

29 June 2023

Natural Resources Commission
Review of the Water Sharing Plan for Murrumbidgee Regulated River Water Source 2016

E: nrc@nrc.nsw.gov.au

Dear Water Review Team

CICL submission to the NRC review of the Water Sharing Plan for the Murrumbidgee Regulated River Water Source 2016

Key points

- The Water Sharing Plan (WSP) has made an important contribution to providing a certain framework for sharing water in the regulated Murrumbidgee, including the making of available water determinations. This certainty has contributed positively to economic and social outcomes, providing entitlement holders with the confidence to make commercial decisions.
- CICL has made commercial investments based on the WSP and its allocation of water to CICL's conveyance licence. These investments have delivered improved service to customers, stable water pricing, and other benefits to customers, all which improve the resilience of their businesses in the face of variable water availability.
- The WSP has delivered compliance with the Long-Term Average Annual Extraction Limit (LTAAEL).
- The WSP provides direction to WaterNSW on dam operations, including airspace management and flood operations, providing WaterNSW with policy direction to inform operations and limiting political interference which may seek to seek change priorities during flood operations.
- Water recovery under the Murray-Darling Basin Plan (Basin Plan) overshadows the impact of the WSP on the outcomes the Natural Resource Commission (NRC) is seeking to assess the performance of the WSP against.
- The material change in the volume of water available for irrigated agriculture because of "water reform" external to the WSP has impacted on economic and social outcomes.
- The environmental outcomes the WSP sought to achieve in the Murrumbidgee have been diminished because WaterNSW as result of their assessment of risk no longer makes regulated releases at the WSP target flow rate at Gundagai of 32,000ML/day. This means sub-optimal outcomes have been achieved from the environmental flow rules, in particular the translucent flow releases.
- Limited use of the opportunity for specific purpose regulated river high security (Aboriginal) cultural licences of 10 ML/year and use of the 2,150 ML/year Aboriginal cultural water has diminished the WSP's capacity to provide for Aboriginal cultural outcomes.
- The Basin Plan and Water Resource Plan requirements (WRP) diminish NSW' capacity to make decisions to optimise river operations and delivery of environmental, operational, and consumptive water. This is because of the complexity involved in making changes to WSP rules which the change is interpreted by the Murray Darling Basin Authority (MDBA) as having an impacted on planned environmental water.

- The WSP includes several provisions to ensure water use is consistent with the Basin Plan sustainable diversion limit (SDL), and compliance with the LTAAEL as required by NSW. These provisions allow changes in the volume of water allocated where use exceeds either the SDL or LTAAEL. However, there are no provisions in the WSP to address the circumstances where water use may be consistently below the SDL or LTAAEL. This is major weakness which needs to be addressed to ensure NSW can utilise water up to the SDL.
- In remaking the WSP, the NSW Government has an opportunity to consider how the WSP can build on the certainty previously provided whilst allowing the flexibility to consider how the Murrumbidgee is operated to deliver for multiple uses.
- In remaking the WSP, the NSW Government needs to establish more effective mechanisms for building community ownership of the planning process than their current approach to WRP and Regional Water Strategies.
- In remaking the WSPs, the NSW Government needs to ensure changes are not in addition to any changes that may result from the Basin Plan 2026 review.

Introduction

Coleambally Irrigation Co-operative Limited (CICL) welcomes the opportunity to provide feedback to the Natural Resources Commission (NRC) review of the Water Sharing Plan (WSP) for the Murrumbidgee Regulated River Water Source 2016.

The WSP is the central document which underpins water sharing in the regulated Murrumbidgee. These sharing arrangements form the basis of the entitlement holders' "property rights". CICL and its members have made substantial commercial investments which are anchored on the WSP rules. CICL argues the NRC review needs to acknowledge the importance of continuance of certainty in water sharing arrangements in the remaking of the WSP. In addition, where substantive changes to any arrangements are to be made, the Department of Planning and Environment (The Department) should be required to consult directly with entitlement holders about the proposed changes.

CICL notes the 2016 WSP has been changed on several occasions, as recently as in December 2022 when the draft WSP prepared as part of NSW' Water Resource Plan preparation process was amended by the Water Sharing Plan for the Murrumbidgee Regulated River Water Source Amendment Order, 2022. The changes to the WSP because of this order are significant, including the vision, objectives, strategies, and performance indicators all being replaced.

