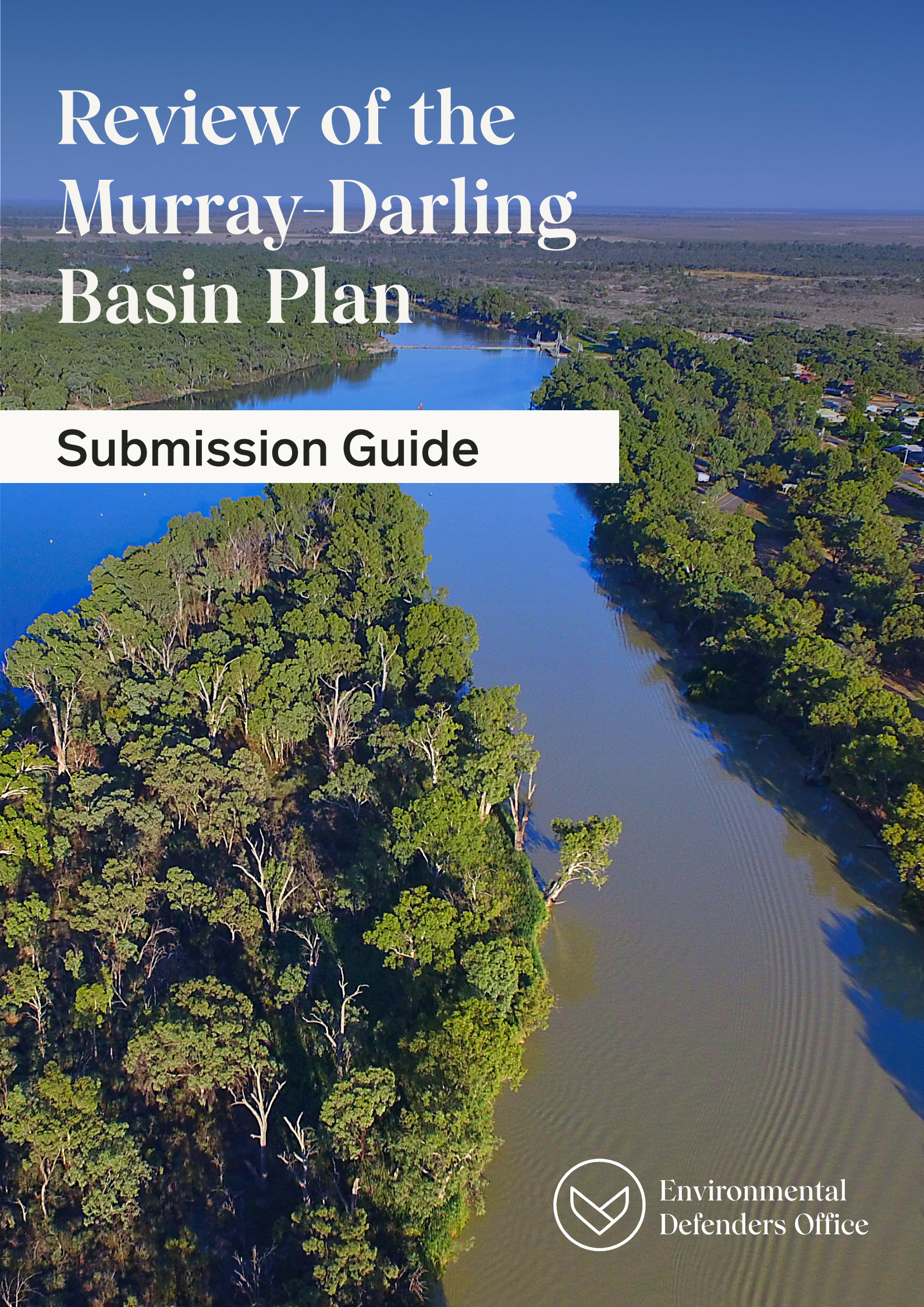
Review of the Murray-Darling Basin Plan

Submission Guide



Environmental Defenders Office

Environmental Defenders Office

Review of the Murray Darling Basin Plan: Submission Guide

April 2026

The Murray Darling Basin Authority is reviewing the Murray Darling Basin Plan.

We've written briefly about the review here. The Authority's information page is here.

The Authority is seeking public submissions about its Discussion Paper.

Submission are due by 5.00pm (AEST) Friday 1 May 2026

About EDO

EDO is the largest environmental legal centre in the Australia-Pacific. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 40 years of experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

Specialist expertise in protecting Country and Cultural Heritage. EDO recognises the integral role of First Nations in environmental justice in Australia. EDO's First Nations Program was established in 2020 to work with and advocate for the rights of First Nations peoples across all EDO's work. In June 2023, the Country and Cultural Heritage Program was incorporated into the First Nations Program, as a dedicated, nation-wide program specifically tailored to provide services to First Nations peoples seeking legal support to protect their culture and Country.

First published 9 April 2026; republished 29 Oct 2026 with minor typographical errors corrected

Acknowledgement of Country

EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past and present, and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations Cultural Heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since colonisation.

EDO recognises the right to self-determination of First Nations peoples, including their right to freely determine their own political status and freely pursue their economic, social and cultural development. This extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support and sustain human life are also nurtured, supported and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

A note on language

We acknowledge there is a legacy of writing about First Nations peoples without seeking guidance about terminology. We also acknowledge that where possible, specificity is more respectful. For the purpose of this Community Submissions Guide, we have chosen to use the term First Nations. We acknowledge that not all First Nations will identify with that term and that they may instead identify using other terms or with their immediate community or language group. We note that this aligns with the language adopted by the Authority in the Discussion Paper, but that the *Water Act 2007* (Cth) and *Basin Plan 2012* (Cth) refer to 'Indigenous people'.

First Laws is a term used to describe the laws that exist within First Nations. It is not intended to diminish the importance or status of the customs, traditions, kinship and heritage of First Nations in Australia. EDO respects all First Laws and values their inherit and immeasurable worth. EDO recognises there are many different terms used throughout First Nations for what is understood in the Western world as First Laws.

CONTENTS

WHY THE REVIEW IS IMPORTANT 5

HOW TO MAKE A SUBMISSION 7

WRITING A STRONG SUBMISSION 8

WHAT HAPPENS NEXT? 8

SUMMARY OF THE GUIDE AND RECOMMENDATIONS 10

KEYSTONE ISSUES: ANALYSIS AND RECOMMENDATIONS 22

THE ENVIRONMENTALLY SUSTAINABLE LEVEL OF TAKE AND SUSTAINABLE DIVERSION LIMITS 22
CLIMATE CHANGE 32
REVIEW REQUIREMENTS THAT APPLY SPECIFICALLY TO FIRST NATIONS 38

OTHER IMPORTANT ISSUES: ANALYSIS AND RECOMMENDATIONS 46

RECOVERY OF THE 450 GL/YEAR OF ENVIRONMENTAL WATER 46
FLOODPLAIN HARVESTING 47
CRITICAL HUMAN WATER NEEDS IN THE NORTHERN BASIN 49
INVASIVE SPECIES 51
DATA COLLECTION, TRANSPARENCY, AND REPORTING 53
REGULATORY DESIGN: INSPECTOR GENERAL OF WATER COMPLIANCE 55

HOW TO MAKE A SUBMISSION ABOUT OTHER ISSUES 58

THE BASIN PLAN REVIEW: IMPORTANT LEGAL REQUIREMENTS 58
THE OBJECT AND PURPOSE OF THE WATER ACT AND BASIN PLAN 59
WHAT DOES THE AUTHORITY DO? 60

WHY THE REVIEW IS IMPORTANT

The Murray-Darling Basin Plan (**Basin Plan**) is a national framework to share water in the Murray-Darling Basin, Australia's largest river drainage basin**.** Its purpose is to make sure there is **enough water for rivers, wetlands, other flow dependent ecosystems and future generations**. This is the first time the Basin Plan is being reviewed by the Authority since it commenced in 2012. The next review will be in ten years.

Australia is the driest inhabited continent on earth. The Murray Darling Basin covers over 1 million km^2 of the Australian continent. Basin ecosystems range from the Snowy Mountains at the headwaters of the Murray and Murrumbidgee rivers, and the Great Dividing Range at the headwaters of the Darling/Baaka, all the way to the Murray Mouth on Ngarrindjeri Country (Goolwa, South Australia).

For people who live in and around the Basin, these waters sustain life. That's **2.4 million people who drink, bathe, cook, play, socialise and practise culture in and around these waters**. Tourism, hinging on the unique and diverse ecosystems of the Basin, brings in around $20 billion every year to Basin communities.

Over 50 First Nations have cared for the diverse ecosystems that make up the Basin for tens of thousands of years. First Nations have never ceded their sovereignty over the waters of the Basin, yet in 2020-2021, First Nations owned just 0.1% of non-environmental water holdings in the NSW part of the Basin.

The timing of this review is critical. The Water Act and Basin Plan marked important and significant developments in water resource management. They established a whole-of-Basin approach based on sustainable levels of water extraction ('take') and restoring and protecting ecosystems.

Since the Basin Plan started, provision of environmental water has produced real outcomes. Threatened and vulnerable native fish species such as the Murray Hardyhead, Murray Cod, and Golden Perch have been able to significantly recover their populations. This is because environmental water delivery has enabled connectivity, allowed fish to migrate, and delivered water to wetlands to maintain critical habitat.

Now we need to build on these successes and strengthen the Basin Plan (and the Water Act) so that it can achieve its full objectives, particularly in the face of accelerating climate change.

Some Basin ecosystems are collapsing. The species that depend on them are declining and many are at risk of extinction. In January 2026, two major ecosystems in the Basin were listed as endangered ecological communities under Commonwealth law. The Lower Murray River system was listed as **critically endangered**. This means the ecosystems faces an **extremely high risk of collapse in the next 10 years – before the next review of the Basin Plan**. The wetlands and inner floodplains of the Ramsar listed Macquarie Marshes was listed as endangered. This means the ecosystem faces an **very high risk of collapse** in the **next 20 years**.

The decisions made now will determine whether we lose, or help restore, these ecosystems and the species that call them home.

With a long history of taking too much water, the impacts of climate change, and an ongoing failure to address First Nations water dispossession, this Review is an important opportunity that comes at a critical time.

HOW TO MAKE A SUBMISSION

Anyone can make a submission to the Review. Submissions are due by **5.00pm (AEST) Friday 1 May 2026.**

You can make an **online submission** via the Authority's website. You can also make a submission by **email** or **post**.

Email to	BPRsubmissions@mdba.gov.au with the subject heading 'BPR Submission'
Post to	Basin Plan Review Submissions Murray Darling Basin Authority GPO Box 1801 Canberra City ACT 2601

If you are making a submission by **email or post,** you must complete one of the Authority's **submission templates**:

- the standard submissions template; or
- the template for submissions that contain Indigenous Cultural and Intellectual Property (ICIP). This template includes an ICIP Consent Agreement**.**

The Authority's Submission Guidelines say that you **must agree to several conditions** to make a submission. These include terms and conditions relating to:

- intellectual property rights;
- **Indigenous Cultural and Intellectual Property** (**ICIP**) rights;
- use of **Artificial Intelligence (AI)** by the MDBA Authority; and
- the confidentiality of your submissions.

You can choose **if you want your submission to be confidential (**in whole or part) and/or **anonymous**. Public submissions will be published on the Authority's website. Partially confidential submissions will be published with the confidential parts redacted. Anonymous submissions will have the author's name removed before publication.

For more information, refer to the Authority's Submission Guidelines.

Do you want your ICIP to be used by the Government for other Basin Plan purposes?

The ICIP agreement asks if you agree to the Australian Government using your submission to inform the Water Act Review, the Menindee Review, and other key pieces of work including ongoing management of the Menindee Lakes system. **If you don't want this to happen**, make sure that you **do not** click the "Consent for Additional Permitted Purpose" boxes on page 13 of the ICIP submission template.

If you ever want to **withdraw your consent** for the Government to use your submission, you need to send an email to first.nations@mdba.gov.au

WRITING A STRONG SUBMISSION

Writing a submission to government is an important part of achieving better outcomes for the Basin. Below are some tips for writing a persuasive submission.

- Introduce yourself or your group, and **why you have a particular interest in the Basin**.
- Outline your **key concerns**.
- If possible, **make recommendations** and use **evidence, case studies or stories** to support your arguments and recommendations.
- Say which parts of the Discussion Paper and the existing law you think are good.

You can read about more tips to write a persuasive submission here and here.

WHAT HAPPENS NEXT?

- After this consultation process has finished, the Authority **must prepare a report** of the **results of its review**. The Authority **must**:
    - **publish the report online**; and
    - **give the report to**:
        - the Commonwealth Water Minister; and
        - the relevant State Minister for Basin States (Qld, NSW, ACT, Vic, SA).
- **The Authority could then decide it thinks the Basin Plan should be amended**.
- If the Authority thinks the Basin Plan should be amended, a specific process must be followed.
- This extra process includes **further public consultation about any proposed amendments**.
- Any final decision to make amendments to the Basin Plan is made by the Commonwealth Water Minister.

