

Murray-Darling Basin Ministerial Council

Individual member comments and disagreement with the revised draft Basin Plan under s 43A (4) of the Commonwealth Water Act 2007
Minister for Natural Resources and Mines, the Hon Andrew Cripps, MP (Queensland)

Overall comments

The Honourable Andrew Cripps MP (Queensland) makes the following comments on disagreements with the revised draft Basin Plan and related issues, as an individual member of the Ministerial Council.

Queensland thanks the Murray–Darling Basin Authority (Authority) for allowing this further opportunity to provide comments on the revised draft of the Proposed Basin Plan.

However, the Queensland Government still has outstanding issues and is disappointed with this revised draft Basin Plan as it is not materially different from the original draft. The Basin Plan is not supported by the Queensland Government in its current form.

Even after participating in numerous lengthy discussions with the Commonwealth and the Authority over the past six weeks Queensland still feels that many of the Queensland Government's legitimate concerns have failed to be addressed and a number of the Queensland Government's questions remain unanswered.

Without confidence in the work produced by the Authority and the funding commitment of the Commonwealth Government, Queensland will find it very difficult to continue to support this process and must consider all options, including withdrawal of the 2008 referral of power to the Commonwealth.

Specific comments on the following aspects of the revised draft of the Proposed Basin Plan are given in more detail in the pro forma attached:

1. Surface water sustainable diversion limits (SDLs) for Queensland Murray–Darling Basin catchments
2. Groundwater
3. Review of SDLs in 2015 or its replacement with an SDL adjustment mechanism and a Commonwealth funded scientific work program to 2015, resulting in a report to Council
4. Apportionment of the reduction target for the northern Basin zone of 143 gigalitres per year (GL)
5. Liability for meeting SDLs
6. Monitoring and metering.

Queensland also has a number of comments and concerns with other issues that are related to the Basin Plan, which are discussed below:

Water recovery and the water recovery strategy

Under no circumstance will Queensland support the compulsory acquisition of water entitlements. Water purchase must only occur with willing participants.

In regards to the northern Basin shared reduction amount of 143 gigalitres, the Water Recovery Strategy must recognise the effect of the proposed scientific work program to 2015, and be tailored so that it acknowledges the context and requirements of the northern Basin. It is essential that the Strategy frames an approach which minimises the social and economic impacts on vulnerable communities.

The Commonwealth has been slow to undertake its water recovery program in the Queensland section of the Basin. Queensland urges the Commonwealth to get on with the water recovery in the Queensland section of the Basin, including starting to 'bridge the gap' for groundwater in the Upper Condamine Alluvium and to consider overland flow entitlements in the Lower Balonne.

Community structural adjustment

Water reductions in Queensland's Lower Balonne and Lower Border Rivers areas for local environmental water needs and water reductions in the northern Basin zone for downstream environmental water needs will have significant socioeconomic impacts on communities.

The Basin Plan does not contain any commitment to funding structural adjustment programs to support those communities impacted by the Basin Plan. Queensland considers it is necessary to have community adjustment measures in place to reduce the flow-on socioeconomic impacts to communities impacted by the Basin Plan.

Whilst the Commonwealth Water for the Future initiative provides investment in water recovery activities, broader socioeconomic impacts are likely to arise in vulnerable communities. Queensland insists that the Commonwealth Government commit to funding structural adjustment programs to support those communities impacted by the Basin Plan.

State implementation costs

State costs to implement the Basin Plan in Queensland must be reimbursed by the Commonwealth Government.

Queensland has provided an initial estimate of about \$3 million per year to be sought from the Commonwealth Government to cover the additional costs associated with implementing the Basin Plan in Queensland, although a final figure will need to be negotiated once the Basin Plan is finalised, associated guidelines are produced and the level of detail required of states to meet implementation requirements is clarified.

Transitional pathway to 2019

Queensland requires its water resource plans to be afforded the same status as Victorian plans, which are transitional until 2019, to ensure all water entitlement

holders are eligible for compensation payments by the Commonwealth if their allocation or reliability is reduced by the Basin Plan.

Queensland requires transitional regulations to be made to provide necessary arrangements covered by both sections 241 and 250E of the Commonwealth Water Act.

