



10 July 2000

Review of the Operation of the Cap
Murray-Darling Basin Commission
GPO Box 409
CANBERRA ACT 2601

Attention: Dr Tony McLeod

Dear Tony

**Comments on the draft Cap Project Board's
Review of the Operation of the Cap
by the Inland Rivers Network
and the Nature Conservation Council of NSW**

The comments below are provided in addition to those on the accompanying reply form.

First and foremost, NCC and IRN acknowledge the benefits to rivers, wetlands and groundwaters of the Cap. Conservationists have been trenchant supporters of the cap - often in the face of strong opposition from water users. However, as the *CRC for Freshwater Ecology's* report states, a cap set at 1993/94 levels does not guarantee sustainable levels of extraction. It is totally arbitrary from a scientific point of view. Hence it is vital that the principles of **adaptive management** be central to guiding policies regarding diversions. This must entail an ability to reduce extractions below 1993/94 levels of development.

IRN and NCC are extremely concerned at the proposal by the Queensland Government to formalise extraction levels in the **Condamine-Balonne Rivers** as proposed in the recently released draft Condamine-Balonne WAMP. Should Option C (Table 3, page 21) be chosen by that government - a very unlikely event - this would establish a cap at 1997 levels. Options B and A would establish a cap at approximately 1998 and 1999 levels of development respectively. There is very strong opposition amongst water users to a level of extraction at 1999 levels, with little political will to adopt Options B or C. Either of these three options will introduce extreme inequities between water users across Basin States. These will also rob the Ramsar-listed Narran Lakes and the Culgoa National Park of important low-medium sized floods. The conservation movement seeks strong action by the Cap Project Board to highlight these inequities and environmental degradation to the Queensland Government.

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Schedule F needs to be an effective and meaningful tool for implementing

cap, with effective computer models to accurately determine diversion levels.

The **proposed re-setting of the commencement date** for cap to the start of the 2000/01 water year is unacceptable. *What is the point of having a cap if its implementation date is put back to make it easier for recalcitrant States to evade their responsibilities?*

IRN and NCC consider the failure of the New South Wales Government to implement cap on the **Barwon and Darling Rivers** to be a serious threat to the ecology of those river systems and to the cap's acceptance Basin-wide.

Yours sincerely

Dr Stuart Blanch
Coordinator
Inland Rivers Network

Jen Guice
Water Policy Coordinator
Nature Conservation Council of NSW

REVIEW OF THE OPERATION OF THE CAP

RESPONSE SHEET FOR COMMENTS ON DRAFT REPORT

The March 2000 draft report on the **Review of the Operation of the Cap** by the Cap Project Board to the Murray-Darling Basin Ministerial Council is now available for public comment. Comments on the draft report are due by **10 July 2000**.



The draft report, and further copies of this response sheet, is available from the Murray-Darling Basin Commission and from the Commission's web site:

www.mdbc.gov.au

If you wish, you may use this form to tell us what you think about the position of the Cap Project Board in their report on the Review of the Operation of the Cap. If there is insufficient space on the form, you may add additional sheets or write a separate submission.

The draft report will be modified to reflect comments received and a final report on the Review of the Operation of the Cap will be presented to Ministerial Council Meeting 29 in August 2000.

Those who provide comments will receive a copy of the final Report once it has been approved by the Ministerial Council.

COMMENTS BY: Dr Stuart Blanch, Coordinator, Inland Rivers Network

and

Jen Guice, Water Policy Coordinator, Nature Conservation Council of NSW

CONTACT DETAILS: Inland Rivers Network, 33 George St, Sydney NSW 2000

And

Nature Conservation Council of NSW, Level 5, 362 Kent St, Sydney NSW 2000.

DATE: 10 July 2000

The deadline for comment is **10 July 2000**.

Comments (by e-mail if possible – this response sheet is available electronically on the Commission's web site) should be directed to:

- Review of the Operation of the Cap
Murray-Darling Basin Commission
GPO Box 409
CANBERRA ACT 2601
- Attn: Dr Tony McLeod, Project Manager
Tel: 02 6279 0144
Fax: 02 6230 7579
Email: tony.mcleod@mdbc.gov.au
- or your local member of the Community Advisory Committee (CAC). Those comments made via the CAC that are received prior to **Friday 16 June 2000** will be considered at CAC Meeting 24 – 27 June 2000.