Although there will be further consultation if the Authority proposes amendments to the Basin Plan, it can get harder to convince Government to change course on proposed changes to the law after a review like this one, and the further a review process has progressed.

That means **this consultation process** is an **important opportunity** to steer the Authority on track for an improved Basin Plan. The outcomes of **this Review will directly influence changes** the Authority may propose **to the Basin Plan**.

Environmental Defenders Office

Review of the Murray Darling Basin Plan: Submission Guide

April 2026

SUMMARY OF THE GUIDE AND RECOMMENDATIONS

This Review is a once in a decade opportunity to have your say

This is the first time the Murray Darling Basin Plan (**Basin Plan**) has been reviewed by the Murray Darling Basin Authority (**Authority**). The review is required by the *Water Act 2007* (**Water Act**) (Cth). The next review will be in ten years.

The Basin Plan, made under the Water Act, has helped Basin ecosystems recover and species come back from the brink. **Where it has occurred, Environmental water delivery has improved river flows and, in some cases, provided enough water to flood wetlands**. This has allowed native fish such as the iconic Murray Cod and Golden Perch to migrate to their spawning grounds, and delivery of water to wetlands has maintained critical habitat for species such as the Southern Bell Frog. Without environmental water delivered under the Basin Plan, Basin ecosystems would be in a much worse state. **However, there is a long way to go.**



The timing of this review is critical: Basin ecosystems are collapsing; species are declining; and two major ecosystems in the Basin were recently listed, as endangered and critically endangered. First Nations continue to experience water dispossession and are still mainly considered as mere stakeholders in Basin planning and management – despite their expert care and management of the Basin over tens of thousands of years.

All of this makes **this Review an important, once in a decade opportunity to have a say about** water resource management across the Basin. This Review is a critical chance to build on the successes and strengthen of the Basin Plan to date, so that it can achieve its full objectives into the future – particularly in the face of accelerating climate change.

The legal requirements for this Review

The Water Act says **the Review must consider and report specific matters** relating to:

- First Nations people in the Basin; and
- the management of climate change risks.

T**he Review should also be guided by the objects and purposes of the Water Act and Basin Plan**. We think this means **an essential part of the Review should be assessing whether the Basin Plan is achieving its core purposes**. In particular, is the Basin Plan:

- reducing water take to an environmentally sustainable level?
- protecting and restoring the health of the Basin's river and groundwater systems?
- based on the best available scientific knowledge?

For the Review to achieve these objectives, we think **the Discussion Paper should have**:

- accurately, transparently and clearly reported on up to date information so that the public can understand the state of the Basin's river and groundwater systems, including dependent species and ecosystems; and
- identify key barriers to the Basin Plan achieving the core objects and purposes of the Water Act and Basin Plan. This includes: identifying gaps in the regulatory framework and implementation issues.

For the public to meaningfully engage with the Review, we think the **Discussion Paper should also** propose clear, well-developed options for amending and improving the Basin Plan that could address identified gaps and issues. Unfortunately, the Discussion Paper has not done this.

The Discussion Paper falls short

We think the **Discussion Paper falls far short** of the expected standard for such a significant review. We think this casts doubt over whether the Review will meet the applicable legal requirements. Problems with the Discussion Paper include the following:

- The **Discussion Paper completely ignores** the **long-standing criticism and scientific consensus** that the Sustainable Diversion Limits are not, and never have been:
    - consistent with an Environmentally Sustainable Level of Take; or
    - based on the best available scientific information.

  This is critical to assessing whether the Basin Plan – in its current form – can realistically achieve its object and purpose.

- More broadly, the **Discussion Paper fails to grapple with the legislative framework established by the Water Act and Basin Plan**. This legal framework should be driving the Authority's approach to the Review. The Discussion Paper should transparently demonstrate how and why the Authority has identified particular 'issues' and 'options', by reference to:
    - the core objects and purpose of the Water Act and Basin Plan; and
    - the matters this Review must consider under the Water Act.
- The **Discussion Paper relies on assessments of the Sustainable Diversion Limits that are merely 'initial' and incomplete**.
    - The Sustainable Diversion Limits mechanism sits at the heart of the Basin Plan. Comprehensive, completed assessments of whether the limits are achieving the objectives of the Water Act and Basin Plan should be treated as a keystone in this Review. It is unclear why the analysis has not been completed (at all, or to standard); it must be.
- The **Discussion Paper is not based on the best available scientific information**. For example:
    - The Authority only partially reports on the scientific evidence base and offers an incomplete picture of the state of Basin ecosystems.
    - The Authority claims that the majority of Sustainable Diversion Limits are supporting Basin Plan environmental outcomes, despite the science showing that many Basin Plan environmental outcomes are not being met and are predicted to worsen as climate change advances.
- The **Discussion Paper almost entirely fails to grapple with climate change impacts**. There is no meaningful description and assessment of how climate change is likely to interfere with achieving the core objectives of the Basin Plan, and no options identified as to how to meaningfully and effectively respond to climate change.
- In relation to **First Nations**, the Discussion Paper fails to engage with critical issues such as Aboriginal water dispossession and opportunities to provide for cultural flows.
- The '**options' that *are* presented** in the Discussion Paper **are typically vague and incomplete**. This undermines the potential benefits of the public consultation process and makes it difficult for the community to understand or predict what amendments to the Basin Plan the Authority thinks might be necessary useful.

How to use this Submission Guide

This Guide identifies what EDO thinks are the **key priority issues the Authority should address** in this Review. Our selection of the issues has been guided by the applicable legal requirements, including the core objects and purposes of the Water Act and the Basin Plan. For each topic we discuss, we have included recommendations.

We have divided our analysis into three critical keystone issues, followed by seven other important issues.

For each of the keystone issues ((1) environmentally sustainable levels of take; (2) climate change; and (3) First Nations specific requirements) we set out:

- key legal requirements;

- some general context to explain the issue;
- how we say the Discussion Paper falls short; and
- our recommendations.

We the additional issues, we have discussed the legal and scientific context at a high level and included recommendations

Our recommendations are intended to promote:

- a more effective Review process; and
- better outcomes overall under the Basin Plan (including in many cases by proposing amendments to the Plan).

When you make a submission, you can either respond to the three questions put by the Authority or you can make a 'free text submission'. The Authority's three questions are:

- What do you think of the issues and options presented?
- Are there other issues and options that should be considered?
- What do you see as the priorities and why?

You are welcome to extract content from this Guide to include in your submission, including from our recommendations.

The issues we have identified are by no means comprehensive and there might be other issues you want to make a submission about. The last part of this Guide provides some information to help you think about writing a submission about any issue that matters to you.

Key issues we think the Review should address

Keystone issues

The Environmentally Sustainable Level of Take and Sustainable Diversion Limit

The central purpose of the Water Act is to reduce the amount of water being taken from the Basin to environmentally sustainable levels. In 2019, the South Australian Murray Darling Basin Royal Commission Report (SA Royal Commission Report) concluded that the Basin Plan Sustainable Diversion Limits are neither environmentally sustainable nor lawful. The latest scientific evidence demonstrates that much of the Basin remains in serious decline and that this is likely to get worse due to climate change.

Despite all of this, the Discussion Paper fails to:

- engage with the SA Royal Commission findings;
- consider and act on the best available science; and
- apply realistic, evidence-based assumptions about whether and when the water recovery targets will be satisfied (i.e. the 'Bridging the Gap' water recovery targets, full delivery of outcomes under the SDLAM projects, and full recovery of the additional 450 GL/year).

Climate change

Climate change was not taken into account when the original Sustainable Diversion Limits were set. This is one of the reasons the SA Royal Commission found that the Basin Plan Sustainable Diversion Limits were unlawful.

The Authority recognises the current and future likely impacts of climate change. The Authority must also deal with the management of climate change risks (under s 50(4A)). Despite this the Authority proposes to postpone, for another 10 years, any response to climate change in terms of changing how much water can be taken from the Basin. This is an extraordinary gap in the Review and a failed opportunity that must be addressed.

Review requirements that specifically apply to First Nations

First Nations are the Traditional Owners of lands and waters across the Basin and have cared for Country for tens of thousands of years.

The Water Act, as amended in late 2023, requires this Review to consider and report on important questions about whether the Basin Plan is working for First Nations peoples.

The Review doesn't do this. On the most part, the Discussion Paper misses opportunities to engage with and propose ways to address critical issues faced by First Nations across the Basin – including, for example:

- water dispossession;
- a lack of meaningful participation opportunities;
- failure to provide for cultural flows; and
- lack of access to clean drinking water.

On top of this, the Discussion Paper:

- fails to clearly demonstrate that there has been adequate, appropriate consultation with First Nations that reflects the principles in the United Nations Declaration on the Rights of Indigenous Peoples; and
- proposes options that would *further weaken* the already inadequate requirements for First Nations involvement in developing Water Resource Plans.

Other Important Issues

Recovery of the 450 GL/year of Environmental Water

The Commonwealth Water Minister has a legal duty to take 'all reasonable steps' to recover an additional 450 GL per year of water for the environment by the end of 2027. Progress on this additional water recovery target has improved since the Water Act was amended in 2023 to create the legal duty around it. However, still only about half has been recovered so far.

The Discussion Paper fails to meaningfully engage with whether the recovery target is realistic and what to do to achieve it.

Floodplain harvesting

Floodplain harvesting diverts vast volumes of water in the northern Basin, with significant consequences for ecosystem health.

Floodplain harvesting volumes were not accurately accounted for in the original Basin Plan water recovery assessments. Since then, Basin States have incorporated and, at least in theory, legalised significant volumes of additional water take to account for floodplain harvesting. This was done by increasing the Sustainable Diversion Limits outside of the processes in the Water Act that were specifically designed for this purpose. This is concerning in terms of both legality and environmental impact, as well as adverse flow on impacts experienced by First Nations peoples.

The Inspector General of Water Compliance has recently raised concerns about this process and also about whether the amount of water taken as floodplain harvesting take is properly measured.

Critical Human Water Needs in the northern Basin

'Critical human water needs' refers to the minimum amount of water that is needed to meet defined purposes (s 86A(2). It captures core requirements such as drinking water.

The Commonwealth and Basin States have agreed that critical human water needs are the highest priority water uses under the Basin Plan.

However, the Discussion Paper does not reflect this priority, nor the on the ground reality of unsafe drinking water. The Discussion Paper fails to explore or propose Basin Plan amendments that could help fix critical human water needs issues in the northern Basin, such as access to safe drinking water.

Invasive species

Low flows are not the only driver of environmental decline in the Basin – invasive species have been identified as one of the four most important drivers of change that are directly relevant to water resource management.

The Authority already has powers to respond to some of the challenge of invasive species. EDO thinks there is scope under the Basin Plan to expand these powers. The Discussion Paper has failed to properly address this important issue.

Data collection, transparency and reporting

Lack of transparency has been a concern since the Basin Plan started, and data collection is an issue clearly brought to light by this Review.

The Discussion Paper reveals that data collection over the life of the Basin has likely not been adequate to support the Sustainable Diversion Limit assessments, or to confidently track the health of the Basin. Despite this finding, the Discussion Paper proposes that Basin Plan monitoring, evaluation and reporting be consolidated into 5 year cycles – that is, less, rather than more – and better - reporting. This proposal fails to address the key issues in relation to data collection, transparency and reporting and risks making the situation worse.

Regulatory Design: Inspector General of Water Compliance

The Inspector-General for Water Compliance is a relatively new position under the Water Act, established in 2021. EDO thinks this role is critical as it provides independent oversight of the Basin Plan. Unfortunately, the Discussion Paper has said almost nothing about the role of the Inspector General, other than proposing options to 'streamline' water resource plans which would limit the Inspector General's oversight role.

This approach is a missed opportunity to strengthen and support the Inspector General's important role.

Several complex reviews are happening at once

We think it is important to note that several important and complex public consultation processes relating to the Basin are happening at around the same time as this Review. This overlap creates a significant barrier to proper public participation in the Review. This may in turn compromise the quality and reliability of the findings of the Review down the track.

How to make a submission about other issues that matter to you

If there are other issues you want to make a submission about, we suggest you think about how the issue links to the overarching objects and purpose of the Water Act and Basin Plan, and the specific legal requirements for this Review, relate to the issue. We have provided some information and guidance to help with this.

RECOMMENDATIONS

Environmentally Sustainable Level of Take and Sustainable Diversion Limit

1. The Authority must acknowledge that Sustainable Diversion Limits do not currently, and without changes will not, reflect an Environmentally Sustainable Level of Take.

2. The initial SDL assessments are inadequate. The Authority must, as a priority, complete a proper assessment of Sustainable Diversion Limits using the best available science.

   These assessments **must**:
   - Be entirely transparent in their decision-making by making publishing the data, methodology, and the decision framework applied when concluding whether Sustainable Diversion Limits are consistent with an Environmentally Sustainable Level of Take. This is also important to enable independent peer review.
   - Incorporate the impacts of climate change into projections of future water availability.
   - Account for flows that will be required in disconnected ecosystems once constraints are relaxed.