Unless a regulation is also made to provide necessary arrangements covered by section 241, there is an unacceptable gap between 2014 and 2019 where Queensland entitlement holders are exposed to financial risk of Commonwealth failing to bridge the gap.

The Honourable Andrew Cripps MP (Queensland) makes the following specific comments on disagreements with the revised draft Basin Plan as an individual member of the Ministerial Council:

1. *Surface water sustainable diversion limits (SDLs) for Queensland Murray–Darling Basin catchments*

Nature of the disagreement

Queensland disagrees with the proposed local reduction amounts specified in schedule 2 of the revised draft Basin Plan of:

- 100 gigalitres per annum (GL) for the Condamine–Balonne catchment, anticipated primarily from the Lower Balonne region and constituting a 23 per cent reduction in current authorised diversions in that region, for the local environmental water needs within the catchment.

There is also disagreement with the proposed shared reduction amount in section 6.05(3)(a) of the revised draft Basin Plan of:

- 143 GL per annum for the northern Basin zone, for the downstream environmental water needs in the Barwon-Darling.

Legal basis for comment

Under s 43A (4) a member of the Ministerial Council may disagree with the long term average sustainable diversion limits proposed in the proposed Basin Plan.

Issue and rationale

Queensland has strong concerns about methodological weaknesses in the underlying science which influences the proposed SDLs i.e. the environmental water requirements for Narran Lakes and the Lower Balonne floodplain and the method for determining key environmental functions (KEF). These uncertainties raise doubts about the size of and need for the shared reduction amount proposed for the northern Basin zone. This concern is supported by the CSIRO science review (2012) which notes that the method for determining KEFs is not fully defensible.

Proposed resolution

Queensland recommends that these water reductions should be examined by 2015 in the Murray-Darling Basin Authority's proposed scientific work program (as discussed below) to determine if the volumes proposed are scientifically justified or alternatively determine that the SDLs need revision.

2. Groundwater

Nature of the disagreement

The Queensland Government considers the proposed SDLs for a number of groundwater management units undermine the State's precautionary and highly sustainable approach to groundwater management. This is a particular concern for the 'western' groundwater resource units, but does not apply to the Upper Condamine Alluvium in which the proposed water reductions are in line with the Queensland Government's assessments.

With regard to the Bowen Basin groundwater resource unit (deep groundwater) below the Great Artesian Basin in Queensland, Queensland's position is that it should not be a Murray–Darling Basin water resource. In the absence of a regulation to clarify this, Queensland requests that the Authority sets a conservative SDL for this unit of 400GL.

Legal basis for comment

Under section 43A a member of the Ministerial Council may disagree with the long term average sustainable diversion limits proposed in the proposed Basin Plan and/or any aspect of the proposed Basin Plan on which the Commonwealth Minister may direct.

Issue and rationale

Queensland supports the establishment of groundwater extraction limits based on best available science. Queensland is concerned that the SDLs for some aquifers in Queensland have been set without adequate justification and without all available scientific knowledge. The revisions to the draft Basin Plan appear to have been made in an inconsistent manner without adequate reference to the information, modelling and scientific expertise within the states and the precautionary and conservative methods already adopted by the states in managing these aquifers.

Consequently, the Queensland Government is concerned that the Authority's identification of some unassigned groundwater volumes in the revised draft Basin Plan may still be set too high. This may give the incorrect impression that there is potential for increases in groundwater diversions. The Queensland Government does not consider it practical or suitable to make these quantities of groundwater available. Queensland also does not accept the proposed availability of additional groundwater (including coal seam gas production water) as offsetting the need for significant adjustment and support in communities affected by reductions in surface water allocations in Queensland.

In relation to the Bowen Basin groundwater SDL resource unit in Queensland, Queensland's position is that it is not a Murray–Darling Basin water resource as it is a deep aquifer underlying the Great Artesian Basin, which is also not a Murray–Darling Basin water resource under the provisions of the *Water Act 2007 (Cth)*. While Queensland would prefer that a regulation be made to clarify this, Queensland understands this is unlikely to occur before the Basin Plan is finalised. As no SDL has

been set for the Bowen Basin groundwater SDL resource unit in Queensland in the revised draft Basin Plan, Queensland understands the default SDL is zero GL. This is unacceptable to Queensland. In the absence of a regulation, Queensland requests the Authority to set a conservative SDL for this unit of 400GL.

