act 2007* (‘the Act’) and acknowledges the important role this Federal legislation has played in the initiation of a process to return the Murray-Darling Basin (‘the Basin’) to health.

The Act was groundbreaking in being the first legislation in Australia to genuinely operationalise sustainable water use. IRN considers that the objectives of the Act enable this outcome to be achieved.

IRN believes that the intent of the review under section 253 of the Act is to primarily consider how well the objectives of the Act are being met. The core elements of the Act are essential to ensure the Basin continues on its path to long term sustainability.

IRN acknowledges that while the timing of the implementation of Basin Plan (‘the Plan’) has extended beyond the expectations of the Act, there has been considerable progress made in achieving the key timelines of the Plan.

However, there is some concern about the Plan meeting some of the key objectives of the Act.

This submission will address the following key issues:

1. Implementation of the Plan
2. Ability of the Plan to meet the objectives of the Act
3. Suggested amendments to the Act

IRN has participated in all the processes involved in implementing the Act through the development of the Plan and has some considerable knowledge about the delivery of environmental outcomes through the application of environmental water releases.

The work of the Murray-Darling Basin Authority (MDBA) and the Commonwealth Environmental Water Office and Holder (CEWH) is critical to the achievement of the objectives of the Act.

IRN looks forward to the opportunity to discuss these issues further with the Independent Review Panel.

1. Implementation of the Plan

IRN wishes to first comment on the lack of co-operation of the NSW Government under the agreements with regard to jurisdictional implementation obligations.¹

The spirit in which the Plan was established under the Act to provide wholistic and sustainable management of water across the Basin requires State Governments to work closely together and with the Commonwealth Government.

Because NSW contains the largest area of the Basin and extracts the largest volume of water it is critical for the timely and successful implementation of the Plan that party political influences are set aside to enable full co-operation in achieving the objects of the Act.

IRN considers that the implementation timeline required by the Plan is being met by the MDBA.²

The first stage of the constraints management strategy is being implemented, the annual environmental watering priorities have been undertaken and the monitoring and evaluation framework has been established. The environmental watering strategy has had targeted stakeholder consultations and will be released for general comment in August.

IRN considers that the MDBA is a critical independent authority that must be resourced to continue the various research, modelling and review tasks that are pivotal in delivering the Plan and achieving the objectives of the Act.

IRN also considers that the independent decision-making of the CEWH is critical to the achievement of the Plan outcomes.

The co-operative learning and experience of these bodies will support the achievement of a key object of the Act:

3 (d) (ii)) to protect, restore and provide for the ecological values and ecosystem services of the Murray-Darling Basin (taking into account, in particular, the impact that the taking of water has on the watercourses, lakes, wetlands, ground water and water-dependent ecosystems that are part of the Basin water resources and on associated biodiversity)

2. Ability of the Plan to meet the objectives of the Act

While IRN is fully supportive of the work of both the MDBA and CEWH, there is concern that the final version of the Plan will not meet the objectives of the Act.

The proposed volume of 2,750 GL to be returned to the environment meets only 11 of the 17 key targets identified for Basin health. Chapter 7 of the Act provides for a

¹ The Plan Chapter 1 Part 4

² <http://www.mdba.gov.au/what-we-do/basin-plan/basin-plan-implementation>

Sustainable Diversion Limit (SDL) adjustment mechanism that allows for supply measures to decrease that volume down to 2100 GL.

IRN is concerned that state jurisdictions are concentrating on developing supply measure projects while investment in efficiency measures to increase the available water for the environment to 3200 GL are not yet being considered.

The emphasis on supplying less water to the environment will cause a greater failure of the Plan to meet the objects of the Act.

The model developed to establish the environmentally sustainable level of take (ESLT) had built in consideration of social and economic impacts. Therefore, the object of the Act relating to these issues has been met:

3 (c) in giving effect to those agreements, to promote the use and management of the Basin water resources in a way that optimises economic, social and environmental outcomes

Other subsequent political decisions, such as a 1300 GL cap on the purchase of environmental water, will erode the ability of the Plan to meet its management objectives and outcomes.

The purchase of water licences is the most cost effective use of public money to provide security for the return of water to the environmental needs of rivers, wetlands and groundwater systems in the Basin. Highly expensive infrastructure projects will not provide a guaranteed source of water into the future and will generate ongoing maintenance and replacement costs.

3. Suggested amendments to the Act

a) Section 106 of the Act should be amended to strengthen the transparency around trading decisions of the CEWH. The requirement for the use of all trade to result in environmental improvements must be retained. A separate fund to cover the management costs of the environmental portfolio needs to be established. It is inappropriate for trade of environmental water to be used to meet management costs.

b) Part 6 should be amended to require the CEWH to be an independent body separate from Government agencies.

c) Part 3 requires the identification of an independent body to audit the effectiveness of the implementation of the Basin Plan and the water resource plans. The loss of the National Water Commission means that an alternative independent body must be established to carry out the tasks outlined in Part 3 of the Act.

d) The Act needs to be strengthened to give greater recognition to Indigenous interests and give legal backing to provision of cultural flows.

e) An appropriate point for review of the Plan is 2024, once the SDLs are in place and have time to make an impact.