Dear Dr Keniry

Draft review of the Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2012

Thanks for the opportunity to make a submission to this draft review.

Barwon Darling Water is an independent body funded by its members. It exists to provide advice to members and policy-makers, to assist with policy development, and to advocate on behalf of the interests of its members and communities along the Barwon-Darling River.

Members of Barwon-Darling Water Inc have been involved in the water reform process, especially in relation to the unregulated Barwon-Darling River, for many years.

Our membership is made up of local water user groups – including local government, irrigators and riparian users. We seek to represent all licence holders and water users on the Barwon-Darling – from Mungindi on the Queensland border to the Menindee Lakes.

Barwon-Darling Water has been deeply involved in water management activities and water reforms on the Barwon-Darling River over the past few decades. This work has included:

1. Co-operating with other stakeholders to create a set of environmental flow rules for the Barwon-Darling (through the Barwon-Darling River Management Committee)
2. Assisting in development of the Barwon-Darling Cap Management Strategy of 2007;
3. Representation in development of the Barwon-Darling Water Sharing Plan 2012;
4. Working with DoI Water on development of the Floodplain Harvesting Strategy; and

We trust that you will take account of the information we have submitted below, and to the original submission provided by our organisation.

Your sincerely

Ian Cole, for Joe Robinson,
Chairman
Draft review of the Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2012 – submission from Barwon Darling Water

Firstly, we wish to express our disappointment with many of the statements made in the NRC Draft Water Sharing Review.

We feel that many of these statements ignore and make a mockery of the hard work and contribution of our members – local farming families and corporations, plus other members of the community – over many years.

The report also appears to be attempting to drive a wedge between farming groups and communities along the Barwon-Darling, by blaming irrigators upstream for the lack of flows in the Barwon-Darling during a drought, while defining victims downstream.

It has been our observation that all recent reforms along the Barwon-Darling River have included community consultation of all groups, including indigenous groups, environmental groups, government agencies, irrigators, basic landholder rights users, local government and people living upstream, downstream and mid-stream. These groups have all had the opportunity for input into the decisions leading to the current water sharing plan, and in most cases, they have taken the opportunity for input.

For example, there was extensive community consultation on the making of the environmental flow rules (thresholds) and extensive targeted consultation in the making of the Barwon-Darling Water Sharing Plan which adopted these thresholds and the other elements of the 2007 Cap Management Strategy for the Barwon-Darling.

Overview of the report

We were surprised that the Natural Resource Commission (NRC) used the report to lay blame on upstream water extractions for the deep and sustained drought we are currently experiencing right throughout the Northern Basin – the catchment of the Barwon-Darling.

Now that this drought is spreading beyond western areas and affecting others, even the Warragamba Dam catchment, and with meteorologists and hydrologists everywhere calling it the worst drought since records were kept, you might like to review where blame is allocated.

The NRC says that irrigation on the Barwon-Darling has brought forward the drought below Bourke by 3 years.

This is a very odd statement given the persistently high flows that ran down the Darling River from flooding on the Bogan, Castlereagh and Macquarie Rivers in 2016 – flows that had the Darling River running a banker for many months and virtually re-filling the Menindee Lakes.

Barwon-Darling Water and the Northern Valley Irrigation Group have retained the services of an expert hydrologist to look at this and other statements by the NRC, and we will be submitting the findings to you in due course. We trust that the NRC will consider this report when it becomes available.
We are concerned that the statement is untruthful, and that it has gained significant currency in media outlets, to the detriment of our industry.

Therefore, we would like to ask several questions related to the NRC statements on irrigation above Bourke causing an early drought.

Does the NRC claim that all this water running down the river in 2016, and remaining in the Lakes over 2017, was taken by irrigators on the Barwon-Darling, rather than letting it run down the river to the Lakes and to the Lower Darling?

Should irrigators be targeted for the record low inflows since 2017? Given 2016 was such a great season, does the NRC believe that the dry spell beginning in 2017 and persisting today is the fault of upstream irrigators?

Does the NRC understand that the Barwon-Darling River is an unregulated river without a headwater dam that regulates flow down the river?

Does the NRC understand that the Barwon-Darling river flows when there is substantial rain in the catchment, mainly the tributary catchments which produce inflows to the Barwon Darling, and that when inflows cease for an extended period, flows in the Barwon-Darling also cease?