The comments in this submission are based on CICL's experience with the WSP as made in 2016 and then amended in 2019. It also includes comments on Part 12 Amendment of this Plan which are authorised by the WSP 2016 as amended in 2022.

CICL is interested to understand the evidence base and timeframe the NRC will use to review the performance of the WSP.

CICL participated in "good faith" in the preparation of the Murrumbidgee Water Resource Plan (WRP). This included participation in multiple Stakeholder Advisory Panel (SAP) meetings and providing input into the WSP Plan for Murrumbidgee Regulated River Sources submitted with the WRP.

As a key stakeholder we are deeply frustrated with the process which leaves the NSW Murrumbidgee without an accredited WRP four years after the WRP was due to be accredited by the MDBA.

The NRC, through this review, has an opportunity to highlight NSW' regulatory framework which is delivering compliance with the SDL and supporting implementation of the Basin Plan, for example implementation of the pre-requisite policy measures.

Compliance with the SDL is the foundation of the Basin Plan. Failure to finalise the WRP is not diminishing this achievement.

Policy context

The NRC is seeking comments on the extent stakeholders believe the plan has contributed to environmental outcomes. Any assessment of the contribution of the WSP to environmental outcomes must be considered in the context of the significant changes arising from both the Basin Plan and the Living Murray.

The pre-2009 Water Recovery in the Murrumbidgee included the following changes:

- Water Sharing Plan contribution 90GL.
- The Living Murray 52GL.
- Water for Rivers 96GL.

This is a total recovery volume of 238GL between 2004 and 2009 from the consumptive pool. These volumes are based on Long Term Diversion Limit Extraction (LTDLE) factors for the relevant program.¹

In addition to this volume, under the Basin Plan a further 442.3GL has been recovered to meet the Basin Plan local and shared water recovery targets, with an additional 5.6GL registered or contracted as efficiency measures.²

This is a total reduction in LTDLE in the consumptive pool of 685.9GL, with the contribution from the WSP only 13 percent of the total or 15 percent if the Water for Rivers volume is excluded. This means the contribution to environmental outcomes from the WSP is dwarfed by the material increase in held environmental water holdings under the Living Murray and Basin Plan.

These policy interventions also make it difficult to identify the extent the WSP has contributed to the environmental, economic, and social outcomes the NRC is seeking feedback on.

CICL believes it will be beneficial for the NRC through this review to articulate the impacts of the Basin Plan on NSW' capacity to determine its own water sharing and management arrangements to optimise outcomes from the delivery of all water in the regulated Murrumbidgee.

About CICL

CICL is a gravity, off river, irrigation supply scheme in the Murrumbidgee Valley. We supply irrigation and drainage services to just under 500 farms owned by nearly 300 farm businesses who are mainly "mum and dad" farmers. Our irrigation service is automated, and it is world's best practice for an open, earthen channel system. Cotton, corn and rice dominate our summer irrigation and in winter our farmers grow a wide range of irrigated annual crops. We deliver environmental water to sites within our system in partnership with

¹ [Pre-2009 water recovery table \(mdba.gov.au\)](https://www.mdba.gov.au/pre-2009-water-recovery-table), accessed 9 June 2023.

² [Surface water recovery required under the Basin Plan including the Sustainable Diversion Limit Adjustment Mechanism - 31 March 2023 \(dcceew.gov.au\)](https://www.dcceew.gov.au/surface-water-recovery-required-under-the-basin-plan-including-the-sustainable-diversion-limit-adjustment-mechanism-31-march-2023), accessed 9 June 2023.

the NSW Government and the Commonwealth Environmental Water Holder. We also deliver operational and environmental water to the Yanco Creek based on WaterNSW orders.

We advocate in the interests of CICAL and our members on issues affecting our access to water for irrigated agriculture, which underpins our community. Further information about CICAL is available [here](#).

Response to NRC questions

The Department's evaluation of the major NSW Murray-Darling regulated river water sharing plans provides a detailed evaluation of the Murrumbidgee WSP.³

This evaluation identifies opportunities for improvements in the WSP. CICAL agrees with key conclusions reached in this evaluation.