   These assessments **must not**:
   - Assume any water recovery for the purposes of these assessments until or unless it is actually recovered (e.g. full recovery of the Sustainable Diversion Limit Adjustment Mechanism ('water saving') projects where the Authority currently predicts a 300 GL/year shortfall)

3. Once the Authority has completed an adequate Sustainable Diversion Limit assessment, as recommended above, the Authority should propose any necessary changes to the Sustainable Diversion Limit to the Minister. These changes must ensure the Sustainable Diversion Limits are consistent with the core object of the Water Act, being to 'return extraction to an environmentally sustainable level of take'. (See also **Recommendation 5** and **Recommendation 8** in relation to climate change).

4. The Authority must prioritise the relaxation of constraints. Constraints need to be relaxed to deliver water to disconnected ecosystems, including Ramsar listed wetlands. Constraints relaxation must occur in parallel with adopting ecologically sustainable limits on water extraction.

Climate Change

5. The Authority must consider climate change in its assessment of whether Sustainable Diversion Limits reflect an Ecologically Sustainable Level of Take (see **Recommendation 2** and **Recommendation 8** for further relevant detail).

6. The Basin Plan is not currently drafted to manage the risks of climate change. The Authority must identify mechanisms to ensure extraction can be adjusted flexibly to

respond to increasing climatic variability. This is critical to ensure water take is ecologically sustainable. Examples of ways to do this include:

- Incorporating a climate change buffer into the Sustainable Diversion Limits, to support a more adaptive approach to managing flows without compromising the relationship between Sustainable Diversion Limits and ecological sustainability.
- Incorporating a mechanism that enables rapid adjustments to Sustainable Diversion Limits to respond to increasing climate variability caused by climate change.

7. In comparison to licensed water, planned environmental water (**PEW**) will be disproportionately impacted by climate change. The Authority must identify and recommend amendments to the Basin Plan to protect Planned Environmental Water volumes from being eroded due to the impacts of climate change.

8. In implementing **Recommendations 1-8**, the Authority must consider the principles of Ecologically Sustainable Development. The principles of Ecologically Sustainable Development include the precautionary approach and intergenerational equity. By applying these principles, climate adaptation should do the following:
   - Ensure smoother and incremental transitions, to help communities adapt.
   - Provide for **certainty** in water allocation, by foreshadowing potential changes in advance.
   - Account for the **lifetime of any decisions** about adapting to climate change.
     - Measures to adapt to climate change impacts must take into account the time it takes from deciding to act through to benefits taking effect – including the time taken to implement the decision. History plainly shows that reform of the Basin Plan is complex, difficult and slow.
   - Consider **distributive justice** across generations **(intergenerational justice**): fairness between the present generation and future generations.

   Failure to take decisive action now will leave future generations bearing the burdens of historical overextraction compounded by climate change.

Review Requirements that apply specifically to First Nations

9. The Basin Plan has never set aside water for Basin Nations. The Authority should examine and identify mechanisms for providing cultural flows. Cultural flows must benefit the environmental, social and economic conditions of Basin Nations. This process must occur in consultation with self-determined Basin Nation governance bodies.

10. The Authority must identify ways to embed the principles of the *United Nations Declaration on the Rights of Indigenous Peoples* (**UNDRIP**) into the Basin Plan and should recommend amendments to the Basin Plan to give effect to those principles. The Basin Plan could be amended, for example, to:
    - establish a framework for First Nations to operate as co-managers of water resources that flow through a Nation's traditional lands;

- ensure that First Nations participation in decision making is meaningful to First Nations people;
- empower and support Basin Nations to play a key role in the conservation and protection of Basin ecosystems within each Nation's traditional lands.

Such measures must be developed in collaboration with self-determined Basin Nation governance bodies.

11. The Authority should propose amendments to the Basin Plan that would embed the principles of Free, Prior and Informed Consent (**FPIC**). Fundamental prerequisites to FPIC that should be protected in the Basin Plan include, for example:
    - Basin Nation governance structures must be properly and reliably resourced, including for the purpose of engaging in government consultations;
    - timelines for all First Nations consultations must be sufficient to ensure meaningful participation; and
    - membership of any First Nations representative bodies that Government proposes to consult must be self-determined – or at least endorsed - by Basin Nations.

    These measures must be developed in collaboration with self-determined Nation governance bodies.

12. As the only mechanism in the Basin Plan that currently requires any First Nations engagement in Basin water resource management, it is crucial that in relation to Water Resource Plans:
    - the existing provisions of Chapter 10 Part 14 of the Basin Plan; and
    - Commonwealth oversight of State WRPs;

    are strengthened, **not** watered down. EDO expressly opposes the options set out at page 76 of the Discussion Paper.

Recovery of the 450 GL/year of Environmental Water

13. The 450 GL/year must be delivered in full.

14. The Sustainable Diversion Limits assessment must not assume recovery of the 450 GL/year until it has been recovered (see **Recommendation 2** and **Recommendation 5** for further detail about Sustainable Diversion Limit assessments).

Floodplain Harvesting

15. The Authority must assess whether volumes of floodplain harvesting in the northern Basin are consistent with an Environmentally Sustainable Level of Take. The results of this assessment must be published.

16. The Authority must propose amendments to the Basin Plan to ensure floodplain harvesting does not push extraction above an Environmentally Sustainable Level of Take.

Critical human water needs in the northern Basin

17. The Authority must consider and propose amendments to the Basin Plan to ensure:
    - critical human water needs are given the highest priority water use in both the northern and southern Basin;
    - critical human water needs are always protected; and
    - there is a compliance framework that establishes an enforceable duty to ensure that critical human water needs are satisfied.

Invasive Species

18. The Authority has already established some programs for reducing the impacts of invasive species. Full roll out of existing programs must be prioritised to reduce the impact of invasive species, such as reducing cold water pollution.

19. The Authority must establish a data monitoring work program targeted at invasive species (alongside other urgently needed monitoring). This program must be specifically directed at understanding interactions between water resource management and invasive species, taking into account the impacts of climate change.

20. The Authority must consider and recommend amendments to the Basin Plan to require and facilitate optimal management of invasive species, which are a key threat to Basin ecosystems.

Data collection, transparency and oversight

21. The Authority must collect adequate data to track the health of the Basin and assess whether the Basin is achieving its environmental objectives.

22. The Authority must publish data sets, analyses and decision-making frameworks concerning the state of ecosystems and species of the Basin, Sustainable Diversion Limits assessments, and any other matters relevant to water take or delivery.

23. The Authority must also release its historical and current modelling underpinning Sustainable Diversion Limit calculations and assessments and future water availability forecasting under climate change.

Regulatory Design: Inspector General of Water Compliance

24. The Inspector-General of Water Compliance plays a critical role as the independent compliance agency in the Basin. The role must be supported, including by identifying opportunities to strengthen powers of the Inspector General that could support and enhance achievement of the Basin Plan's objectives. It would be a backwards step to wind back the Inspector-General's powers.

Several complex reviews at once

25. The Authority's final Review Report should include:
    - details of the level of community engagement e.g. the number of submissions; and
    - consideration of, and comment on, whether there has been adequate opportunity for the community to participate, in the context of the concurrent and related reviews.

26. The Authority must ensure that First Nations across the Basin are properly resourced and supported to engage in the current consultation, as required by the principles of FPIC. This includes ensuring Basin Nations can self-determine who participates and how. This is particularly important because of the multiple, concurrent reviews that raise complex legal and scientific issues.

KEYSTONE ISSUES: ANALYSIS AND RECOMMENDATIONS

THE ENVIRONMENTALLY SUSTAINABLE LEVEL OF TAKE AND SUSTAINABLE DIVERSION LIMITS

IN A NUTSHELL

The central purpose of the Water Act is to reduce the amount of water being taken from the Basin to environmentally sustainable levels. In 2019, the South Australian Murray Darling Basin Royal Commission Report (SA Royal Commission Report) concluded that the Basin Plan Sustainable Diversion Limits are neither environmentally sustainable nor lawful. The latest scientific evidence demonstrates that much of the Basin remains in serious decline and that this is likely to get worse due to climate change.

Despite all of this, the Discussion Paper fails to:

- engage with the SA Royal Commission findings;
- consider and act on the best available science; and
- apply realistic, evidence-based assumptions about whether and when the water recovery targets will be satisfied (i.e. the 'Bridging the Gap' water recovery targets, full delivery of outcomes under the SDLAM projects, and full recovery of the additional 450 GL/year)).

KEY LEGAL REQUIREMENTS

The Basin Plan must set an environmentally sustainable limit on water take

- The Basin Plan must set "long term average **sustainable diversion limits**" (**SDLs**) (s 22).
    - This means the Basin Plan must set a sustainable limit on how much water can be taken on average each year.
    - Sustainable Diversion Limits must be set for the Basin as a whole, as well as broken down into areas or 'units'.
- The Sustainable Diversion Limits must 'reflect' an ***environmentally sustainable level of take*** (s 23).
- The Sustainable Diversion Limits for each area or 'unit' of the Basin are specified as formulas in the Plan (s 23; Basin Plan Schedules 2 & 3).

The Sustainable Diversion Limit/s can be adjusted

- There are two ways to adjust Sustainable Diversion Limits under the Water Act:
    - the Sustainable Diversion Limit Adjustment Mechanism; and
    - amending the Plan.

  Both have been used.

- The Sustainable Diversion Limit for surface water areas/units can be adjusted using the 'sustainable diversion limit adjustment mechanism' (**SDLAM**) (ss 23A-23B).
    - The idea behind the SDLAM is that there are ways to achieve environmental outcomes other than by reducing water take, through infrastructure projects. Examples of such projects include fishways and replacing existing bridges to improve connectivity.
    - Under the mechanism, a suite of projects have been treated as equivalent to reducing water take by 605 GL/year. This has meant a corresponding reduction to the water recovery target.
    - The Authority is required to conduct a 'reconciliation' of the SDLAM projects by 31 December 2026 (Basin Plan s 7.11). The Authority will consider whether the projects are delivering the expected adjustment amount and environmental outcomes.
- The Sustainable Diversion Limits can also be adjusted amending the Basin Plan (Water Act, Part 2, Division 1, Subdivision F).
    - This was done in response to the northern Basin Review, reducing the Sustainable Diversion Limits for the northern Basin by 70 GL/year.
- Either way, the Water Act says the Sustainable Diversion Limits must still reflect an Environmentally Sustainable Level of Take (s 23A(3)(b)).

The Water Minister must take all reasonable steps to recover an extra 450 GL/year

- The Water Act says the Water Minister must take *all reasonable steps* to increase the volume of water available for the environment across the Basin by 450 GL/year by 31 December 2027 (s 85AC).

Environmentally Sustainable Level of Take

'***Environmentally Sustainable Level of Take***' (or **ESLT**) means the volume of water that can be taken from the Basin on average each year without compromising (s 4):

- key environmental assets (e.g. key rivers, wetlands, floodplains, lakes and estuaries that provide habitat);
- key ecosystem functions (i.e. processes that allow the ecosystem to maintain ecological health, e.g. connection between rivers and floodplains);
- the (ecologically) productive base of the water resource; or
- key environmental outcomes (e.g. increased native fish and migratory bird populations, improved wetland health, reduced salt levels and algal blooms).

Key issues: Ecosystems, wetlands and individual species across the Basin are not getting enough water

Many ecosystems are not getting enough water to remain healthy

Recent analysis found that for the period 2012-2022 (i.e. since the Basin Plan commenced), **Environmental Water Requirements were met for only 26% of the assessed ecosystems**.

The analysis also found that the only improvements to meeting Environmental Water Requirements since the Basin Plan started was an increase in small flow event requirements in the Murray.

The end of the Darling/Baaka and Murray river systems are some of the most severely stressed parts of the Basin. For these sites, Environmental Water Requirement outcomes have been worse since the Basin Plan started than the preceding three decades. This is because **the impacts of water take along the whole system add up**: flows at the end of the system are impacted by over-extraction across the *whole system*.

What are Environmental Water Requirements?

Environmental Water Requirements (**EWRs**) can be defined as the flows (frequency, magnitude, duration, and timing) required to achieve environmental outcomes.

A set of comprehensive Environmental Water Requirements have been developed under the Basin Plan. Environmental Water Requirements are derived from flow-ecology relationships by using best available scientific knowledge. Ecosystem condition is likely to decline when Environmental Water Requirements are not met.

Environmental Water Requirements were developed by the Authority and Basin State governments under the Basin Plan for over 150 sites. They were developed to ensure environmental outcomes would be met for each major river.

Animal and plant species are threatened and numbers are mostly declining

There is clear evidence in the 2025 Basin plan evaluation and independent research that **waterbird** abundance has declined and that this is related to reductions in river flows and rainfall. This is projected to get worse due to the drying impacts of climate change.

Native fish populations have mostly continued to decline: multiple native fish species are locally extinct in rivers they previously inhabited, and 49% of freshwater native fish species are listed as rare or threatened. There are some localised improvements where environmental water deliveries have boosted population numbers. These are an exception to the general trend, but show that we *can* reverse declining trends for native species recover *if* we prioritise environmental water delivery.