Aside from two environmental flows released from dams in 2018 and 2019, there have been no substantial inflows from the tributary catchments for almost two years.

There was one small A class flow created from local rainfall runoff around Brewarrina and Bourke after the 2018 environmental flow. This flow passed down the river unhindered by extractions in the Brewarrina to Bourke and Bourke to Louth sections of the river. This event appears to be absent from the NRC report, because the NRC does not appear to have gathered all the facts.

As a result of the lack of inflows, the Barwon-Darling has almost entirely ceased to flow, up until (ironically) a May 2019 flow from the Warrego catchment relieved the sections downstream of Bourke, from Louth to Tilpa and Wilcannia in recent months. Those flows in the lower part of the river are the best we have anywhere on the Barwon-Darling today.

Rather than saying that irrigation on the Barwon-Darling has brought forward the drought below Bourke by 3 years, it could just as likely be said that a massive drought in the Barwon Darling has been caused by hoarding diverted water in the headwater dams of the tributaries, and running massive amounts of environmental water into the Gwydir wetlands and Macquarie Marshes in the last three years.

This hoarded water was not available to Barwon-Darling River communities choking on dust during the record heat of the 2018/19 summer.

It appears that the NRC is seeking to scapegoat Barwon-Darling irrigators who themselves are victims of this long and sustained drought.

We believe that the NRC should reconsider its sensationalist claims and publicly declare that:
• Irrigators on the Barwon-Darling are also victims of the current drought, and have not had access to water from the Barwon Darling River since December 2017; and

• The only substantial flows in the Barwon-Darling above Bourke in the past 15 months were the environmental flows (Northern Connectivity Event 2018 and Northern Fish Flow 2019) that were released from the major headwater storages of Copeton Dam in the Gwydir catchment and Glenlyon Dam in the Border Rivers catchment.

As we pointed out in our original submission (attached), we were concerned that this review would not be fair, reasonable or practical as:

"the review is being held in a very difficult political environment of a deep and sustained drought throughout the northern basin, including long periods of no flow and low flows in most northern basin rivers, and the consequent disaster for many water users along and below the Barwon-Darling, including the infamous fish kills at Menindee Lakes".

We are concerned that this review puts unjustified blame on the Barwon-Darling during a drought crisis.

It is not unusual for the small irrigation industry on the Barwon-Darling to unfairly cop the blame for accumulated hydrological and other impacts that are created throughout the total northern basin, and in the Lower Darling

We would like to again point out that on page 26 the “Independent Assessment of the 2018-19 Fish Deaths in the Lower Darling” prepared by Professor Rob Vertessy and his independent panel, the following is acknowledged:

“Extractions in the Barwon–Darling have been found to represent a small proportion of tributary system inflows, even when inflows are small such as in 2017-18 (Figure 10). The analysis of extractions, mid-system flows, and tributary inflows into the Barwon–Darling suggests that the majority of impacts from extractions on Menindee inflows, and therefore Menindee Lake volumes, are from tributaries above the Barwon–Darling and not the Barwon–Darling itself”.

This is an important point as Barwon-Darling water users are often criticised for flow impacts when impacts are observed in the Barwon-Darling, but are not attributable to irrigation activity on the Barwon-Darling.

As we pointed out in our discussions in Bourke, it is never wise to make long-term policy decisions during a climatic crisis.

Practical remedies for any plan shortcomings are already contained in considerations of the Stakeholder Advisory Panel (SAP) run by the Department of Planning, Industry & Environment (DPIE).

But on a river system not regulated by a headwater storage, there are no immediate solutions to the hydrological drought in the Barwon-Darling River until climatic conditions relent and rain and tributary inflows return. We can all invent relevant rule changes, but there will be no measurable change in the river until there is widespread rain and flows in the catchment.
A River in Crisis

The NRC says the Barwon-Darling is a river in crisis, and we agree. But it appears the NRC confuses drought and man-made crisis. If the river was running a “banker” as it was in 2010, 2011, 2012 and 2016, there would be no crisis.

We are in a drought crisis and the NRC is blaming farmers for the drought. In our submission we warned the NRC about blaming drought conditions on the irrigation industry, but the NRC appears to have done that anyway.