CICAL is not aware of any further evaluation of the WSP. CICAL is also not aware of the Department's proposed monitoring and evaluation plan to measure the effectiveness of the updated WSP, with its new objectives.

If there is more evidence of the evaluation of the WSP or the Department's approach to monitoring and evaluation of the WSP, CICAL would welcome the NRC providing CICAL with this information.

The following responses are a qualitative assessment of performance from our perspective as an irrigation infrastructure operator and a holder of a range of water access licences in the regulated Murrumbidgee.

To what extent do you believe the plan has contributed to environmental outcomes?

The Murrumbidgee WSP has achieved its objective of ensuring diversions are consistent with the LTAAEL with these results publicly reported⁴.

Achieving the environmental outcomes sought from the transparent and translucent releases from Burrinjuck Dam is limited by the decision of WaterNSW to manage releases to a lower channel capacity constraint than the 32,000ML/day in the Murrumbidgee River at Gundagai.

Consequently, whilst WaterNSW releases the same volume as required by the WSP, at times this volume is released at set flow rates to ensure flows at Wagga Wagga do not exceed 20,000ML/day.⁵ This means the flow variability (supporting environmental outcomes) intended by the original rules is often not achieved. In addition, where flows are released at a constant flow there are negative impacts on the riparian zone.

The end of system flow requirements in the WSP have ensured continuous flow in the Murrumbidgee. In the most recent drought the Murrumbidgee WSP was not suspended and river operations remained in Stage one, normal operations. This is a positive outcome.

³ DPIE (2020) Evaluation of the major NSW Murray-Darling Basin regulated river water sharing plans.

⁴ [LTAAEL compliance results - Water in New South Wales \(nsw.gov.au\)](#)

⁵ Rod Emerson, WaterNSW operator, Friday 16 June 2023.

As noted earlier in this submission achievement of environmental outcomes under the WSP is confounded by the significant increase in the volume of held environmental water which complements the outcomes delivered by the WSP's environmental flow rules and environmental water allowances.

The achievement of environmental outcomes from both the WSP environmental provisions and the held water recovered through the Living Murray and the Basin Plan is reduced because of WaterNSW's decision (because of flooding in low lying areas) not to release water up to the approved WSP flows at Gundagai of 32,000ML/day. WaterNSW's decision to target maximum regulated flows at Wagga Wagga of 20,000ML/day means that delivery of held and planned environmental water to the mid-Murrumbidgee wetlands is constrained, reducing the efficacy of environmental watering.

The Long-Term Environmental Watering Plan for the Murrumbidgee acknowledges it is difficult to deliver large fresh reconnection events under current operating conditions.⁶

To what extent do you believe the plan has contributed to social outcomes?

CICL acknowledge the irrigation industry is fatigued by "water reform", however, there are positives in the WSP framework which support social outcomes.

The WSP has provided a framework and hierarchy of water sharing and water allocation account management that has supported industry, particularly since the uncertainty associated with the millennium drought, when the WSP was first suspended.

This certainty supports the wellbeing of the sector, delivering social outcomes.

The continuous flow of the Murrumbidgee has supported social outcomes through recreation, including camping, fishing, tourism etc and access to basic landholder rights. The WSP framework has contributed to these outcomes.

To what extent do you believe the plan has contributed to Aboriginal cultural outcomes?

CICL is disappointed the original intent of the WSP to provide water for Aboriginal Cultural Water and special purpose licences has not been full filled.

The General-Purpose Water Accounting reports show that in multiple years the water allocated to the Aboriginal Cultural water Licence has not been used.⁷

To what extent do you believe the plan has contributed to economic outcomes?

The certainty of the planning framework for the allocation of water to different licence classes and water account management rules has supported economic outcomes and farm business decision making. The planning framework, combined with annual allocation trade, has allowed water to move between uses via a market mechanism supporting economic outcomes in both the Murrumbidgee and Murray Valleys.

CICL has made commercial investments based on the WSP and its allocation of water to CICL's conveyance licence. These investments have delivered improved service to customers, stable water pricing, and benefits to customers which improve the resilience of their businesses in the face of variable water availability.