Ninety-two **animals** in the Murray Darling Basin are rare or threatened. At least 30 **plant species** that are likely to occur within the Basin and be impacted by Basin water resources are listed as threatened.

A study assessing eight **flow dependent threatened species** in the Basin (Sloane's froglet, southern bell frog/growling grass frog, Australasian bittern, Australian painted snipe, trout cod, Murray hardyhead, silver perch and flathead galaxias) found that for seven of these species, their **range contracted** between 2012–13 and 2018–19. In other words, these **species are disappearing** from areas they used to populate.

Whole ecosystems are threatened

Thirteen **ecological communities** that are likely to be influenced by Basin water resources are listed as threatened.

In January 2026, the **Lower Murray River system** and associated wetlands, floodplains, and groundwater systems (approximately 1000 km of the Murray), and the **Macquarie Marshes** wetlands and inner floodplains, were listed as **critically threatened ecological communities**. This means they face an **extremely high risk of collapse in the next 10 years**.

Ramsar wetlands are not receiving enough water

There are 16 wetlands in the Murray Darling Basin that are listed under the Ramsar Convention. Wetlands are listed under the Convention because they are **internationally significant** in terms of their biodiversity and uniqueness.

Not all of these wetlands can actually receive environmental water. That's because there are barriers to flows, or **constraints**. 12 of the 16 Ramsar listed wetlands *can* receive environmental water.

Analysis of six Basin Ramsar wetlands showed that between 2012-2021, less than 17% of the total area of wetlands was flooded in 6 out of 9 years (67% of the time). Analysis over a longer time period (1979-2022, 43.5 years) showed that the overbank flooding needs of the 12 Ramsar wetlands were only met at two sites, demonstrating the longstanding unmet watering requirements of these wetlands.

Constraints

Constraints are physical and operational barriers (such as bridges) that limit the ability to deliver environmental flows. The 2025 Basin Plan Evaluation summary of Ramsar sites mentions constraints as an obstacle to water delivery at some sites. However, the 2025 Basin plan evaluation did not provide comprehensive, transparent reporting on the full list of Ramsar sites so it is difficult to understand the true significance of constraints beyond the sites given specific mention in regards to constraints.

Key issues: Long standing problems with water recovery must still be addressed

The Sustainable Diversion Limits are not based on an Environmentally Sustainable Level of Take and are therefore neither lawful nor fit for purpose

The driving force behind the Water Act was the Millenium Drought, coming in on top of decades of over-extraction. Governments realised that water take across the Basin was environmentally unsustainable and legislation was required to reduce water take to sustainable levels.

In 2019, the South Australian Murray Darling Basin Royal Commission Report (**SA Royal Commission Report**) found that the Sustainable Diversion Limits and associated water recovery targets:

- failed to consider climate change;
- were not based on the best available science; and
- did not reflect an environmentally sustainable level of take.

These issues have still not been addressed by the Authority. They are not addressed in the Discussion Paper.

EXPLAINER: HOW THE SUSTAINABLE DIVERSION LIMITS WERE FIRST SET

When the Basin Plan was originally being drafted, the Authority conducted work to try to work out what a Basin-wide Sustainable Diversion Limit should be. The Authority first estimated how much water was generally being taken from the Basin each year. It then tried to work out how much that needed to be reduced in order to achieve environmental sustainability. Put another way, the Authority tried to work out how much water needed to be *recovered* and returned to the environment.

The Authority estimated that, as at 2009, 13,677GL of surface water (e.g. from rivers and lakes) and 1,768GL of groundwater was being taken per year, on average.

The process of setting the amount that needed to be *recovered* was complex and political.

An initial assessment by the Authority found that surface water recovery needed to be between approximately 3,900 GL/y and 7,000 GL/y. After further analysis, the Authority concluded that surface water recovery needed to be between 3,000 GL/y and 7,600 GL. The lower figure was said to offer a **high level of uncertainty** that it would meet the Basin's watering requirements; the high figure would offer a **low level of uncertainty** . The recovery range for groundwater was assessed at between 99 GL and 227 GL per year.

However, amidst political controversy, the Authority adopted a different approach and concluded that:

- surface water recovery needed to be 2,750GL per year, and this corresponded to a Basin-wide SDL of 10,873 GL per year; and
- groundwater recovery needed to be 38.45GL/year.

Of note, the SA Royal Commission Report concluded that (p 53):

> 'Based on the totality of the evidence before the Commission, the range of water recovery in the Guide to the proposed Basin Plan … – 3980 GL to 6980 GL – most likely is the range that results from a proper construction of the term ESLT in the Water Act, and results in a [Sustainable Diversion Limit] that reflects an [Environmentally Sustainable Level of Take]…'

	Initial assessment	Initial assessment - qualified using 'confidence limits'	Adopted volumes
Surface water recovery	3,856 GL/y – 6,983 GL/y	3,000 GL/year (high uncertainty) - 7,600 GL/year (low uncertainty)	2,750 GL/year
Ground water recovery	99 GL/year – 227 GL/year	99 GL/year – 227 GL/year	38.45 GL/year

The surface water and groundwater recovery targets are often referred to as the **"Bridging the Gap"** water recovery target.

Official adjustments made to the Sustainable Diversion Limits

The surface water Sustainable Diversion Limits have been officially increased twice:

- In 2016, the Northern Basin Review found that water take could increase by 70 GL/year while still achieving the same ecological outcomes.
- In 2017, a collection of proposed SDLAM projects were accepted as a substitute for 605 GL/year of recovery.

In both cases the Sustainable Diversion Limits were adjusted using mechanisms under the Water Act – by amending the Basin Plan (Northern Basin Review adjustment) and utilizing the SDLAM mechanism (SDLAM Projects).

As a result, the **Bridging the Gap** water recovery target was reduced by 675 GL in total.

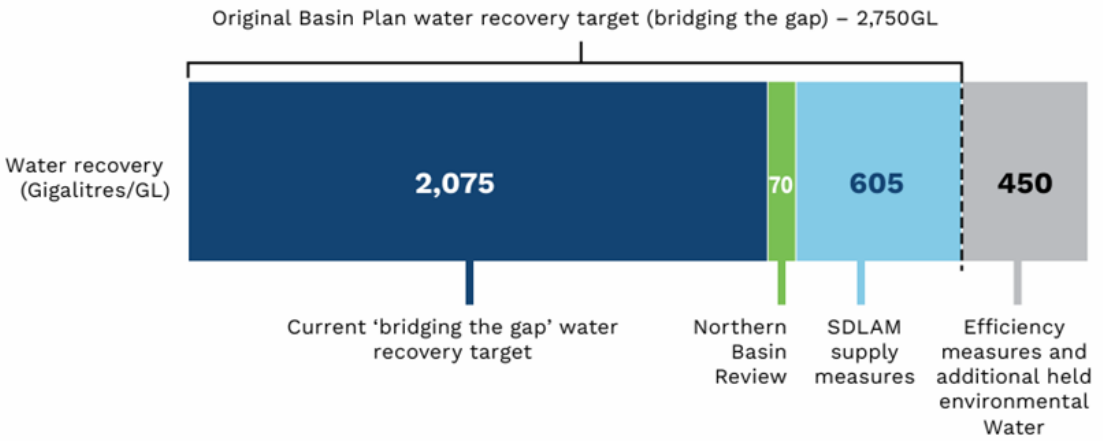


Figure: This figure shows how the original Bridging the Gap target was reduced by 2,750GL/year to 2,075GL/year because of the SDLAM projects and the Northern Basin Review. Source: Murray Darling Basin Authority, 2025 Basin Plan Evaluation (July 2025)

The final Sustainable Diversion Limits and water recovery target have been subject to significant criticism. In particular, that the final water recovery targets were a political compromise and the water recovery targets are not high enough to meet the flow rates or achieve the ecological outcomes needed.

The SDLAM projects were speculative and aren't being delivered

In 2017, the Authority proposed adjustments to the surface water Sustainable Diversion Limits. This was on the basis that a package of SDLAM 'supply measures' projects could achieve environmental outcomes other than by reducing water take. The projects were to be delivered by Basin states. Examples have included infrastructure projects like fishways and replacing bridges to improve connectivity.

Implementation of the SDLAM projects has been fraught. They have still not been fully delivered; there are questions about the scientific basis for equating SDLAM project outcomes with flow volumes; and, a 2018 study showed that irrigation efficiency projects may have even caused a decline in river flows.

The Discussion Paper estimates there will be a 300 GL/year shortfall when the Authority conducts the SDLAM reconciliation later in 2026.

Progress has been slow in delivering the supplementary 450 GL/year to support environmental outcomes

When the Basin Plan was being drafted and the water recovery targets developed, South Australia pushed for an additional 450 GL/year of water recovery on top of the proposed 2,750 GL/year target. Although a commitment was made to recovery the additional 450 GL/year, neither the Water Act nor Basin Plan incorporated a binding requirement to achieve this.

After extremely slow progress over the first decade of the Basin Plan, the Water Act was amended in 2023 to require the Commonwealth Water Minister to take all reasonable steps

to recover this volume. Since then, there has been some progress. However, around half of the volume remains yet to be delivered.

Where the Discussion Paper falls short

Failure to acknowledge that the original Sustainable Diversion Limit was neither sustainable nor lawful

The Discussion Paper explains that the Review process assesses whether the Sustainable Diversion Limits reflect an environmentally sustainable level of take.

But the Authority ignores the elephant in the room: that the original Sustainable Diversion Limits and water recovery targets have *never* reflected an Environmentally Sustainable Level of Take.

In our view, the Authority's analysis of whether the Sustainable Diversion Limits reflect an Environmentally Sustainable Level of Take is flawed. That's because the Authority has built its analysis on faulty foundations: the Authority's starting point is that the original Sustainable Diversion Limits were environmentally sustainable to begin with.

Failure to consider and act on the best available science

Evidence collected since the Basin Plan commenced clearly shows that the Basin remains in serious decline. The evidence stands in stark contrast to the Authority's confident conclusions that the majority of the Sustainable Diversion Limits reflect an Environmentally Sustainable Level of Take and support the Basin Plan's environmental outcomes.

Unexplained contradictions and misunderstandings of the law

The Discussion Paper contains what appear to be contradictions, with no clear explanation. For example, the Authority says, on the one hand, that there must be 'difficult decisions' and 'trade-offs' and 'there will be circumstances where we will not be able to support the Basin Plan's environmental outcomes and protect environmental assets'. Yet on the other hand, the Authority concludes that 'surface water [Sustainable Diversion Limits] are supporting Basin Plan environmental outcomes and are assessed as continuing to reflect an environmentally sustainable level of take.'

In addition to the apparent contradiction in these observations, they also expose a possible misunderstanding of the law. The Authority must explain clearly what it means when it says that an Environmentally Sustainable Level of Take allows for trade-offs. This is to ensure that the Authority is not applying a 'triple bottom line' approach (i.e. where environmental, social and economic outcomes are equally prioritised when determining Sustainable Diversion Limits, rather than prioritising environmental sustainability first and *then* optimising social and economic outcomes). Such an approach would arguably be unlawful: the SA Royal Commission Report concluded that the triple bottom line approach is inconsistent with the Water Act:

> '… the true, single, bottom line is that no more water may be taken than at the level beyond which the key environmental values would be compromised.'

Failure to act on climate change projections

As discussed separately in relation to climate change, the Authority's conclusions about the Sustainable Diversion Limits fail to account for and act on the projected likely impacts of climate change.

Concern that changing benchmarks obscures the true state of the environment

The Authority has used a different baseline for assessing ecosystem health compared to past assessments. For this Review, the Authority has used a baseline that incorporates the impacts of European colonisations and subsequent development across the Basin. In previous sustainable rivers audits, a pre-European, pre-development baseline was used.

You cannot compare apples with oranges. EDO is concerned that the changing benchmark means the trend in environmental outcomes over the course of the Basin Plan cannot be accurately assessed, which casts doubt over the reliability of the conclusions reached in the Discussion Paper. EDO is concerned that the overall trend in environmental outcomes may be worse than the Discussion Paper reveals, since independent science shows a declining trend for many components of the natural environment.

Modelling based on unfounded assumptions: that the water recovery targets will be met and the 450 GL/year will be returned to the system

The Discussion Paper's Sustainable Diversion Limit assessments appear to be based on two significant assumptions:

- First, that the Bridging the Gap targets will be met.
- Second, that there will be full delivery of the SDLAM projects and, failing that, recovery of the remaining volume by alternative methods.
- Third, that the extra 450 GL/year will also be delivered in full.

Based on how difficult and slow water recovery progress has been to date, these assumptions appear to be unrealistic. We also note that although return of the 450 GL/year is now incorporated into the Water Act, nobody is *bound* to *achieve* this volume: the Minister must simply take 'all reasonable steps' to do so.