The NRC fails to understand the nature of an unregulated river – a river that does not have a headwater dam to manage flows. If the rain doesn’t fall, the river doesn’t run.

The nature of the Barwon-Darling is highly variable in flow and we must deal with that fact in our highly variable, arid climate. The 2012 plan contains strategies to deal with that variability.

The flexibility in the Barwon-Darling Water Sharing Plan is necessary because Barwon-Darling unregulated flows are highly variable given the semi-arid conditions that are subject to extreme climatic variability.

As a result, water users are not able to access their allocations every year because flows are often below the commence-to-pump thresholds.

Current provisions in the water sharing plan allow water users to access their shares over the long term, which provides some flexibility about when they can access flows. Water users can take more water in one year when flows are high and store it for use when the river is at low flow. This flexibility benefits the water user and the environment.

We should not be forcing water users to compete for water in the lower flow ranges every year.

Water users cannot allow their water accounts to run into debit, which means only previously accumulated allocations can be taken.

This is how the plan was originally presented by the department – to allow flexibility during climatic extremes and to mimic extreme climatic variability.

Barwon-Darling irrigators have not had access to water for over 18 months, and in the six years since the plan was introduced (2012/13) average use has been well below the expected long-term average use at just 111GL per annum. The long-term Cap/SDL average is 189GL.

The role of irrigation in Barwon-Darling communities

The report does not consider the valuable role of the irrigation industry in supporting the social and economic wellbeing of Barwon-Darling communities. There is no acknowledgement of the jobs and degree of community prosperity created by industry when the report says only a few are benefiting from diversions on the Barwon-Darling River.
It also seems to totally ignore the extensive work on the impacts of water buybacks completed by the Murray-Darling Basin Commission during the Northern Basin Review. On reading the NRC Review you would be forgiven for thinking that the irrigation industry does not contribute anything to the local communities along the Barwon-Darling and its tributaries.

Since the mid-1960’s the irrigation industry – including the cotton and horticultural industries have brought an enormous degree of social and economic value to communities along the Barwon-Darling.

This economic activity and jobs provided by cotton in non-drought times has seen communities benefit that have been hit by a turn down in the pastoral industry, withdrawal of government services from smaller towns and loss of population.

In 2001 Hassall & Associates carried out a study on the value of the cotton industry in the Bourke area. The study found that, on average, cotton was responsible for 700 full time jobs in Bourke and $70m of agricultural output.

This output is doubled when you take account of the rest of the Barwon-Darling irrigation industry on the Barwon River, from Mungindi to Brewarrina.

Through water buybacks, water reform generally, and drought, this figure is much lower today, but these facts underline the enormous positive social and economic benefit of the cotton industry to small, struggling outback communities. The cotton farms, cotton gins and related industries and commerce have served to strengthen communities along the Barwon-Darling.

The small town of Collarenebri – just east of Walgett – is a good example of what happens when you take water away from a rural community. When all of the water was purchased from Colly Farms under the Basin plan buybacks, the town’s economy and population declined dramatically.

This is all documented in the MDBA Northern Basin Review, which makes sobering reading.

The same thing happened at Bourke when the water from Toorale station was purchased. The owners received a payment for the water and were compensated, but the Bourke community continues to suffer the losses in jobs, contract work and commerical activity. The local council also lost rate revenue. It is difficult to compensate a community for the loss of jobs and prosperity when productive water is taken away.

That water now continues to run down the river when there are flows, but without flows from the catchment, it matters not one jot how much water is bought back by the government.

Purchasing of “A” class and other water rights is often proposed as a solution to flow issues in the Barwon-Darling. We believe that the NSW Government should model any buyback proposal to show that any buyback will make a substantial difference on river flows and river health during no-flow and low flow periods.

Responsible government would also model the economic impact of removing water from outback communities as opposed to arguable environmental benefits.
And it should be noted that NSW is currently opposed to further buybacks and that 32.6 GL has already been bought back in the Barwon-Darling – bringing this valley way below its current Sustainable Diversion Limit (SDL).

**Plan performance**

Our members believe that a major focus of this review should have included finding a way to allow water entitlement holders to take their plan limits (when flows are available), rather than attempting to reduce allowed plan limits any further.

