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Mungindi - Menindee Advisory Council Inc.

A Council to advise on the Barwon-Darling River and other controlled rivers from which limited volumes of water may be extracted under license conditions when flows occur following rain in the catchment.

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20 June 2000.

Review of Operation of Cap
Murray-Darling Basin Commission
GPO Box 409
CANBERRA ACT 2601
Atn: Dr Tony McLeod, Project Manager
Tel 02 6279 0144
Fax 02 6230 7579

RECEIVED
26 JUN 2000
M.D.B.C.

Dear Sir

I enclose the copy of the response to the Review of the Operation of the Cap which I faxed to you today.

Thanking you

Yours faithfully

Barry Strahan
President
Mungindi-Menindee Advisory Council
per

Barry Strahan

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REVIEW OF THE OPERATION OF THE CAP (REPRODUCED) RESPONSE SHEETS FOR COMMENTS ON DRAFT REPORT.

COMMENTS BY

Mungindi-Menindee Advisory Council

CONTACT DETAILS

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DATE

1.6.00

DIRECTED TO

Review of the Operation of the Cap

Murray-Darling Basin Commission

GPO Box 409

CANBERRA ACT 2601

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Ecological Sustainability of Rivers.

Cap Project Board Position	Comment
<p>The Project Board has concluded that the Cap has been an essential first step in providing for the environmental sustainability of the river system of the Basin. Without the Cap there would have been a significantly increased risk that the environmental degradation of the river system of the Murray-Darling Basin would have been worse.</p>	<p>The introduction of the Cap was done in an ad hoc manner in 1995 with the first Audit document which was based on elementary information. Since that time, very little has been done to obtain additional information to verify that the Murray-Darling Basin was under the degree of risk specified, or that the Cap was based purely on the precautionary principle. No consideration has been given to the fact that the population is now 19 million people and it is impossible to maintain the environment in the form that existed 200 years ago or even 20 years ago. There is a need for a more practical approach to the fact that increased population requires ongoing development and resource management, as well as an attempt to maintain the environment.</p>
<p>However, the Project Board has concluded that there is no certainty that the Cap on diversions at its current level represents a sustainable level of diversions – the level at which it is set being that which existed at the time when it was decided to introduce a Cap. Further, the Project Board recommends that as better information informs our management of the Basin's resources, the level at which the Cap is set should continue to be refined to reflect our increased understanding. It is likely that such refinements may lead to the lowering of the level of the Cap in some valleys. Indeed some jurisdictions have already increased the environment's share, via access restrictions in addition to that required by the Cap as part of their longer-term direction of improved water management.</p>	<p>At no time to date has there been any determination of the environmental needs other than to state that all flows are required for this purpose. Until such time as the Qld section of the catchment is controlled and managed, it will be impossible to decide whether more or less water can be made available for extraction. The whole process needs to be considered on the basis of sharing the available resources in the most practical way to provide the most benefit for all concerned rather than giving all preference to an unknown and undetermined environmental requirement. We are all aware that we are controlled by nature in regard to the basic availability of water and priority needs to be given to developing a "sharing" policy.</p>



Economic and Social Impacts.

Cap Project Board Position	Comment
The Project Board considers that there is compelling evidence that the Cap has already delivered significant economic and social benefits to the Basin community and that the net benefit will increase over time.	There is no justification for this comment and it has been proven by independent surveys that when the cap becomes totally effective, some smaller rural communities will be completely destroyed. In particular, in the Western part of NSW there will be a major reduction in rural incomes.
The results of research conducted for the Review make it clear that, in the absence of the Cap, the erosion of security of supply for irrigators and other users would have been significant. These analyses were performed on several systems across the Basin reflecting diverse agricultural practices and climatic conditions.	Until such time as property and water rights are determined in the manner required by COAG there will be no changes to security of supply for irrigators on regulated sections of rivers. There is no security of supply to irrigators on unregulated rivers as they are dependent on rainfall or in the case of the Barwon-Darling, on excess flows from regulated tributaries of the Queensland catchment which provides no security at all.
Through guaranteeing security of water supply at the valley level, the Project Board views the Cap as having provided a more certain climate for long-term investment and development, particularly in high value agriculture and value adding processing, as well as providing benefits to the environment.	There is no guaranteed security provided by the Cap. It limits the total extraction for a valley system and provides a basis for the sharing of the available water by users but still owes complete priority to the environment. Long term investment considerations would require greater security of supply such as greater storages and better management of the resource.
The Project Board considers that the Cap has provided a mechanism for restraining, in an orderly fashion, growth in diversions, while enabling economic development to proceed.	There is no doubt that the Cap restrains growth of diversions, but in its present form it is also a limiting factor to any thought of economic development.
The Project Board recognises that this strong positive conclusion will not be the perception of every stakeholder in the Basin. However the Project Board concludes that the overall benefit of the Cap especially from ensuring security of supply at a valley level and providing an environment within which water trading and related reforms could be developed has been a positive one	There could be benefits from managing to available resource in each valley and ultimately the whole of the Murray Darling catchment but to attain this would require more appropriate controls at State level and a better and more practical approach from decision makers in the MDBC. There is a need to get out and talk to users, and not to just support the proposition that all the rivers are degraded and that availability of supply has to be reduced to provide for supposed environmental needs.