Applying these assumptions is concerning, particularly when the stakes are so high (see the earlier discussion of the state of the environment across the Basin). These assumptions create another reason to seriously doubt the Authority's conclusions about whether the Sustainable Diversion Limits are consistent with an Environmentally Sustainable Level of Take.

RECOMMENDATIONS

1. The Authority must acknowledge that Sustainable Diversion Limits do not currently, and without changes will not, reflect an Environmentally Sustainable Level of Take.

2. The initial SDL assessments are inadequate. The Authority must, as a priority, complete a proper assessment of Sustainable Diversion Limits using the best available science.

   These assessments **must**:
   - Be entirely transparent in their decision-making by making publishing the data, methodology, and the decision framework applied when concluding whether Sustainable Diversion Limits are consistent with an Environmentally Sustainable Level of Take. This is also important to enable independent peer review.
   - Incorporate the impacts of climate change into projections of future water availability.
   - Account for flows that will be required in disconnected ecosystems once constraints are relaxed.

   These assessments **must not**:
   - Assume any water recovery for the purposes of these assessments until or unless it is actually recovered (e.g. full recovery of the Sustainable Diversion Limit Adjustment Mechanism ('water saving') projects where the Authority currently predicts a 300 GL/year shortfall)

3. Once the Authority has completed an adequate Sustainable Diversion Limit assessment, as recommended above, the Authority should propose any necessary changes to the Sustainable Diversion Limit to the Minister. These changes must ensure the Sustainable Diversion Limits are consistent with the core object of the Water Act, being to 'return extraction to an environmentally sustainable level of take'. (See also **Recommendation 5** and **Recommendation 8** in relation to climate change).

4. The Authority must prioritise the relaxation of constraints. Constraints need to be relaxed to deliver water to disconnected ecosystems, including Ramsar listed wetlands. Constraints relaxation must occur in parallel with adopting ecologically sustainable limits on water extraction.

CLIMATE CHANGE

IN A NUTSHELL

Climate change was not taken into account when the original Sustainable Diversion Limits were set. This is one of the reasons the SA Royal Commission found that the Basin Plan Sustainable Diversion Limits were unlawful.

The Authority recognises the current and future likely impacts of climate change. The Authority must also deal with the management of climate change risks (under s 50(4A)). Despite this the Authority proposes to postpone, for another 10 years, any response to climate change in terms of changing how much water can be taken from the Basin. This is an extraordinary gap in the Review and a failed opportunity that must be addressed.

KEY LEGAL REQUIREMENTS

This Review must consider climate change risks

The Authority must consider and report on the **management of climate change risks** in this Review (s 50(4A).

The Basin Plan and relevant international agreements

- As set out in the last section of this Guide, the objects of the Water Act and the Basin Plan include giving effect to **relevant international agreements** (ss 3, 20).
- The Water Act also says the Basin Plan must be prepared to enable effect to be given to relevant international agreements (s 21).
- Several 'relevant international agreements' are listed in the Water Act. One of them is the **UN Framework Convention on Climate Change** (**Climate Change Convention**).
- Australia has ratified the Climate Change Convention. This means Australia has signed up to it, and is bound by it. It is also one of the international laws that gave the Federal Government the power under the Australian Constitution to make the Water Act in the first place.
- The Climate Change Convention reflects global progress and commitments to addressing the risks of climate change. Article 4(b) includes a commitment to implement measures to **facilitate adequate adaptation** to climate change.

The Authority must act on the best available science and take into account ecologically sustainable development

As explained in more detail in the last section of this Guide, in conducting this Review the Authority must (s 21(4)):

- act on the basis of the best available scientific knowledge; and

- take into account the principles of **ecological sustainable development** (**ESD**). That includes:
  - the **precautionary principle**; and
  - the **principle of inter-generational equity**.

The principles of Ecologically Sustainable Development are set out in full in the last section of this Guide.

The Basin Plan must ensure there is no reduction in Planned Environmental Water

- The Water Act also requires that the Basin Plan ensure there is **no reduction** in the volume of **planned environmental water** (s 21(5)). The Basin Plan applies this requirement to water resource plans (s 10.28).
- The Water Act defines two types of environmental water: held environmental water and planned environmental water (s 4).
- **Held environmental water** is water available under licences that are held by the Federal Government.
- **Planned environmental water** is environmental water that is not subject to a water licencing scheme.
- As discussed below, planned environmental water volumes are vulnerable to the impacts of climate change, despite the requirement in the Water Act to ensure there is no net reduction in planned environmental water volumes.

Key issues

Rising temperatures, prolonged droughts, and extreme weather events caused by climate change will continue to harm the Basin. This will make it increasingly difficult to restore and protect water sources and their dependent ecosystems. First Nations peoples across the Basin will be disproportionately and uniquely impacted by climate change..

Climate change was not factored in when the Sustainable Diversion Limits were first set

In 2012, when the Authority determined the Environmentally Sustainable Level of Take, Sustainable Diversion Limits, and water recovery targets, it did not account for climate change projections. This is one of the reasons the SA Royal Commission Report concluded that the original setting of a Basin-wide Sustainable Diversion Limit ignored the best available science and was unlawful.

Global climate models predict less water in the Basin by 2030

Current global climate models applied to the Murray Darling Basin predict with **high** confidence **that there will be less water in the Basin by 2030**, only four years from now. The climate projections for 2030 show:

- an increase of evapotranspiration of 2.6-3.6% for both the southern and northern Basin; and

- a decline in mean annual runoff by 2030 (median model prediction is a decline of 8-9% for the southern basin, and ~5% for the northern Basin)

The Discussion Paper shows that the Authority has *considered* these models in conducting the Review – but it has failed to identify or propose *responses* to *address* these predictions.

Climatic extremes are likely to be more frequent and intense:

Climate modelling commissioned by the Authority also predicts that:

- hydrological droughts are very likely to become more extreme and more frequent;
- the duration and severity (water height) of large floods may increase; and
- hydroclimatic variability may increase (relevantly, rainfall, river flows and groundwater levels (i.e. water availability) may all become more variable).

The Australian Government recognises that climate change poses a serious threat to the Basin

In late 2023, the Water Act was amended to **require** the Authority to **consider the management of climate change risks** in this Review. The former Commonwealth water minister at the time said that Climate Change means '*Basin flows could fall by as much as 30 per cent by 2050*' and acknowledged that '*[W]ater will always involve difficult decisions in this country. But that's not an excuse to shy away from making the necessary decisions*.'

National adaptation planning under the Climate Change Convention

The countries that have signed up to the Climate Change Convention meet regularly – usually every year – at what's called a 'Conference of the Parties' or COP. In November 2025, at the 30th COP, the decision about national adaptation plans noted the importance of incorporating Indigenous Peoples' knowledge, local knowledge systems, ecosystem-based adaptation and nature-based solutions into adaptation plans. The COP reiterated that action on adaptation must be based on the best available science and Indigenous Peoples' knowledge.

Climate adaptation means adjustments in response to actual or expected climate change and its impacts. This is a critical concept for the Basin, where climate changes poses potentially severe environmental, social and economic impacts, with disproportionately high impacts likely to be experienced by First Nations peoples.

Australia's Climate Change National Adaptation Plan

Australia's National Adaptation Plan was released in late 2025. It responds to the findings of Australia's first National Climate Risk Assessment. The Plan sets out a framework for adapting to nationally significant physical climate risks. The Plan specifically describes "bringing the Murray-Darling Basin back to a healthy level through the Murray-Darling Basin Plan" as a key adaptation action that is *currently underway.*

As noted above, it is not at all clear that the Basin Plan is, on balance, either adaptive or bringing the Basin back to a healthy state. The emphasis in the National Adaptation Plan on adaptation in the Basin underscores the importance of this Review:

- identifying gaps in the Basin Plan – in both substance and implementation; and
- proposing regulatory responses to those gaps.

Climate change and Planned Environmental Water

Planned Environmental Water faces disproportionate risks from climate change when compared to other categories of water under the Basin Plan (Commonwealth Environmental Water Holder).

Planned Environmental Water

The Basin Plan defines two types of environmental water:

- Licenced environmental water, which is called **held environmental water.** It is allocated to the federal and state environmental water holders. The environmental water holders decide when to release water for the environment, and how much.
- P**lanned environmental water**. This is water that the Water Act recognises needs to stay in the waterways to sustain ecosystems.

Where the Discussion Paper falls short

The Authority does not propose changes to the Sustainable Diversion Limits and instead delays consideration of climate change for another decade

The approach taken by the Discussion Paper to climate change is difficult to follow and seems to be self-contradictory. On the one hand, the Discussion Paper acknowledges, for example:

- climate change 'is already affecting the Murray-Darling Basin';
- 'we must prepare for periods of low water availability… [and] longer dry periods present a greater threat to the Basin's resilience under climate change';
- '[t]he Basin's future climate will differ significantly from the past'; and
- '[c]limate change brings significant environmental, economic, cultural and social impacts'.

Yet the Authority follows this by saying:

> 'Given the wide range of plausible climate futures, the Authority is not proposing changes to the [Sustainable Diversion Limits] in response to climate change in 2050 through this review. Our approach is to assess and guide the management of Basin climate risks and enable climate change adaptation over the long term'.

The Authority proposes reconsidering the Sustainable Diversion Limits in the context of climate change in the **next** Basin Plan review. That is, in 10 years' time.

This approach fails to apply the precautionary principle and is also inconsistent with Australia's National Adaptation Plan.

Further, the Authority appears to be repeating the mistake made when the Sustainable Diversion Limits were first determined. In 2019, the SA Royal Commission Report found that relying on a 10-year review as 'a means of facilitating [climate] adaptation is irrational and hence unscientific.'

'Difficult decisions' and 'trade offs': the environment loses

The Discussion Paper cautions the reader that:

> 'Under future conditions not all Basin Plan outcomes will be achievable, and not all environmental assets will be able to be protected to the same extent. Initial assessments of [Sustainable Diversion Limits] show some environmental outcomes may not be achievable now under some plausible future climate scenarios'
>
> and
>
> 'Climate adaptation will involve difficult decisions about priorities and trade-offs. There will be circumstances where we will not be able to support the Basin Plan's environmental outcomes and protect environmental assets'.

This commentary also **seems to assume** that where there is a need for trade-offs and difficult decisions, **the loser will always be the environment**. This is not only a troubling policy approach, but it appears to be inconsistent with the requirements of the Water Act.

No actual 'options' identified for addressing climate change

The Discussion Paper identifies some 'options' for addressing issues with the Basin Plan. Climate change risks are entirely missing from the Discussion Paper's list of 'options', where the only mention of climate change relates to the need for further monitoring.

The Discussion Paper does make some references to climate change. However, in those cases it merely says the Authority is 'exploring options' and 'proposals' that relate to climate impacts/risks. Further, those references are described using language that is vague, incomplete and/or hypothetical. This makes it difficult to meaningfully engage with the Authority's suggestions.

In other words, **the Authority does not yet appear to have done what should be a core piece of work for this Review** – that is, identifying specific issues as well as practical responses.

The Discussion Paper also fails to engage with whether/how the ideas suggested relate to, or depend on, how much water is generally in the system. In other words: while concluding generally that the Authority does not propose to amend most of the Sustainable Diversion Limits, the Discussion Paper does refer to climate change adaptation measures that rely, for their success, on there being sufficient flows in the system. The Discussion Paper does not grapple with the potential interrelationship between these factors (i.e. if there are no

climate adaptation responses to increase the volume of water in the system, can the other proposed adaptation responses be effective?).

See this EDO blog which proposes a range of features necessary for water laws to be climate ready.

RECOMMENDATIONS

5. The Authority must consider climate change in its assessment of whether Sustainable Diversion Limits reflect an Ecologically Sustainable Level of Take (see **Recommendation 2** and **Recommendation 8** for further relevant detail).

6. The Basin Plan is not currently drafted to manage the risks of climate change. The Authority must identify mechanisms to ensure extraction can be adjusted flexibly to respond to increasing climatic variability. This is critical to ensure water take is ecologically sustainable. Examples of ways to do this include:
    - Incorporating a climate change buffer into the Sustainable Diversion Limits, to support a more adaptive approach to managing flows without compromising the relationship between Sustainable Diversion Limits and ecological sustainability.
    - Incorporating a mechanism that enables rapid adjustments to Sustainable Diversion Limits to respond to increasing climate variability caused by climate change.

7. In comparison to licensed water, planned environmental water (**PEW**) will be disproportionately impacted by climate change. The Authority must identify and recommend amendments to the Basin Plan to protect Planned Environmental Water volumes from being eroded due to the impacts of climate change.

8. In implementing **Recommendations 1-8**, the Authority must consider the principles of Ecologically Sustainable Development. The principles of Ecologically Sustainable Development include the precautionary approach and intergenerational equity. By applying these principles, climate adaptation should do the following:
    - Ensure smoother and incremental transitions, to help communities adapt.
    - Provide for **certainty** in water allocation, by foreshadowing potential changes in advance.
    - Account for the **lifetime of any decisions** about adapting to climate change.
        - Measures to adapt to climate change impacts must take into account the time it takes from deciding to act through to benefits taking effect – including the time taken to implement the decision. History plainly shows that reform of the Basin Plan is complex, difficult and slow.
    - Consider **distributive justice** across generations **(intergenerational justice**): fairness between the present generation and future generations.