In the six years since the Barwon Darling Water Sharing Plan was introduced (October 2012) average use to date has been well the expected long-term average use of just 111,000 per annum. If you throw in the current water year where there have been virtually no extractions at all, the average figure is much less.

These figures have been sourced from the NSW Water Registry data for the Barwon–Darling. We concede that six years is a very short period for averages, given the extremes of water availability on the Barwon-Darling.

But the point is well made that Barwon-Darling irrigators are using much less than the long-term SDL/Cap/Plan limit average of 189GL, established under the state government in 2007.

This underuse on the Barwon-Darling is further highlighted by the cumulative cap credits for the Barwon-Darling/Lower Darling being 635Gl. That simply means that over the period since the introduction of the Barwon-Darling Cap Management Plan in 2007, cumulative extractions are much lower than cap and SDL limits.

The NRC has not really commented on the success of the plan in its performance of meeting limits under the Long-Term Average Annual Extraction Limit (LTAAEL).

Our members are wondering why any review of this water sharing plan would not test the performance of the plan against this important limit?

Additionally, 32.6GL has been bought back from the Barwon-Darling under the Bain Plan – reducing this production limit to 156.4. This 32.6GL reduction compares with the 6GL local reduction expected under the original Basin Plan Sustainable Diversion Limit (SDL).

**Changes made after the Consultation Draft of the 2012 Plan**

There have been many assertions about changes between the consultation draft and the final plan that was gazetted.

These assertions have been wrong, especially the idea that irrigators on the Barwon-Darling were given better access to water through provisions under the Barwon Darling WSP that changed the restriction on A class pumping from “pump size” to “annual volumetric limit”. This assertion is wrong, as the change resulted from the fact that the water sharing plan was made, like all other NSW water sharing plans, under the Water Management Act 2000, which does not regulate by pump size, but by volumetric limit.
Had the Department (DPIE and its former names) implemented the plan as supported by all community stakeholders, including with the original IDELs, this would not have been an issue. With the IDEL’s in place, all A Class pumping would have been restricted to a daily limit set by the smaller size pumps, and nothing would have changed in this regard.

Furthermore, a consultation draft is not always the final draft of any plan governing sharing water from NSW water sources. We understand that the reason for having a consultation draft is to discover if there are any outstanding issues within the affected community; issues that should be addressed before the final plan is approved.

However, there seems to be a question raised that there is something unusual about changes made after a consultation draft in this case.

If the NRC, or anyone else, cared to check on changes made in other NSW water sharing plans after the consultation draft, you will find that changes were a usual feature of the plans. We note that Cotton Australia has also made the following submission to the NRC:

*Cotton Australia can attest that the majority of first-generation water sharing plans that were finalised in the mid-2000s changed dramatically from what was recommended and consulted on by advisory committees, and what was finally implemented by government.*

The NRC’s list of 13 changes in Appendix C rates the Barwon-Darling changes as minimal, moderate or substantive. But in making these judgements, the NRC fails to provide any discussion or examination of the impact these changes have on diversions, levels of access, Sustainable Diversion Limits, Cap, or the Long-Term Average Extraction Limit; and how they rate them to be minimal, moderate or substantive.

There appears to be no assessment of how these changes have affected flows or diversions patterns in the Barwon-Darling. Rather than a positive contribution to transparency on this issue, the NRC seems to have joined the small group of conspiracy theorists who want to besmirch the making of the plan without any real information on the impact of the changes.

Looking at the development of the plan historically, the main features, or pillars of the Barwon Darling Water Sharing Plan that affect flows, diversions and access to water were inherited from the Barwon-Darling Cap Management Strategy delivered under the Iemma Labor Government in 2007 after significant and widespread community consultation. These include:

- a cap volume (at 2007 reduced by 67% for all licensees);
- the environmental flow rules introduced with ecological advice and targets (these are the pumping thresholds for each reach of the river);
- continuous carryover,
- a limit of 300% use for any licence holder in any one year (under the cap plan this was expressed as using up to your original annual volumetric limit, ie: 300%),
- concessional conversions of licence class and;
- a new set of trading rules (these were developed a little further under the WSP).
FURTHER COMMENTS ON NRC RECOMMENDATIONS

Many of the recommendations made by the NRC have already been addressed by the SAP process that includes community representation along the Barwon Darling.