Proposed resolution

Further work is needed to confirm or amend the 'western' groundwater SDLs following new science and knowledge gathering. The Queensland Government seeks to be involved in a proposed work program with experts from the Authority and each jurisdiction, taking an agreed collective approach, that invests in improving knowledge of all groundwater systems.

Queensland requests the Authority to set a conservative SDL for the Bowen Basin groundwater SDL of 400GL, until such time as the Commonwealth is able to make a regulation to exclude it from the Basin water resources.

3. Review of SDLs in 2015 or its replacement with an SDL adjustment mechanism and a Commonwealth funded scientific work program to 2015, resulting in a report to Council

Nature of the disagreement

Queensland prefers the retention of the review of the SDLs in 2015 in the Basin Plan (section 6.07). However, if the review is removed from the Basin Plan, Queensland would support an alternative proposal of a Commonwealth funded scientific work program to 2015 in the northern Basin resulting in a report to Council, as well as a Basin-wide SDL adjustment mechanism.

Legal basis for comment

Under section 43A a member of the Ministerial Council may disagree on any aspect of the proposed Basin Plan on which the Commonwealth Minister may direct.

Issue and rationale

Queensland would support that the Basin Plan specifies a Commonwealth funded northern Basin work program, to 2015, examining the science underlying the SDLs. Queensland believes that this work program could be completed by 2015 provided there is adequate provision by the Commonwealth Government of funding and support for the process. The work program would result in a report to Council which may lead to a review of the SDLs and subsequent amendment to the Basin Plan.

In addition, Queensland supports a proposal to include a mechanism in the Basin Plan that adjusts SDLs on the basis of initiatives such as the removal of constraints on the use of environmental water, implementation of environmental works and measures that achieve given environmental outcomes with less water, improvements in the efficiency of river operations by changes to rules and procedures, and works that

enable growth in water availability for environmental purposes without further adverse socio-economic impacts.

However, the Queensland Government considers that the acquisition of new science and knowledge provides the greatest opportunity for achieving better environmental outcomes in the northern Basin.

Proposed resolution

Queensland requests that the Commonwealth funded scientific work program and report thereon to Council should consist of scientific and hydrological studies to be undertaken of the northern Basin's largely unregulated streams to indicate the watering regimes and hence the sustainable diversion limits required for the local environmental water needs within the Queensland catchments and the Barwon-Darling. The study would also include options for apportionment of the shared reduction amount for the northern Basin zone.

Recovery of any additional amount, should it be required, must be implemented in a way that minimises social and economic impacts on regional communities and preferably not via buyback.

The Commonwealth Government must also action its long espoused intent to invest in localism, new knowledge generation and improved monitoring as a part of a scientific work program to 2015, and to increase community understanding of the Basin Plan.

4. Apportionment of the shared reduction amount for the northern Basin zone of 143 GL per year

Nature of the disagreement

In the case of the shared reduction amount for surface water in the northern Basin zone, Queensland considers this should be apportioned to the State and catchment level at an appropriate time after the Basin Plan is made and once the SDLs have been examined in the northern Basin work program.

Legal basis for comment

Under section 43A a member of the Ministerial Council may disagree on any aspect of the proposed Basin Plan on which the Commonwealth Minister may direct.

Issue and rationale

Queensland considers that in the case of the shared reduction amount for surface water in the northern Basin zone, this should be apportioned to the State and catchment level at an appropriate time in the future. Due to the zone being largely unregulated and consequent uncertainty about the watering regimes required to achieve desired environmental outcomes in the zone, Queensland considers that apportionment should not be included in the Plan when it is first made, because there

is no adequate nor acceptable basis to apportion and further work is required as discussed in section 3 above.

