

7 August 2019

Socio-economic Independent Panel  
GPO Box 1801  
Canberra City ACT 2601  
By email: independentpanel@mdba.gov.au

Dear Panel members,

**Re: Draft Terms of Reference and Assessment Framework**

Thank you for the opportunity to comment on the Panel's draft Terms of Reference and Assessment Framework.

EDO NSW is a community legal center specialising in public interest environmental law. We have many years' experience engaging with water law and policy processes at both the State and Commonwealth levels. We also have experience advising a broad range of clients including irrigators, community groups and peak conservation organisations in relation to the *Water Act 2007 (Cth)*, *Basin Plan 2012* and related policies.

This panel has a task that is both very important and very difficult.

The panel's task is important because, despite acknowledgement from the outset that structural adjustment assistance would be required to help Basin communities through the transition away from over-allocated water resources,<sup>1</sup> there appears to be little evidence that such assistance has been effective.<sup>2</sup>

The task will be difficult because it comes at a time when communities (which are also under stress from drought) have experienced the impacts of measures designed to reverse the historical over-allocation of water, but are not yet experiencing many of the positive effects the Basin Plan will have in terms of improved water quality, enhanced recreational opportunities and healthier ecosystems. It may take years, or even decades, of healthier flow regimes for some of the outcomes sought by the Basin Plan to emerge.

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<sup>1</sup> See, for example, the Prime Minister's address to the National Press Club to announce these water reforms on Australia Day 2007: <https://www.theaustralian.com.au/news/howards-full-speech-to-the-national-press-club/news-story/cfd6aa4761027929545602a96dc04254>

<sup>2</sup> See finding 3.5 of the Productivity Commissions Five-year Assessment of the Basin Plan: <https://www.pc.gov.au/inquiries/completed/basin-plan/report/basin-plan.pdf>

Our specific comments on the draft Terms of Reference and Assessment Framework are as follows:

**Page 4: Draft terms of reference – paragraph B - Comparison with avoided impacts**

Paragraph B of the draft Terms of Reference requires a review of the impacts of water reforms including the Basin Plan. We recommend that this aspect of the Panel's task explicitly include a comparison of such impacts against the adverse impacts which have been (or will be) avoided through those water reforms.

The Murray-Darling Basin was (and largely remains) an over-allocated system, in which the declining health of the river and groundwater systems was adversely affecting the agriculture, communities and ecosystems which rely on it.<sup>3</sup> The reforms implemented through the Basin Plan have started the process of restoring the health of the water resources which healthy communities rely upon.

Analysing the direct impacts of the *Water Act 2007* and *Basin Plan 2012*, while a difficult task in its own right, is only half of the job of understanding the impacts of water reforms. The other half is to compare those impacts to the impacts which would have arisen from a 'do nothing' approach both now and into the future.

**Page 4: Draft terms of reference - paragraph D - Disentangling impacts**

The draft Terms of Reference and Assessment approach document acknowledges that part of the Panel's task will be to distinguish between the impacts of water reform and other processes which are driving change in the Basin.

In addition, paragraph D should acknowledge the complicated suite of reforms that is being implemented in the Basin, and make it clear that the panel is asked to assess the impacts of each reform separately (as well as cumulatively) to ensure that any positive or negative socio-economic impacts arising from, for example, water trading, are not instead attributed to, for example, water buybacks.

**Page 5: Questions to be answered during the assessment**

We commend the panel for its commitment on page 5 to undertake the best possible, evidence-based social and economic assessment.

However, given that some of the key drivers of change in the Basin are human-caused disruptions to natural systems (ie. water over-allocation and climate change), we recommend that the Panel also commit to relying upon the best available scientific information.

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<sup>3</sup> The draft report of the NSW Natural Resources Commission in relation to the Barwon-Darling water sharing plan explores some of the social, economic and cultural consequences of a poorly managed water resource: <https://www.nrc.nsw.gov.au/announcements/news-bddraftreport>.



## Page 6: Questions to be answered during the assessment

The questions the panel is asking in this process could, if fully explored with strong leadership, be the start of a just transition process for the Basin.

While the concept of a 'just transition' is more commonly used in the context of communities and workers affected by the transition away from reliance on fossil fuels, it can also be applied to communities (like the Basin) which are undergoing change as a result of adaptation to the impacts of climate change.

The Panel may not feel that the concept of a 'just transition' is useful in the Basin. Even so, the thinking which has been done on approaches to a just transition in Australia and internationally<sup>4</sup> may provide some inspiration for how the Panel approaches its task in relation to those parts of the Basin likely to undergo more significant changes. Similarly, the experiences of communities (such as Port Augusta and the La Trobe Valley) which are further along the path to a just transition may provide valuable insights for the Basin.

### Conclusion

In summary, we recommend that the Panel amend its draft Terms of Reference and Assessment Framework to:

- A. Ensure that the Panel's assessment of the impacts of water reform in the Basin includes an analysis of adverse impacts which have been, or will be, avoided through the reforms;
- B. Ensure that the Panel's assessment of the impacts of water reform in the Basin distinguishes between the impacts of the different parts of the reforms and doesn't simply consider the impacts of the reforms as a package;
- C. Add a commitment to relying on the best available scientific information, to the Panel's existing commitment to undertake the best possible evidence-based social and economic assessment;
- D. Consider whether the concept and experience of a 'just transition' could be useful to the Basin through exploring literature on what a just transition entails and the lived experience of communities affected by the transition away from fossil fuels.

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<sup>4</sup> For example, see the OECD: <https://www.oecd.org/environment/cc/g20-climate/collapsecontents/Just-Transition-Centre-report-just-transition.pdf>; Scottish Just Transition Commission: <https://www.gov.scot/groups/just-transition-commission/>; international labor organisation: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---emp\\_ent/documents/publication/wcms\\_432859.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/documents/publication/wcms_432859.pdf); international chamber of commerce: <https://cdn.iccwbo.org/content/uploads/sites/3/2018/11/2018-icc-principles-for-a-just-transition-paper.pdf>.

For further information on these recommendations please contact me on (02) 9262 6989 or [deborah.brennan@edonsw.org.au](mailto:deborah.brennan@edonsw.org.au).

Yours sincerely  
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