This includes the introduction of IDELs (which industry supported in 2012), active or “event” management (originally proposed by industry back in 2006), strengthening of metering, monitoring and compliance arrangements (proposed by industry in 2009), protection of held environmental water (Barwon-Darling Water has co-operated in shepherding trials and sought to protect both held environmental water and planned environmental water through the SAP process), improved modelling (we gave up asking in 2011) and so on.

These SAP processes been progressing steadily with the input of community representative along the river – people who must live with the rules being developed. Some of the rules being suggested by the NRC appear to be have dreamt up with little reference to real, practical, on-the-ground conditions. And there seems to be little reference to the really valuable work done by DPIE modellers during the SAP process.

There also appears to be no attempt to understand previous reforms and how the present rules were developed over many years by the efforts of community representatives, industry bodies and agency staff, members on the Barwon-Darling River Management Committee and other consultative groups.

For example, the current pumping thresholds and cap rules were developed by representatives from all over the community – including Aboriginal groups, basic right users, irrigators, environmentalists (including the NSW Conservation Council) and agency staff from Agriculture, Water, Fisheries, Environment etc. This valuable work is not acknowledged.

Contrary to the NRC assertions these pumping thresholds (called Environmental Flow Rules when they were introduced) were closely tied to identifiable environmental targets. These targets were set by riverine scientists involved in the process leading up to the establishment of the environmental flow rules. In a review leading up to the adoption of the 2012 plan, the NSW Government’s Interagency Regional Panel and NSW Office of Water noted in their recommendations that: “A review of environmental monitoring and associated research of the flow access thresholds adopted in 2000/01 revealed that these thresholds have and will continue to deliver in-stream environmental benefits for the Barwon-Darling River.”

Although we agree with a number of the recommendations, which are the subject of resolution in the current Stakeholder Advisory Panel (SAP) process, we are concerned that many of the statements in your report are sensationalist, do not take account of the many reforms already achieved on the Barwon-Darling River and not backed up by evidence as we expected.

Additionally, the Draft Review makes many recommendations but provides no assessment of the improvements or otherwise that these recommendations will make if implemented. Throughout the current SAP process, the DPIE has provided practical modelling out puts that give community members an idea of the outcomes of any changes to the plan.
We feel that the NRC has shot from the hip with some recommendations without regard to the cost on local employment, business, farming enterprises and economic realities within local communities.

Following are some further comments from Barwon Darling Water on the recommendations of the Natural Resources Commission in its Review of the Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2017:

**Amend and remake the Plan**

The current SAP process is working through amendments to the current plan, and this process should be allowed to continue in its present form to address issues such as active management, overdue implementation of the IDELs, protection of held environmental water (HEW) and avoidance of adverse impacts on water available to water access licence holders and protection of planned environmental water (PEW) which makes up the great bulk of water available in the Barwon-Darling.

**Strengthen water metering, monitoring and compliance arrangements**

We fully support this recommendation, as Barwon-Darling Water has been calling better water metering, monitoring and compliance arrangements since 2009 when our fulltime meter reader disappeared.

Barwon Darling Water has been bringing these issues to the attention of the NSW Government for more than a decade. We have a file of correspondence on this issue, and as recently as 2017 were refused an effective fulltime meter reading service on the Barwon-Darling.

Many of our members have recently updated their meters to be compliant with the new NSW metering policy, and we are currently waiting for the NSW government to nominate an approved telemetry data logger and telemetry unit specifically designed to connect with the DPIE’s new data acquisition service.

Recommendation 5b of the recommendation is an example of the totally impractical solutions proposed by the NRC. It fails to recognise the work already done by industry and NRAR to assure compliance, and it fails to recognise that, historically, Barwon-Darling irrigators have operated their pumps above pumping thresholds and should not have to have someone remotely operating large machinery on their farms – which is a safety risk.

**Improve modelling of the Barwon-Darling**

Barwon Darling Water supports this recommendation and has been asking for improved modelling since the Barwon-Darling Cap Management Plan was implemented in 2007.

We also understand – again through the SAP process – that the transition from IQQM to Source modelling is already underway within DPIE-Water.
Enhance the protection of low flows to improve environmental and social outcomes

The Barwon Darling Water Sharing Plan 2012 already has protection of low flows to improve environmental and social outcomes.