⁶ [Murrumbidgee Long Term Water Plan Part B: Murrumbidgee planning units \(nsw.gov.au\)](https://www.nsw.gov.au/murrumbidgee-long-term-water-plan-part-b-murrumbidgee-planning-units).

⁷ [NSW General Purpose Water Accounting Reports - Water in New South Wales](https://www.nsw.gov.au/general-purpose-water-accounting-reports-water-in-new-south-wales)

The General-Purpose Water Account Reports⁸ document water use, including allocation trade, water availability via licence category, utilisation and water use and are a sound reference in the absence of evaluation of economic outcomes.

To what extent do you believe the plan has contributed to meeting its objectives?

The objectives in the current WSP have been updated as part of the preparation of the WRP. This means the current plan's objectives are different to the objectives in the 2016 and 2019 version of the WSP.

During the WRP process the WSP objectives were criticised as not being SMART⁹ objectives.¹⁰

The 2022 WSP has a renewed set of objectives intended to be SMART objectives.

The points below are CICAL's assessment of the key outcomes the WSP has delivered:

- End of system flows and post the millennium drought, end of system flows consistent with the WSP.
- Access to Basic Landholder Rights.
- A known water sharing and allocation framework, including account limits, providing certainty for irrigators and environmental water holders.
- A known hierarchy for the allocation of water to different licence classes which has been applied. This is particularly important to CICAL and the allocation of water to its conveyance licence. CICAL has made major commercial investments based on the WSP and rules for allocating water to different water access licences.
- Compliance with the LTAAEL.
- A water allocation market, including intervalley trade, but with justified limits.
- Water for the environment, including transparent releases and environmental water accounts.
- Drought management option tools such as the Provisional Storage Volumes.
- Clear policy direction to operators on dam operations during floods and spills.
- Clear direction on assumptions on future water availability on which the annual allocation framework is conservative, and water users are made responsible for their risk management decisions.

What changes do you believe are needed to the water sharing plan to improve outcomes?

In considering changes to the WSP, it is CICAL's strong view that change should build on the current WSP and the certainty it has provided. It is important the WSP does not seek to alter the fundamentals in the WSP and the property rights framework, but to build on these arrangements.

Increase take up to the LTAAEL and SDL

The WSP needs to include a clear statement the WSP rules will support the Murrumbidgee's water use consistent with the both the LTAAEL and SDL.

⁸ Ibid

⁹ SMART objectives are specific, measurable, achievable, realistic and timely.

¹⁰ J. McLeod, Stakeholder Advisory Panel Member pers. Comm, 16 June 2023.

Division Four of the WSP, Compliance with extraction and diversion limits, details the policy response in the case of non-compliance (exceedance). However, there are no options to allocate more water where water use is below the LTAAEL or SDL. If, over time, a catchment accumulates large SDL credits (i.e. water use less than the annual permitted take) this is lost production opportunity to NSW.

The WSP needs to propose a mechanism to address this situation and CICL's recommendation is this option should increase access to supplementary flows as either uncontrolled flows or more than 100 percent supplementary water access.

CICL acknowledges Clause 93(3) provides for the plan to be amended to facilitate extractions reaching the LTAAEL or SDL.

Translucent flow releases from Burrinjuck

Every review of the Murrumbidgee WSP has recommended simplification of the environmental flow rules. The NRC review is an opportunity to make recommendations which either close the potential for review of the translucent flow rules in the Murrumbidgee or recommend alternative arrangements to be considered by stakeholders.

The Department's 2018 scoping review of translucency rules in NSW inland rivers recommended, among other things, in the Murrumbidgee consideration of simplified alternate translucent releases and to develop options with the SAP and Agencies during the WRP development.¹¹

This did not occur with the SAP.¹²

It is CICL's view that consideration of alternatives to these rules is an opportunity to consider the effectiveness of these rules within the current operating environment and options to deliver improved outcomes from the volume of water in the regulated Murrumbidgee.

Extraction rights

Extractions rights have not been assigned in the regulated Murrumbidgee. The Department's 2020 evaluation of regulated river WSP recommended consideration of implementation of numerical extraction rights.¹³

This issue has not been progressed.