Equity

Cap Project Board Position	Comments
<p>The Project Board identified several equity issues (notably Cap arrangements for Queensland and the ACT) of long standing duration that require urgent resolution. In addition there are several more recently identified equity issues (floodplain and overland flows and diversions, farm dams and tree plantations) also requiring attention. The effective management of these issues will necessitate a total catchment management approach to water management that embraces both surface and groundwater resources.</p>	<p>Until such time as Queensland and to a lesser degree the ACT have suitable controls on extraction and use of water, it will be impossible to have other States accept the extreme controls being proposed. It is not possible to accept that Queensland only extracts 6% of the water in the Basin, as they have no acceptable form of management of diversions available under their present system. Overland diversions are not measured and there are virtually no controls. End of valley flows are still the best way to assess total usage in all unregulated rivers, and it is essential that this method of determining extractions is retained as an option.</p>
<p>The Project Board focused on equity issues arising from the implementation of the Cap between jurisdictions and between river valleys within States. In several cases, the submissions received by the Review of the Operation of the Cap raised equity issues that are about the details of implementation within valleys which are outside the jurisdiction of the Murray-Darling Basin Commission and Ministerial Council processes. The vast majority of such issues related to the recognition of licenses entitlement versus history of use, specifically in NSW (the sleeper/dozer issue). Such issues need to be dealt with by the particular jurisdiction concerned. In order that all submissions receive appropriate attention, these submissions and that of the CAC have been referred to the appropriate Government for consideration and reply.</p>	<p>The equity issues relating to licenses and their history of use are being considered in NSW and Qld by River Management Committees, and need to be dealt with at local valley levels. Decisions in this respect should rest with the States - not the MDBC.</p>



Implementation and Compliance.

Cap Project Board Position	Comment
<p>The work of the Independent Audit Group (IAG) on the ongoing implementation of the Cap and compliance of actual diversions with Cap target diversions has provided a clear direction for the finalisation of the implementation phase of the Cap. The Project Board generally supports the IAG recommendations.</p>	<p>No clear direction for the finalisation of the implementation of the Cap is apparent at this time and there is a need for the Audit Group to seek more opinions from stakeholders or water users, rather than relying on scientific and consultancy opinions which do not appear to understand anything other than the environmental requirements.</p>
<p>Significantly, effective compliance tools (computer simulation models used to determine Cap target diversions) have not yet been developed and the Project Board recommends that a high priority be given to the finalisation of these models.</p>	<p>Until such time as modelling is done by highly competent staff who also have a full understanding of the streams they are dealing with, it will not be possible to obtain acceptable results. Insufficient information on flows due to lack of suitable gauging stations and other technical information sources will reduce the credibility of any modelled results.</p>
<p>The Review has found that Victoria and South Australia have complied with the Cap, while Queensland and the ACT are yet to complete the establishment of their respective Caps. Nevertheless it is apparent that in Qld there has been significant growth in storage which will impact of the water available for alternative consumptive and environmental uses. In NSW, the Cap has been breached in the Barwon-Darling system, with other valleys being within Cap limits.</p>	<p>It is not correct to state that the Barwon-Darling system has breached the Cap as to date no Cap figure has been determined by the State Minister for this section and it is still under consideration by the River Management Committee concerned. The original figure quoted in the 1995 Audit document was shown as 274 Gl and at no time has this figure been exceeded. SA has unreal expectations regarding its share of the available water when it requires that Lake Alexandrina and Lake Albert be kept in an unnatural fresh-water storage condition rather than being returned to their coastal tidal lake situation. This requires nearly 10 times the Cap figure for the Barwon-Darling and has no relationship to the supply of fresh water to Adelaide and much of southern SA.</p>

Schedule F to the Murray-Darling Basin Agreement.