    Failure to take decisive action now will leave future generations bearing the burdens of historical overextraction compounded by climate change.

REVIEW REQUIREMENTS THAT APPLY SPECIFICALLY TO FIRST NATIONS

IN A NUTSHELL

First Nations are the Traditional Owners of lands and waters across the Basin and have cared for Country for tens of thousands of years.

The Water Act, as amended in late 2023, requires this Review to consider and report on important questions about whether the Basin Plan is working for First Nations peoples.

The Review doesn't do this. On the most part, the Discussion Paper misses opportunities to engage with and propose ways to address critical issues faced by First Nations across the Basin – including, for example:

- water dispossession;
- a lack of meaningful participation opportunities;
- failure to provide for cultural flows; and
- lack of access to clean drinking water.

On top of this, the Discussion Paper:

- fails to clearly demonstrate that there has been adequate, appropriate consultation with First Nations that reflects the principles in the United Nations Declaration on the Rights of Indigenous Peoples; and
- proposes options that would *further weaken* the already inadequate requirements for First Nations involvement in developing Water Resource Plans.

KEY LEGAL REQUIREMENTS

This Review must consider matters relevant to Indigenous people

When conducting this Review, the Authority must **consider** and **report on** the following**:**

- Matters 'relevant to Indigenous people' in relation to water management in the Basin (s 50(4A).
  - This **must** consider to what degree Basin water resources can be managed to improve the spiritual, environmental, cultural, social and economic conditions of Indigenous People.
  - It **can** include other things, too.
- To what extent does the Basin Plan:
  - recognise and protect the interests of Indigenous people?
  - support opportunities for Indigenous people to participate in water management?
  - support participation that reflects **free, prior and informed consent**?

The Authority's general functions

One of the Authority stated functions, or jobs, is to **engage** '**the Indigenous community** on the use and management of Basin water resources' (ss 172(1)(ia).

The Basin Plan and relevant international agreements

A core purpose of the Basin Plan is to give effect to the 'relevant international agreements' that gave the federal government the power under the Australian Constitution to make the Water Act in the first place. This includes the **Convention on Biological Diversity** (**Biodiversity Convention**) and the Ramsar Convention. Both of these are 'relevant international agreements'.

In addition to supporting the environmental goals of the Water Act, the **Biodiversity Convention** specifically provides for the protection of First Nations' interests in 'biological diversity' and 'biological resources'. More specific commitments relate to, for example, respecting, preserving and maintaining knowledge and practices; and protecting and encouraging customary use of biological resources in accordance with cultural practice. The Awke: Kon Guidelines are voluntary guidelines made under the Biodiversity Convention. They relate to the conduct of cultural environmental and social impact assessments in relation to proposed developments on, or likely to impact, lands and waters traditionally occupied or used by First Nations Peoples.

The text of the **Ramsar Convention** does not refer to First Nations Peoples. However, resolutions made by the Conference of the Parties (**COP**) do. For example, in 1999 the **COP** adopted the Guidelines for establishing and strengthening local communities' and indigenous people's participation in the management of wetlands. The Guidelines identify, for example, that engagement with First Nations communities requires – among other things - trust, flexibility, proper and continuous resourcing.

Water Resource Plans, Chapter 10, Part 14 of the Basin Plan, and 'Indigenous values and uses'

Chapter 10, Part 14 is the only part of the Basin Plan that imposes direct obligations on the Authority to engage with First Nations. It requires some level of consultation with 'relevant Indigenous organisations' in order to determine 'Indigenous values' and 'Indigenous uses' of water resources.

There are a small number of other provisions that require the Authority to have regard to 'Indigenous values' and 'Indigenous uses' in relation to environmental watering.

Key Issues

First Nations Rights are poorly recognised in the Basin Plan

First Nations have cared for Country across the Basin for millennia. Yet Australian water law is built on the legal fiction of aqua nullius. This is the incorrect assumption that water belonged to no-one at the time of European colonisation. This foundational flaw continues

to impact the rights, responsibilities and opportunities of First Nations people across the Basin, and the health of Basin ecosystems.

Dispossession remains unaddressed: First Nations water ownership

First Nations people own less than 0.2% of the surface waters and 0.02% of the ground water across the Basin. Yet, 5.3% of the Murray Daling Basin population is Indigenous. These figures reflect grossly inadequate governance and legal frameworks.

Minimal, inadequate participation opportunities

Existing opportunities for First Nations to participate in water management under the Basin Plan are extremely limited and weak. They appear in Chapter 10, Part 14 of the Basin Plan. They are confined to the processes for drafting and accrediting water resource plans (**WRPs**).

The Basin Plan requires Basin States to consult with 'relevant Indigenous organisations' to find out about 'Indigenous values' and 'Indigenous uses' of local water resources.

At the end of the day, the Basin Plan only requires Basin States to 'have regard to' Indigenous values, Indigenous uses of water resources, as well as some other specific matters including native title rights and cultural heritage.

There are **no** mechanisms in the Plan for ongoing participation of Basin Nations in water resource management, nor to ensure that participation will actually influence the final form of WRPs or other aspects of implementing the Basin Plan.

In relation to how the meagre existing requirements have been implemented, there was initial enthusiasm by some First Nations about how WRPs could promote better recognition of water rights and strengthen protection of cultural values (see, e.g., here). However, the implementation of these requirements has been mixed. In NSW, First Nations have raised serious concerns, including that participants were not properly supported or resourced, the consultation was rushed and the process was tokenistic. Such criticisms, as well as clear recommendations that some water resources plans did not meet the basic requirements of the Basin Plan, did not stop the Commonwealth Water Minister from signing off on those plans.

Free, Prior and Informed Consent is not required

Free, Prior and Informed Consent is not required under the Plan, even at an aspirational level, and there has been no commitment to amend the Plan to embed it.

The Commonwealth Department of Climate Change, Environment, Energy and Water (**DCCEEW**) has adopted the United Nations Food and Agricultural Organization definition of Free, Prior and Informed Consent for application across the Department. This offers a model for the Authority to consider when exploring options for amending the Basin Plan.

Free, Prior and Informed Consent

The DCCEEW definition of FPIC can be generally summarised as follows:

Free, Prior and Informed Consent:

- must be given voluntarily and involve a process that is self-directed by the community giving consent, without coercion, expectations or timelines that are externally imposed;
- must be sought sufficiently in advance of any authorisation or commencement of activities;
- requires information to be provided in advance, and in an ongoing fashion; and
- requires a collective decision made by the appropriate rights holders, reached through customary decision-making processes determined by the relevant to community/ies.

The importance of cultural flows is acknowledged in the Plan yet the Plan does nothing to provide or protect cultural flows

The Basin Plan recognises the concept of cultural flows. It adopts the definition developed in the Echuca Declaration (Article 1) and states that:

> '[t]he provision of cultural flows will benefit Indigenous people in improving health, wellbeing and provides empowerment to be able to care for their country and undertake cultural activities'.

However, all that the Basin Plan actually does is require that WRPs are prepared *having regard to* the *views* of Indigenous People with respect to cultural flows (s 10.54). There are **no mechanisms to provide and protect cultural flows**. This is despite the Plan stating that the Authority supports the belief that cultural flows will provide beneficial outcomes for Traditional Owners.

Cultural Flows as defined in the Echuca Declaration

‘ “Cultural Flows” are water entitlements that are legally and beneficially owned by the Indigenous Nations of a sufficient and adequate quantity and quality to improve the spiritual, cultural, environmental, social and economic conditions of those Indigenous Nations. This is our inherent right.

Cultural Flows are water rights that we hold in our own name and are not held in trust by Government AND provide us with enough clean water to improve all parts of our lives.’

Article 2 of the Echuca Declaration explains how the lives of Basin Nations will be improved by cultural flows.

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The Basin Plan was created under the Water Act. The Water Act is being reviewed later this year. The Water Act review must identify opportunities to promote the principles set out in the United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**). Because of the relationship between the Water Act and the Basin Plan, we think it is crucial for the Basin Plan review to consider and engage with UNDRIP.

Some of the rights and principles of UNDRIP that are particularly relevant to this Review include, for example:

- the right to self-determination (Arts 3, 4, 5);
- the right to participate in decision-making through self-chosen representatives in matters which would affect rights (Art 18);
- an equal right to enjoy the highest attainable standard of physical and mental health (Art 24);
- the right to lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired (Art 26);
- the right to redress for lands, territories and resources that have been taken, occupied used or damaged without FPIC (Art 28); and
- the right to conservation and protection of the environment (Art 29).

Native title

Native title laws recognise Aboriginal and Torres Strait Islander rights to access and use water for traditional, spiritual, and domestic purposes without a licence. This does not usually extend to commercial water rights, and there is no right to negotiate about water plans or licences under the *Native Title Act 1993* (Cth) (in comparison, there is a right in relation to mining leases, for example). This is another reason why it is important to improve First Nations water rights through other laws – such as the Basin Plan and the Water Act.

Closing the Gap Inland Waters Target

Outcome 15 of the National Agreement on Closing the Gap is that *Aboriginal and Torres Strait Islander people maintain a distinctive cultural, spiritual, physical and economic relationship with their lands and waters.*

Targets 15a and 15b aim to increase the amount of land (15a) and seas (15b) that Aboriginal and Torres Strait Islander peoples hold legal rights and interests over. Work is now underway to develop **target 15c**, which will **seek to increase Aboriginal and Torres Strait Islander legal rights and interests in inland water bodies**.

Rather than a national target, work towards target 15c is focussed on setting jurisdictional (i.e. state based) targets. State and Territory Governments are to develop these targets by the end of this year (2026). The Authority should therefore anticipate there *will* be targets (rather than waiting for the next 10 year review). This is one of several reasons the Authority should consider how the Basin Plan can support increasing First Nations rights and interests in water.

Where the Discussion Paper falls short

EDO thinks the Discussion Paper **fails to properly consider and report on key issues of importance** to First Nations across the Basin, including the following:

- Aboriginal water dispossession generally;
- increasing **Aboriginal water ownership/rights**, including in the context of the Closing the Gap Inland Water Target 15c;
- the concept of **cultural flows**, including how the Basin Plan could be amended to provide for cultural flows for the benefit of First Nations people;
- the **United Nations Declaration on Indigenous Peoples**, including how the Basin Plan could be amended to embed the rights and principles set out in UNDRIP;
- the well-documented shortfalls in relation to many **First Nations consultations** for the purpose of preparing **water resource plans**; and
- the critical need to ensure First Nations receive **adequate and ongoing resourcing** to support meaningful and continuous engagement in water planning and management processes, as co-managers.

Although the Discussion Paper refers to Free, Prior and Informed Consent (**FPIC**) it does not: explain what is meant by this in a practical sense; say how the Authority proposes to implement FPIC; or, consider whether the Basin Plan should be amended to embed FPIC into certain Basin Plan processes and decisions.

The Discussion Paper fails to demonstrate that the Authority has taken necessary steps to gather information critical to this task

The Discussion Paper also **fails** to **clearly demonstrate** that First Nations have been given a meaningful opportunity to determine, and explain to the Authority, what it *means* to improve *spiritual, environmental, cultural, social and economic conditions,* nor to identify the *interests of Indigenous people.* This is important, because the Water Act requires the Authority to report on these matters.

To do this effectively would require, for example:

- agency for First Nations peoples to determine engagement and representation methods for this Review;
- recognition and allowance for legal pluralism;
- adequate time; and
- proper resourcing.

The Discussion Paper fails to discuss or consider amendments to the Basin Plan that could meaningfully support and progress First Nations water rights and justice

This Review is an opportunity for the Authority to recommend amendments to the Basin Plan so that it does, in fact, give effect to relevant international water agreements in relation to First Nations water rights and justice. However, the Discussion Paper fails to discuss or consider whether and how the Basin Plan could be amended to, for example:

- provide for **cultural flows** for the benefit of First Nations people;
- embed the principles set out in United Nations Declaration on Indigenous Peoples;
- improve both procedural consultation rights and material outcomes in relation to water resource plans (Chapter 10, Part 14);
- allow, support and resource First Nations peoples to self-determine engagement processes and vehicles;
- generally recognise, provide for, and have particular regard to the views of Basin Nations in relation to all aspects of water resource planning and management in the Basin;
- establish a role for First Nations peoples as co-managers of water resources;
- embed continuous First Nations participation;
- ensure First Nations self-determined governance bodies are properly resourced to participate in all available opportunities to participate in and influence water resource management across the Basin and pursue First Nations water rights.

The Discussion Paper proposes water resource planning options that would be a backward step

The Discussion Paper proposes two options to 'streamline WRPs' (DP p 76). The options are described in such vague terms as to be almost meaningless. However, the key implication is that Water Resource Plan (**WRP**) requirements would be pared back and at least some States would be able to self-assess WRP compliance. The current role of the Federal Environment Minister in assessing WRPs against the Basin Plan criteria would be removed, or at least weakened.