While the Condamine-Balonne is included in the northern Basin zone in the draft Basin Plan, Queensland notes that the Authority's supporting document 'The Draft Basin Plan: Catchment by Catchment' states:

'Given that the flow from the Condamine–Balonne to the Barwon–Darling is affected by terminal lakes and large end-of-system wetlands (such as Narran Lakes), there are likely to be only limited circumstances in which additional environmental water could be recovered to contribute to the shared downstream environmental water needs of the Barwon–Darling.'

This statement supports the need for further science to determine an acceptable basis to apportion the shared reduction amount in the northern Basin zone.

Proposed resolution

Queensland recommends an active program of work to be completed by the end of 2015, to establish the basis for the northern shared SDL and recommend options for its apportionment between New South Wales and Queensland. The work program should be funded by the Commonwealth Government and take into account hydrological, scientific, equity and community considerations. The work program should be undertaken by the MDBA, in consultation with the Commonwealth, New South Wales and Queensland and stakeholders including the Northern Basin Advisory Committee, resulting in a report to Council. If Council finds that this program of work reveals significant new knowledge about the scientific and hydrological basis for the northern shared SDL, the MDBA should undertake a review of the SDLs and recommended apportionment options, based on the issues that are raised. Pending the outcome of this review, Queensland understands the Commonwealth intends to arrange its water recovery in the northern zone so as to focus largely on 'in-catchment' requirements.

Following the provision of the report envisaged in the above paragraph, irrespective of whether Council calls for a review of the SDL, Council may advise the final apportionment between New South Wales and Queensland, and New South Wales and Queensland would then advise final within-catchment apportionments for the purposes of preparation of Water Resource Plans according to the requirements of the Basin Plan, which would incorporate these apportionments. The Water Recovery Strategy would then be revised accordingly.

5. Liability for meeting SDLs

Nature of the disagreement

Queensland seeks an insertion of a provision in the Basin Plan to confirm that Basin State compliance with the SDLs will not be required until the Commonwealth's water

recovery program is completed. It is unacceptable that Basin states would be in breach of the Basin Plan if the Commonwealth had failed in its commitment to 'bridge the gap'.

Legal basis for comment

Under section 43A a member of the Ministerial Council may disagree on any aspect of the proposed Basin Plan on which the Commonwealth Minister may direct.

Issue and rationale

The Commonwealth Government has made a commitment to 'bridge the gap' by 2019 through its water recovery program but the Basin Plan is silent on what may happen if this does not occur.

Proposed resolution

Insertion of a provision in the Basin Plan that Basin States water resource plans will not be in breach of and/or overridden by the Basin Plan to the extent of any inconsistency, in the interim before the gap is bridged by the Commonwealth.

6. Monitoring and metering

Nature of the disagreement

The Queensland Government's understanding is that compliance will rely on best available methodologies to estimate permitted and actual diversions for basic rights, runoff dams and commercial plantations. Queensland is concerned that the level of metering and monitoring required in the revised draft Basin Plan is unclear and may result in unnecessary costs. Queensland does not support nor see the need for compulsory metering of individual takes of water for stock and domestic purposes.

Legal basis for comment

Under section 43A a member of the Ministerial Council may disagree on any aspect of the proposed Basin Plan on which the Commonwealth Minister may direct

Issue and rationale

Those best available methodologies need to be situationally and cost effectively applied. A flexible approach for determining growth in various types of diversions is desirable. Gauging stations can be sparsely distributed in parts of Queensland and using only hydrologic modelling of diversions of water from watercourses under water entitlements can lead to relatively higher levels of uncertainty in Queensland's ephemeral river systems. Queensland considers that modelling with local knowledge input can provide credible results and that some components of diversions are better managed through infrastructure constraints (e.g. monitoring for changes in farm infrastructure). The Basin Plan should allow for these arrangements.

Proposed resolution

Queensland requests that the Basin Plan specify that the determination of 'actual take' be made by using cost-effective, fit-for-purpose methods, for water resource planning, accounting, monitoring and enforcement purposes. These methods may include an actual measurement or an informed estimation.

Queensland requests that this requirement be clarified through amendments to section 9.15, so it allows for the use of a combination of approaches as appropriate to the resources of the water resource plan area and by specifying what kind of information is required in different data availability circumstances, having regard to cost effectiveness and risk management.