CICL is concerned there is no consideration in the Murrumbidgee of the channel capacity, channel sharing, or the ecological tolerance of the regulated Murrumbidgee. CICL observes there is potential for a shift in water demands to downstream of the Gogeldrie Weir pool to the River Murray and or Lower Murrumbidgee.

The property rights framework has not been developed to consider extraction rights. CICL believes, in the Murrumbidgee, addressing extraction limits can be considered before increased development has negative impacts on the Murrumbidgee or causes supply shortfalls and/or reduced operation efficiency.

¹¹ DPE, 2018 Scoping Review Translucency rules in NSW inland rivers.

¹² J. McLeod, personal communication, 16 June 2023.

¹³ DPE (2020), Evaluation of the major NSW Murray-Darling Basin regulated river water sharing plans.

CICL acknowledges this is not a straightforward issue, but we have an opportunity to be proactive before we have the problems facing the mid-Murray and Lower Goulburn in Victoria.

Inter-valley Trade Rules

Clause 79 of the WSP allows the Minister to establish Inter-Valley Trade Procedures to facilitate access licence dealings between the water source and other water sources.

CICL believes the WSP should require consultation with stakeholders over any changes to inter-valley trade rules, including the establishment of any procedures.

General system operating rules

CICL believes the general system operating rules should support consideration of enhanced water supply system management to deliver multiple uses. Consideration of options that allow water supply operators to increase the capacity of their water operations to support multiple uses is an opportunity to consider ways to optimise the management of the significant water resources in the regulated Murrumbidgee.

The One Basin CRC research program will include research projects that explore opportunities to support increasing the capacity to support multiple uses. Underpinning this research should be a commitment to protecting the reliability of water entitlements, [here](#).

CICL believes the NSW WSP planning framework should support the introduction of improvements to system operations which are supported by evidence and robust consultation with key stakeholders.

Part 12 Amendment of this Plan

CICL does not support the inclusion of clause 87 relating to part 8 (a) or (b) as CICL does not support increasing the carryover provisions to 0.5 ML/unit share.

Any consideration of changes to the carryover provisions must include public consultation. Water users seeking a more secure water supply should use the market. This clause should be removed from the WSP. This option was considered during the WRP process and not progressed because changes to carryover limits will result in third party impacts in the Murrumbidgee. It will result in winners and losers. There is an entitlement and water allocation market available to industry seeking to change their reliability.

CICL does not support the provision in clause 93 which allows the WSP to be amended because of interception from plantations. These are issues which should be addressed in the unregulated WSP and with the person causing the increased interception responsible for addressing its impact.

Similarly, CICL does not support the conversion of water entitlements between the regulated and unregulated systems. In principle CICL does not support conversion of different classes of access licences to another class. Conversion is reliant on modelling at a point in time and uses long term averages. CICL believes the output from models is not static but subject to changes in climate and utilisation, and therefore not appropriate.

Concluding comments

CICL strongly encourages the NRC, when recommending changes to the WRP, to retain the fundamentals in the current WSP. CICL also believes it is important to align changes with the consideration of the changes that may arise from the Basin Plan. The Murray-Darling Basin Authority is preparing for the 2026 Basin Plan review with the final report for the Basin Plan review due in late 2026.¹⁴

It is imperative NSW, in remaking the WSP, does not implement changes to its Water Sharing arrangements that are in addition to whatever changes may arise from the Basin Plan review. The four focus areas of the Basin Review are climate change, sustainable water limits, First Nations and regulatory design. The first three elements being considered through the Basin Plan review overlap with issues CICL believes may arise from the NRC review.

The first WSP for the Murrumbidgee was developed by a management committee which had strong local community participation and ownership. The WSP developed has been relatively enduring and delivered certainty in the Murrumbidgee catchment to diverse stakeholders.

The Murrumbidgee would benefit from stakeholders and government having more effective joint planning processes as they consider remaking of the WSP. In making recommendations to NSW, the NRC has an opportunity to identify an improved consultation mechanism for the remaking of the WSP, a mechanism which builds stakeholder support and ownership for any proposed changes.

If you require further information please contact Jenny McLeod, our Policy and Communication Manager, [REDACTED].

Yours sincerely



Clifford Ashby
Chief Executive Officer

¹⁴ MDBA (2023) Roadmap to the 2026 Basin Plan Review.