Given the WRP requirements that relate to First Nations rights and interests are already so limited, and implementation has been fraught, this is highly concerning. We recommend both options on page 76 of the Review be firmly rejected.

RECOMMENDATIONS

9. The Basin Plan has never set aside water for Basin Nations. The Authority should examine and identify mechanisms for providing cultural flows. Cultural flows must benefit the environmental, social and economic conditions of Basin Nations. This process must occur in consultation with self-determined Basin Nation governance bodies.

10. The Authority must identify ways to embed the principles of the *United Nations Declaration on the Rights of Indigenous Peoples* (**UNDRIP**) into the Basin Plan and should recommend amendments to the Basin Plan to give effect to those principles. The Basin Plan could be amended, for example, to:
    - establish a framework for First Nations to operate as co-managers of water resources that flow through a Nation's traditional lands;
    - ensure that First Nations participation in decision making is meaningful to First Nations people;
    - empower and support Basin Nations to play a key role in the conservation and protection of Basin ecosystems within each Nation's traditional lands.

    Such measures must be developed in collaboration with self-determined Basin Nation governance bodies.

11. The Authority should propose amendments to the Basin Plan that would embed the principles of Free, Prior and Informed Consent (**FPIC**). Fundamental prerequisites to FPIC that should be protected in the Basin Plan include, for example:
    - Basin Nation governance structures must be properly and reliably resourced, including for the purpose of engaging in government consultations;
    - timelines for all First Nations consultations must be sufficient to ensure meaningful participation; and
    - membership of any First Nations representative bodies that Government proposes to consult must be self-determined – or at least endorsed - by Basin Nations.

    These measures must be developed in collaboration with self-determined Nation governance bodies.

12. As the only mechanism in the Basin Plan that currently requires any First Nations engagement in Basin water resource management, it is crucial that in relation to Water Resource Plans:
    - the existing provisions of Chapter 10 Part 14 of the Basin Plan; and
    - Commonwealth oversight of State WRPs;

    are strengthened, **not** watered down. EDO expressly opposes the options set out at page 76 of the Discussion Paper.

OTHER IMPORTANT ISSUES: ANALYSIS AND RECOMMENDATIONS

RECOVERY OF THE 450 GL/YEAR OF ENVIRONMENTAL WATER

Context and legal requirements

Since late 2023 the Water Minister has had a **legal duty** to 'take all reasonable steps' to recover an additional 450 GL/year of water for the environment by the end of 2027 (s 85AC). The purpose of the extra water recovery is to achieve additional environmental outcomes (as described in Schedule 5 to the Basin Plan).

Delivering the Basin Plan in full – Restoring our Rivers: Framework for delivering the 450GL of additional environmental water explains that the Government intends to reach the target using a combination of 'efficiency measures' (e.g. infrastructure based efficiency improvements) and voluntary water purchases (also known as buybacks).

In July 2024, only 27.5GL had been recovered. This has now increased to 221.2GL. This is significant recent progress – especially as the original commitment to recover the additional 450 GL/year dates back to the original Basin Plan. However, it is still a shortfall of nearly 50%.

Where the Discussion Paper falls short

The Discussion Paper fails to meaningfully engage with whether full recovery by the 2027 deadline is realistic. Yet, the Authority's surface water Sustainable Diversion Limit assessments that underpin the Discussion Paper appear to **assume** that the **entire** 450 GL/year will be recovered. Without proper explanation, this assumption throws serious doubt over the Review's Sustainable Diversion Limit.

EDO has consistently stated the 450 GL/year for the environment **must be achieved** (e.g. here). Further, that where efficiency projects are failing or stalled, additional water purchases are necessary. In relation to water purchases, the Discussion Paper refers to 'recognition that water buybacks have added to long-standing pressures on rural communities'. It is important to note that the negative impacts of 'buybacks' have often been over-stated (see, for example, here) and that water purchase remain cost-effective compared to efficiency projects (see, for example, here).

RECOMMENDATIONS

13. The 450 GL/year must be delivered in full.

14. The Sustainable Diversion Limits assessment must not assume recovery of the 450 GL/year until it has been recovered (see **Recommendation 2** and **Recommendation 5** for further detail about Sustainable Diversion Limit assessments).

FLOODPLAIN HARVESTING

Context

During wet periods, large volumes of water can breakout over the river banks and spread across vast floodplains. Naturally, the water would flow into wetlands, downstream, or soak into aquifers. Floodplain harvesting is where this water is captured and used e.g. for irrigation.

A 2021 analysis found that floodplain harvesting in the northern basin diverts an average of 778 GL/year from the Darling/Baaka River and its tributaries. This has significant consequences. For example, floodplain harvesting has directly contributed to fish kills and severe deterioration in environmental health in the Darling/Baaka.

Any severe reduction in flows also impacts adversely on other water users in the Basin, including First Nations.

Legal issues with amendments to the Sustainable Diversion Limits

When the Basin Plan was first made, the amount of water being taken by floodplain harvesting was significantly underestimated. Since then, Basin States – in particular NSW – have incorporated additional water take by increasing the Sustainable Diversion Limits *outside of* the formal SDL-adjustment/amendment mechanisms in the Water Act (see page 22, above). This was done by increasing the volumes recorded as the baseline diversion volumes (i.e. the total amount of water take as at a defined starting point).

These adjustments have been controversial and arguably unlawful. Importantly, there was no assessment of whether the new Sustainable Diversion Limits were environmentally sustainable, even though this is a core requirement and objective of the Water Act and Basin Plan.

EDO has made submissions about this issues before, in more detail (e.g. here at pp 9-15). This EDO blog post also explores some of these issues further.

Concerns raised by the Inspector General of Water Compliance

The Inspector General for Water Compliance (**Inspector General**) has raised significant concerns about the practice of adjusting the baseline diversion figures. The Inspector General pointed out that '[b]y basic definition, a baseline should be a starting point which does not change. Further, that changes to the baselines 'makes compliance, accountability and monitoring outcomes very difficult as the goalposts are moving' and that this in turn has 'consequences for public trust and confidence'.

The Inspector General has also raised concerns that floodplain harvesting is not properly measured, and that this undermines Sustainable Diversion Limit compliance assessments. The Inspector General argued that this Review must examine and publicly ventilate these issues.

Where the Discussion Paper falls short

The Discussion Paper is silent on floodplain harvesting, including the practice of adjusting the baseline diversion amounts, apart from a fleeting observation that '[b]etter information

is needed to improve the accuracy and integrity of SDL accounting, including interception by … floodplain storages'. Nevertheless, the Discussion states that '[n]o change is proposed … in this review' and that 'technical work and investigations will inform the **next Basin Plan review**'.

As with climate change, EDO considers such delay cannot be justified.

RECOMMENDATIONS

15. The Authority must assess whether volumes of floodplain harvesting in the northern Basin are consistent with an Environmentally Sustainable Level of Take. The results of this assessment must be published.

16. The Authority must propose amendments to the Basin Plan to ensure floodplain harvesting does not push extraction above an Environmentally Sustainable Level of Take.

CRITICAL HUMAN WATER NEEDS IN THE NORTHERN BASIN

Legal requirements

The Water Act says:

- the **Commonwealth and the Basin States agree** that **critical human water needs** are **the highest priority water use** for communities who are dependent on Basin water resources; and
- the Basin Plan **must be prepared having regard to that** (s 86A).

Under the Basin Plan, water resource plans must set out 'measures to meet critical human water needs' during specified extreme events (cl 10.51). The Basin Plan does **not** say that these measures must ensure that critical human water needs are **actually met**.

Critical human water needs

Critical human water needs are the needs for a minimum amount of water that can only reasonably be provided from Basin water resources and that are required for specific purposes. That is, is required to meet:

- core human consumption requirements in urban and rural areas; and
- non-human consumption requirement that, if not met, would cause prohibitively high social, economic or national security costs.

An example is drinking water.

(Water Act s 86A(2)).

Context

Despite the requirements described above, it is increasingly common that **critical human water needs are not being met** in parts of the northern Basin. Media reports tell a compelling story about the frequency of critical water shortages experience by communities in the Northen Basin including that:

> '[D]uring the last major drought, in 2019, water was delivered into Louth, Tilpa, Wilcannia, Menindee and Collarenebri because sedimentation and blue-green algae blooms made water unsafe to drink. From 2018 to 2023, people in Walgett relied on drinking bore water that contained 15 times the recommended sodium levels.'

Where the Discussion Paper falls short

The Discussion Paper acknowledges that communities in the Basin are experiencing water insecurity, including for the following reasons:

- Water that is meant for town drinking water may be taken by other users before it reaches towns.
- In some towns, there is not enough equipment, facilities or operational capacity to treat emergency groundwater reserves to make it safe for drinking.
- There is limited funding for pipelines, alternative water supplies and water recycling.

- The cost of water supply in regional towns is rising and is unaffordable in some places.

The Discussion Paper says the Basin Plan has a 'very limited role in supporting critical human water needs' outside of the River Murray system. This reads as a justification from the Authority for offering very little by way of a proposed response to this issue. The Discussion Paper says the Authority is 'considering the value of introducing minimum standards for state-based critical human water planning via improved water resource plan requirements'. However, the measures described are confined to the very limited purposes of improving consultation, transparency and analysis; they would not directly require better outcomes.

It is not clear why the Authority has shied away from this important issue, and concluded that '[m]ost of the town water supply issues in the northern Basin cannot be resolved through the Basin Plan'. This should be explained. Further, any relationships between critical human water needs, floodplain harvesting volumes and the Sustainable Diversion Limits in particular should be thoroughly explored.

The Authority's approach in the Discussion Paper is particularly concerning in the context of the findings of the Productivity Commission in 2023, which included that:

- **The Basin Plan should play a greater role** in improving water quality and **securing critical human water needs in the northern Basin**; and
- Improving water quality and meeting critical human water needs in the northern Basin **should be a key priority for the 2026 Basin Plan Review**.

RECOMMENDATIONS

17. The Authority must consider and propose amendments to the Basin Plan to ensure:
    - critical human water needs are given the highest priority water use in both the northern and southern Basin;
    - critical human water needs are always protected; and
    - there is a compliance framework that establishes an enforceable duty to ensure that critical human water needs are satisfied.

INVASIVE SPECIES

Context

A major driver of environmental decline in the Basin other than insufficient water flows is the presence of invasive species. A recent assessment of priority drivers of change for the Basin found that invasive species is one of the four 'most important drivers for the managements of water assets now and into the near future to mid-century'. The Basin is a global hotspot for invasive species.

Some programs have been established to respond to invasive species, such as reducing cold water pollution (cold water in dam releases often benefits invasive fish relative to native fish).

The relationship between water resource management and invasive threats is complex. For example, suppression *and* restoration of flows can *both* benefit invasive species of different types (e.g. suppression of natural flooding can benefit invasive plants such as willow, but restoration of floodplain connectivity can stimulate invasive fish spawning). For this reason, research and data are critical so that we can better understand the relationship between water resource management decisions and invasive threats, and ultimately take effective management decisions.

Scope to incorporate legal requirements

The Basin Plan does not currently directly regulate or require the management of invasive species. This is concerning because responding to and mitigating harm caused by invasive species is clearly necessary to achieving core objects of the Water Act – including, for example:

- protecting and restoring the ecological values and ecosystem services of the Basin; and
- giving effect to relevant international agreements – in this case, specifically the Convention on Biological Diversity (**Biodiversity Convention**).

As noted in other parts of this Guide, the Biodiversity Convention is one of the international laws that gave the Federal Government the power to make the Water Act in the first place. **Article 8(h)** of the Biodiversity Convention requires parties to 'prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species'.

We think the Basin Plan should be amended to establish requirements that could improve the regulation and management of invasive species.

Where the Discussion Paper falls short

The Discussion Paper recognises that 'managing invasive species needs targeted control, exclusion measures at breeding sites, detection, suppression and prevention efforts', as well as ongoing monitoring. However, the 'option' proposed by the Authority is extremely vague – being to '[ensure] there are multi-pronged approaches to manage invasive species such as carp'. No further information is provided to enable meaningfully critique of or engagement with the 'option'.

RECOMMENDATIONS

18. The Authority has already established some programs for reducing the impacts of invasive species. Full roll out of existing programs must be prioritised to reduce the impact of invasive species, such as reducing cold water pollution.

19. The Authority must establish a data monitoring work program targeted at invasive species (alongside other urgently needed monitoring). This program must be specifically directed at understanding interactions between water resource management and invasive species, taking into account the impacts of climate change.

20. The Authority must consider and recommend amendments to the Basin Plan to require and facilitate optimal management of invasive species, which are a key threat to Basin ecosystems.

DATA COLLECTION, TRANSPARENCY, AND REPORTING

Context and legal requirements

There have been ongoing concerns about transparency around the underlying evidence used to support government decisions since the Basin Plan started. Lack of transparency undermines good decision making, reduces government accountability, and erodes public confidence. Inadequate data collection undermines the quality of regulatory decisions.