In 1995 NSW established an independent Scientific Panel to assess the instream health of the Barwon-Darling River to assess low flow environmental water needs and improve understanding of river ecology.

The NSW government established a Barwon-Darling River Management Committee – including representatives from Barwon-Darling Water, government agencies, environmental, Aboriginal and other community stakeholders – to advise on flow rules based on the findings of the Scientific Panel.

This was a long and laborious process over several years and the current environmental flow rules (thresholds) were agreed to by all stakeholders. We believe that the NRC should take note of the investment of the community in these historic decision-making processes.

The Committee’s advice on environmental flow rules of April 1998 was adopted by the NSW Government. These rules lifted the threshold pumping levels along the Barwon-Darling substantially above previous levels.

For example, the B Class pumping threshold at Bourke was raised from 390 megs/day to 1,250 megs/day and A class at Bourke was raised to 350 megs/day past Bourke. These rules were adopted in 1999/2000, and were included in the Barwon-Darling Cap Management Plan completed in 2007.

These rules were subsequently incorporated in the Barwon-Darling Water Sharing Plan of 2012 after the NSW Government’s Interagency Regional Panel and NSW Office of Water noted in their recommendations that: “A review of environmental monitoring and associated research of the flow access thresholds adopted in 2000/01 revealed that these thresholds have and will continue to deliver in-stream environmental benefits for the Barwon-Darling River.”

Any bid to change these rules without extensive study and community consultation would be contrary to the principles outline in the Murray-Darling Basin Plan which states “there will be no adverse impacts on water available to a water access licence holder’’ (Water Act 2007. Basin Plan, Clause 6.14)

Additionally, NSW requires that water resource plans “balance social, cultural, economic and environmental needs of the community and catchments, are cost neutral for NSW licence holders and minimise change for water sharing plans within their initial ten-year period”.

Barwon-Darling Water has always supported the implementation of IDELs as set out in the original 2012 water sharing plan. We believe the implementation of TDELs based on the summation of IDELs as originally proposed is also sensible.

However, the impact of IDELs should be monitored to ensure that they do not impact on the rights of owners of water access licences and the diversion limits of the plan.

Barwon Darling Water has also worked with the SAP to develop sensible “first flush” rules for resumption of flows in the system after a prolonged dry period.
Tinkering with the practical rules around continuous carry over and annual allowable take of 300% when there is carryover water in accounts is also contrary to the principles of the Basin Plan and NSW water planning principles, providing huge adverse effects on licence holders, including the inability to utilise the property right of account water, and the opportunity to share in the water resource of the valley as promised under the Barwon-Darling Cap Management Strategy when Barwon Darling licences were cut back by 67% without compensation to licensees.

Barwon Darling Water has already supported the implementation of active management as proposed by the current SAP process.

We fully support protecting environmental water that has been purchased by the CEWH and other environmental water holders. We support protection of that water to meet its environmental targets and we also seek protection of water available to owners of water access licences as they seek to run their businesses.

**Improve Aboriginal engagement and outcomes**

Barwon Darling Water would like to see improve engagement and outcomes for Aboriginal people as in recommendations 14a) and 14e), but we do understand, and have not been briefed on recommendations 14b), 14c) and 14e). We understand that any “new” water allocations would have to come from the established allocations or taken from planned environmental water (PEW) allocations.

**Engage to improve community outcomes**

This is a matter for DPIE-Water to develop, but we there appears to be plenty of opportunity within the current SAP structure and process for community input and engagement.

**Enhance consideration of climate change**

Barwon Darling Water understands that consideration of climate change options is already included in modelling.

**Improve groundwater consideration in the Plan**

We support this recommendation

**Improve environmental outcomes**

We understand that all these things are part and parcel of the water sharing process, and we encourage the NRC to include something on improving social cultural and economic outcomes for the irrigation- dependent communities of the Barwon-Darling.
Improve Aboriginal outcomes
We support this recommendation

Improve community engagement and social outcomes
We support this recommendation

Improve climate change consideration
We support this recommendation

Improve groundwater consideration
We support this recommendation

Review compensation requirements
We agree that all parties should seek their own legal advice when property rights are affected with the intent of minimising just compensation.