Cap Project Board Position	Comment
<p>The most important challenge in Cap implementation is to finalise the arrangements under "Schedule F – Cap on Diversions" to the Murray-Darling Basin Agreement. This schedule is the primary tool for defining Cap arrangements especially those concerned with assessing compliance and its consequences.</p>	<p>As stated previously – the Barwon-Darling has not exceeded any specified Cap limit on extractions and recommendation VI on the Executive Summary of the Companion Paper should be amended. There is no valid reason for the proposed changes at XI and XII regarding the deletion of the "End of Valley Flow" option for unregulated rivers, as this is the only practical form of control or limitation until there is a better standard of modelling developed when more information is made available for these streams. Clause 17 in Schedule F should not be modified or the reporting requirements initiated until effective management of extractions in Queensland and the ACT have been developed.</p>
<p>With the intent of improving the operation of the Cap through the development of fair and meaningful compliance arrangements, the Project Board invites comments on the following modifications in Schedule F which have been recommended by the IAG.</p>	
<ul style="list-style-type: none"> • Removal of references to end-of-valley flows as a method for Cap compliance 	<p>As stated above, the end-of-valley flow method of Cap compliance is the only effective control for unregulated rivers until such time as more comprehensive information is available to modellers and their techniques are improved.</p>
<ul style="list-style-type: none"> • Arrangements for remedial actions in the case of Cap exceedance. The recommendation of the IAG is that States be required "to ensure that cumulative diversions are brought back into balance with the cap". 	<p>There should be no "payback" requirements for States particularly in respect of unregulated river usage, which cannot be effectively measured until all extractions are accurately metered. The Cap figure in itself cannot be positively fixed using the present methods therefore it should not require payback when the resource depends on changes in natural conditions.</p>
<ul style="list-style-type: none"> • Re-setting the commencement date for accounting for diversions under the Cap to start with the 2000/01 water year. 	<p>The commencement date for accounting should not be fixed until Queensland and the ACT have complied with all requirements.</p>



Sustainable Rivers Audit

Cap Project Board Position	Comment
<p>With the implementation of the Cap nearing completion in most jurisdictions, there is now the opportunity to take the "next step" and to consider the environmental outcomes of the Cap from a whole of Basin perspective. The Project Board supports the introduction of a regular Sustainable Rivers Audit which would cast the Cap as an input to Basin health, rather than an outcome in itself. Whereas the Cap is seen as the first step towards achieving the longer-term objective of the Initiative, a Sustainable Rivers Audit can be viewed as the next step in the process of achieving this objective.</p>	<p>A Sustainable Rivers Audit would be an appropriate approach for the future provided the matter is addressed in a reasonable manner and does not give total priority to an undetermined environmental need. The available resource, water, is needed to satisfy the continuing development and growth which will be required to sustain the rural economy in the future as well as providing for the environment. Too much stress is being placed on the "degradation" of rivers which in fact have not suffered to anywhere near the sever extent reported by scientists adopting textbook approaches to the problem.</p> <p>Sustainability should relate to all needs and consider the way in which water has to be shared to satisfy all requirements.</p>

Any Other Issues

Cap Project Board Position	Comment
<p>Are there any other issues raised in the draft report that you wish to comment upon?</p>	<p>The draft report has failed to consider a number of issues raised in the past, involving the failure of NSW to adequately investigate the figures being used in flow modelling and to provide adequate information to the various committees formed to advise the government on the implementation of the Cap in this State. This has led to a great deal of uncertainty regarding the justification of some of the more severe restrictions being proposed and has made acceptance of changes most difficult. The whole process appears to be addressed to giving full priority to the environmental needs (which have never been determined) rather than to sharing the available resource in the most beneficial way.</p>