The Water Act gives the Authority a range of important data collection and analysis functions (see the last section of this Guide). These are critical to effectively monitoring and management Basin water resources. The Authority is also supposed to share and distribute information about water resources and ecosystems, but only to the extent the Authority thinks doing so is 'desirable' (s 172(1)).

Where the Discussion Paper falls short

Inadequate data casts doubt over the Sustainable Diversion Limit assessments

The modelling used to set the original Basin-wide Sustainable Diversion Limit has never been released. Similar problems persist with the current Review. These issues make it difficult to understand and feel confident about what the Discussion Paper says, particularly about whether the Sustainable Diversion Limits are environmentally sustainable.

For example, the Authority finds that the Sustainable Diversion Limit for the Gwydir surface water unit is 'likely' to reflect an Environmentally Sustainable Level of Take. Yet at the same time, the Authority also reports that:

- there is a risk that environmental outcomes are not being met in this unit; and
- '[f]low-dependent ecosystems and species face heightened vulnerability due to reduced breeding opportunities, restricted migration, and shrinking refuge habitats during drought sequences'.

On top of this, the Authority says that its confidence in the data it has used for five out of six the environmental themes is 'low'.

The Authority has also not yet made the full hydrological modelling available or accessible. This modelling should be released in a publicly accessible format as it underpins all aspects of the Basin Plan and management, including the Sustainable Diversion Limit analysis which informs much of the Discussion Paper.

Lack of data on health of the Basin undermines the integrity of the Review

More generally, EDO is concerned the Authority has not collected adequate data to track the health of the Basin and assess whether the Basin Plan is working. Examples include the lack of a coordinated monitoring strategy for threatened species, and lack of adequate monitoring of Ramsar wetlands.

There is also an important differences between the original Sustainable Rivers Audit and the 2025 Sustainable Rivers Audit (which has been used for this Review): the 2025 version uses a different baseline. EDO is concerned that using different benchmarks makes ecosystem trends look more favorable than they actually are. (See page 30).

This difference, and the lack of comprehensive audits and monitoring during the intervening period (i.e. most of the period of implementation of the Basin Plan) casts further doubt over the Authority's conclusions in the Discussion Paper about the Sustainable Diversion Limits.

A concerning proposal to reduce reporting requirements

The Discussion Paper proposes that Basin Plan monitoring, evaluation and reporting be 'consolidated' into 5 yearly cycles, with the Authority ceasing 'low-value annual reports'.

Although there may be elements of current reporting that are 'low-value', addressing the existing shortfalls in relation to data collection, transparency, and reporting are arguably a much higher priority when it comes to the overarching objectives of the Water Act and the Basin Plan.

Our concern about any proposal to consolidate and reduce the Authority's monitoring, evaluation and reporting obligations is only amplified by the fact the Authority has still not completed the Sustainable Diversion Limit assessments that are critical to this Review.

RECOMMENDATIONS

21. The Authority must collect adequate data to track the health of the Basin and assess whether the Basin is achieving its environmental objectives.

22. The Authority must publish data sets, analyses and decision-making frameworks concerning the state of ecosystems and species of the Basin, Sustainable Diversion Limits assessments, and any other matters relevant to water take or delivery.

23. The Authority must also release its historical and current modelling underpinning Sustainable Diversion Limit calculations and assessments and future water availability forecasting under climate change.

REGULATORY DESIGN: INSPECTOR GENERAL OF WATER COMPLIANCE

Context and legal provisions

The Inspector-General of Water Compliance (**Inspector General**) was established in 2021 to strengthen accountability, integrity and public trust in the Basin Plan by providing independent oversight, investigation and enforcement.

EDO supports the Inspector-General as playing a critical role in independent oversight of compliance with the Plan (see: Analysis: Compliance boost for the Murray-Darling Basin with new Inspector-General - Environmental Defenders Office).

Part 9A, 10AA and 10AB of the Water Act sets out the core functions or responsibilities of the Inspector General as well as special compliance and inquiry powers. The Inspector General's website offers a broad, plain English overview of the Inspector General's functions and powers.

Since its establishment only a short time ago, the Inspector-General has encountered obstacles in fulfilling its functions. For example, the Inspector-General's August 2025 SDL Statement for 2023-2024 found that 'I am unable to fully assess surface water and groundwater SDL compliance in NSW', which was attributed to a range of factors including that 'the annual provision of data from the basin states to the MDBA, and subsequently from the MDBA to the Inspector-General, is too slow'.

Where the Discussion Paper falls short

The Discussion Paper says almost nothing about the Inspector-General's role and responsibilities, other than by proposing options to 'streamline' water resource plans which would reduce the scope of the Inspector General's oversight role.

RECOMMENDATIONS

24. The Inspector-General of Water Compliance plays a critical role as the independent compliance agency in the Basin. The role must be supported, including by identifying opportunities to strengthen powers of the Inspector General that could support and enhance achievement of the Basin Plan's objectives. It would be a backwards step to wind back the Inspector-General's powers.

SEVERAL COMPLEX REVIEWS ARE HAPPENING AT ONCE

We think it is important to bring to the Authority's attention the fact that several important and complex public consultation processes relating to regulation of the Basin are happening at or around the same time as this Review – in particular:

- A statutory review of the Water Act 2007 (Cth) (**Water Act**). The final report is due to the Commonwealth Water Minister by **28 February 2027**.
- A statutory review of the Inspector-General of Water Compliance. Submission have already closed and the review is to be completed by **30 June 2026**.
- The Menindee Review, which is considering the future of the Menindee Lakes System. This review also is seeking community input by **1 May 2026**.
- The Review of the Snowy Water Inquiry Outcomes Implementation Deed. The Review Panel is due to seek public feedback on draft recommendations in **June 2026**.
- The Sustainable Diversion Limit Adjustment Mechanism (SDLAM) Reconciliation, which will occur this year (2026).
- The Productivity Commission is conducting the National Water Reform 2026 inquiry; initial submissions are due **24 April 2026**. The Commission is due to report to the Federal Government by 4 September 2026.

This overlap creates a **significant barrier to participation**. This is over and above the pre-existing barrier that is created by the highly technical and complex subject matter of each of these inquiries/review.

The Basin is a matter of huge public importance. Concurrent consultation and fragmented analysis risks undermining the democratic principles that public consultation reflects.

The overlap **may also compromise quality both in public input and the review output**. This is because the separate review processes are seeking to address overlapping content and public policy issues. For example:

- The current Review does not suggest that public submissions should consider or address whether amendments should be made to the Water Act – which would presumably be addressed in the Water Act Review. However, if amendments are made to the Water Act then this may provide scope – or requirements - for additional amendments to the Basin Plan.
    - For example, the Water Act Review must 'identify opportunities under the Act to promote the principles set out in the United Nations Declaration on the Rights of Indigenous Peoples'. Is this likely to require amendments to the Basin Plan and, if so, should they have been raised for discussion as part of this Review?
- How will the Authority's position about Sustainable Diversion Limits expressed in this Discussion Paper inform the analysis in the Menindee Lakes Review? And, is it possible that outcomes of the Menindee Lakes Review could mean there are other issues that this Review should have canvassed?

RECOMMENDATIONS

25. The Authority's final Review Report should include:
    - details of the level of community engagement e.g. the number of submissions; and
    - consideration of, and comment on, whether there has been adequate opportunity for the community to participate, in the context of the concurrent and related reviews.

26. The Authority must ensure that First Nations across the Basin are properly resourced and supported to engage in the current consultation, as required by the principles of Free, Prior and Informed Consent. This includes ensuring Basin Nations can self-determine who participates and how. This is particularly important because of the multiple, concurrent reviews that raise complex legal and scientific issues.

HOW TO MAKE A SUBMISSION ABOUT OTHER ISSUES

IN A NUTSHELL

Most of this Guide talks about particular issues that EDO thinks are important to this Review.

This section of the Guide summarises provides more general information about:

- **key, overarching legal requirements that apply to this Review**;
- the **objects of the Water Act and purpose of the Basin Plan**; and
- the **Authority's identified functions or roles**.

The purpose is to help you to draft parts of your submission that relates to issues that have not been addressed in this Guide. Put broadly, if you want to make a submission about something we haven't covered, we suggest you try to explain to the Authority why the issue is important, and what the Authority can and should do about it, by thinking about each of those three matters.

THE BASIN PLAN REVIEW: IMPORTANT LEGAL REQUIREMENTS

- The Water Act says the Authority **must consider** and **report on** some **specific matters**(s 50(4A)). These are:
  - several matters that relate specifically to **Indigenous people** (see page 38); and
  - the management of **climate change risks**.
- The Water Act also says more generally that **the Authority**, when conducting its usual work, (which would include this Review) **must** (s 21(4)):
  - **take into account** the **principles of ecologically sustainable development (ESD)**;
  - **act on** the **best available scientific knowledge** and **socio-economic analysis**; and
  - **have regard to** a range of listed matters, including "social, cultural, indigenous and other public benefit issues".

The principles of ecologically sustainable development (ESD)
(a) decision-making processes should effectively integrate both **long-term and short-term** economic, environmental, social and equitable considerations;
(b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation; *This one is commonly known as the **precautionary principle***

(c) **the principle of inter-generational equity**—that the present generation should ensure that the health, biodiversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
(d) the conservation of biodiversity and ecological integrity should be a fundamental consideration in decision-making;
(e) improved valuation, pricing and incentive mechanisms should be promoted.

THE OBJECT AND PURPOSE OF THE WATER ACT AND BASIN PLAN

The Objects of the Water Act

Core objects of the Water Act include (s 3):

- giving effect to **relevant international agreements**;
- ensuring **water take is returned to an environmentally sustainable level of extraction** for water resources that are overallocated or overused;
- protecting, restoring and providing for the ecological values and ecosystem services of the Basin;
- ensuring the **use and management of Basin water resources takes into account spiritual, cultural, environmental, social and economic matters relevant to Indigenous people**, including in relation to their knowledge, values, uses, traditions and customs; and
- providing for the **collection, collation, analysis and dissemination of information** about Australia's water resources, and the use and management of water in Australia.

The Purpose of the Basin Plan

- The Basin Plan is supposed to provide for management of Basin Water resources in a way that **promotes the objects of the Water Act**.
- Among other things, the Basin Plan is supposed to (ss 20 and 21):
    - give effect to **relevant international agreements**;
    - establish and enforce an **environmentally sustainable limit** on water take;
    - **promote sustainable use of Basin water resources** to protect and restore the ecosystems, natural habitats and species that are reliant on Basin water resources and to conservate biodiversity; and
    - **take into account** spiritual, cultural, environmental, social and economic **matters relevant to Indigenous people**.

Relevant international agreements

The Water Act lists several "relevant international agreements". The following are particularly important and are briefly mentioned in other parts of this Guide:

- The Ramsar Convention.
- The Convention on Biological Diversity.
- The United Nations Framework Convention on Climate Change.

In relation to the Convention on Biological Diversity, it is also relevant to note that the Australian Government has set a national target to protect and conserve 30% of Australia's landmass, and 30% of Australia's marine areas, by 2030 (the '30 by 30' target). This aligns with Target 3 of the Kunming-Montreal Global Biodiversity Framework, under the Convention on Biological Diversity, which is to ensure that at least 30% of terrestrial, inland water and coastal and marine areas are effectively conserved and managed.

WHAT DOES THE AUTHORITY DO?

The Authority has a range of other responsibilities and powers that are critical to effectively monitoring and adaptively managing Basin water resources. These include, for example (s 172(1)):

- **Measuring, monitoring and recording the quality and quantity of the Basin water resources**. For example: flows of surface waters, levels of ground water, inflows into and volumes held in water storages, and the taking of water from the Basin water resources.
- **Measuring, monitoring and recording** the condition of water-dependent ecosystems.
- **Supporting, encouraging and conducting research and investigations** about the Basin water resources, including research and investigations.
- **Collecting, analysing and interpreting information** about the Basin water resources and water-dependent ecosystems.
- **Disseminating information** about the Basin water resources, and water-dependent ecosystems, to the extent that the Authority thinks this is desirable.
- **Engage First Nations communities** on the use and management of Basin water resources.
- Engaging and educating the Australian community about the Basin water resources.

QUESTIONS TO GUIDE YOU WHEN THINKING ABOUT YOUR SUBMISSION

The following questions could help you to think about what you want to say when drafting your submission:

- Does the issue relate to matters that the Authority **must** consider and report on, under s 50(4A) of the Water Act?
- How do the principles of ecologically sustainable development relate to the issue? For example:
  - Has the Authority used a lack of scientific certainty to delay action to respond to threats of serious environmental harm?
  - Has the Authority engaged with the importance of protecting the Basin ecosystems for the benefit of future generations?
  - Has the Authority shown that the conservation of biodiversity has been a fundamental consideration in the Review?
- Is the Authority acting on the best available science?
- Does the issue arise because of:
  - **a failure to implement** existing requirements in the Basin Plan;
  - **gaps in the Basin Plan** that need to be addressed by amending the Basin Plan; or
  - a combination of both?