	Cap Project Board Position	Comment
E c o l o g i c a l S u s t a i n a b i l i t y o f R i v e r s	<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>Agree</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>Agree strongly.</p>
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	Cap Project Board Position	Comment
E c o n o m i c a n d S o c i a l I m p a c t s	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.	Agree
	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.	Agree
	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.	Agree

	<p>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.</p>	<p>Agree</p>
	<p>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.</p>	<p>Agree</p>

	Cap Project Board Position	Comment
E q u i t y	The Project Board identified several equity issues (notably Cap arrangements for Queensland and the ACT) of longstanding 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.	Agree. <u><i>Integrated Natural Resource Management</i></u>
	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 licensed entitlement versus history of use, specifically in New South Wales (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.	Agree

	Cap Project Board Position	Comment
<p>I m p l e m e n t a t i o n a n d C o m p l i a n c e</p>	<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>Agree</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>Agree. There is little confidence amongst conservationists that the IQQM models used in NSW rivers provide a basis for accurately modelling river flows and extractions. <i>You can't manage what you can't measure!</i></p>

	<p>The Review has found that Victoria and South Australia have complied with the Cap, while Queensland and ACT are yet to complete the establishment of their respective Caps. Nevertheless, it is apparent that in Queensland there has been significant growth in storage which will impact on the water available for alternative consumptive and environmental uses. In New South Wales, the Cap has been breached in the Barwon-Darling system, with other valleys being within Cap limits.</p>	<p>Agree. However IRN and NCC contend that should allocation levels be high in the next few years in the Murray and Murrumbidgee valleys there is no guarantee that DLWC's cap implementation process will be able to maintain diversions at 1993/94 levels of development.</p> <p>IRN and NCC again stress their concern at the lack of a cap on extractions in the Barwon-Darling Rivers.</p>
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	Cap Project Board Position	Comment
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<p>S c h e d u l e</p> <p>F</p> <p>t o</p> <p>t h e</p> <p>M u r r a y - D a r l i n g</p> <p>B a s i n</p> <p>A g r e e m e n t</p>	<p>The most important challenge in Cap implementation is to finalise the arrangements under “Schedule F – Cap on Diversions” to the <i>Murray-Darling Basin Agreement</i>. This schedule is the primary tool for defining Cap arrangements especially those concerned with assessing compliance and its consequences.</p>	<p>Agree.</p>
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	<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 to 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>Agree. This means of implementing Cap is vastly inferior to that of implementing a cap on diversions. Essentially it is a free kick to Queensland irrigators at the expense of the riverine and floodplain environments of NSW.</p> <p>In the <i>Border Rivers Flow Management Plan Community Reference Panel</i> irrigators from NSW have strongly argued that the use of end-of-valley flows for implementing cap is inadequate and should be replaced with diversion management.</p>
	<ul style="list-style-type: none"> Arrangements for remedial actions in the case of Cap exceedence. The recommendation of the IAG is that States be required “<i>to ensure that cumulative diversions are brought back into balance with the cap</i>”. 	<p>Agree</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>Absolutely disagree. For what reason other than to permit governments which have not been able to deliver on their obligations under the Cap agreement to escape their commitment to protect the environment?</p>

	Cap Project Board Position	Comment
Sustainable Rivers Audit	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 <i>Initiative</i> , a Sustainable Rivers Audit can be viewed as the next step in the process of achieving this objective.	Agree. The benefits to managers accruing from a greater understanding of the ecological state of rivers far exceeds the perceived difficulties arising from downstream States objecting to the delivery of environmental flows in upstream States. In particular, IRN and NCC do not consider that objections to the SRA made by DLWC, concerning the ability of downstream interests to override environmental flows in this State, to be justified.

	Cap Project Board Position	Comment
Any Other Issues	Are there any other issues raised in the draft report that you wish to comment upon?	Please refer to attached letter.