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Constraints Management Strategy

The National Irrigators' Council will fully engage in all phases associated with the development and implementation of the Constraints Management Strategy

Position Statement

Statement ratified 1 October 2014

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Constraints Management Strategy

Introduction

The Constraints Management Strategy (CMS) is designed to identify and describe the physical, operational and management constraints affecting environmental water delivery and to unlock constraints to allow the 450GL of projected 'up water' (over and above the 2750GL of water for the environment to be recovered in the MDP Plan) to be delivered for environmental objectives.

NIC Principles Relevant to this Policy Paper

- Protect or enhance water property rights.
    - Characteristics of water entitlements should not be altered by ownership.
- No Negative third party impacts on reliability or availability.
    - Potential negative impacts must be compensated or mitigated through negotiation with affected parties.
- Irrigators must be fully and effectively engaged in the development of relevant policy.
- Irrigators expect Government policy to deliver triple bottom line outcomes.

Key Messages

- The NIC will fully engage in all phases associated with the development and implementation of the CMS.
- The MDBA's modelling which underpins the CMS and the recovery of an additional 450 gigalitres known as the *'Hydrologic modelling of the relaxation of operational constraints in the southern connected system: Methods and results October 2012'* makes it clear that the benefits of the additional 450 gigalitres of water will only be realised if the eight key constraints are all relaxed. If the eight key constraints cannot be relaxed within the $200 million allocated, the NIC queries the rationale for spending a further $1.57 billion to recover an additional 450 gigalitres LTAAY.
- NIC does not support compulsory acquisition of easements or any other private property
- NIC supports maximum use of environmental water which may result in achieving environmental outcomes and benefits including achieving offsets with less water and with no third party impacts.
- NIC strongly supports adherence to the statement in the Constraints Management Strategy 2013-2014 document namely:
    - *The Strategy does not put forward anything that would mean individual water entitlements would change. One of the Strategy's overarching principles is that there will be no new risks to entitlement holders.*
- While NIC supports genuine and effective engagement and consultation with local committees and communities, the CMS process must also take into account any potential broader impacts across the Basin.
- NIC submits that all activity in relation to the CMS be undertaken without negatively impacting third parties; where potential third party impacts are identified the activity should only proceed if the affected parties agree and compensation made available if negotiated.
- There appears to be no clear articulation of the environmental, social and economic benefits of the CMS.

Background Information

At the request of the Basin Ministers, the Murray Darling Basin Authority (MDBA) was commissioned to produce a Constraints Management Strategy. The Strategy is designed to identify and describe the physical, operational and management constraints affecting environmental water delivery and to unlock constraints to allow the 450GL of projected 'up water' (over and above the 2750GL of water for the environment to be recovered in the MDP Plan) to be delivered for environmental objectives.

The CMS will examine ways to ensure that the environmental benefits of returned water to the river system are maximised and the community has neutral or better outcomes – such as improved capacity to cope with flows up to minor flood levels. The Strategy will help to inform future decisions by Basin governments, who may choose to address priority constraints to water delivery, to achieve better outcomes from the use of environmental water.

To give further context to this position statement, Section 86 AA (3) of the Water Act 2007 states:

(3) The object of this Part (enhancing environmental outcomes) is to be achieved by:

(a) easing or removing constraints on the capacity to deliver environmental water to the environmental assets of the Murray-Darling Basin; and

(b) increasing the volume of the Basin water resources that is available for environmental use by 450 gigalitres.

In addition, the Basin Plan notes in Part 1: 7.08: .....*a constraints management strategy that:*

(c) evaluates options, opportunities and risks to water users, communities and the environment, associated with addressing key constraints, including through constraint measures that are relevant to measure that might be notified under section 7.12;

Basin Plan Part 2: 7.09: Adjustment of surface water SDLs for notified measures: Objective:

The objective for this Part is to allow surface water SDLs to be adjusted to reflect the effects of measures that increase the supply of water or the efficiency of water use, and are notified under this Part, so that:

(a) *for efficiency measures – environmental outcomes are increased while maintaining or improving social and economic outcomes*:

The Constraints Managements Strategy 2013-2014 document states:

In pursuing environmental outcomes through the relaxation or removal of constraints, solutions need to:

- *recognise and respect the property rights of landholders and water entitlement holders*
- *not create any new risks on the reliability of entitlements*
- *be identified in consultation with affected parties to determine if impacts can be appropriately addressed and mitigated to enable changes to proceed*
- *identify and aim to achieve net positive impacts for the community.*

The 2013 Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin noted in Section 2.2 under Roles and responsibilities:

The Commonwealth has committed to 'Bridge the Gap' between Baseline Diversion Limits (BDLs) and Sustainable Diversion Limits (SDLs) in the Basin Plan. As a result, it is intended that no water entitlements will be eroded or compulsorily acquired as a result of the Basin Plan.

<u>Timetable</u>

The Strategy timetable for phased assessment and decision making over ten years includes:

- The **overarching principles** that guide the implementation of the Strategy
- The **roles and responsibilities** of governments and communities
- A **framework and timetable** for the implementation of the Strategy encompassing three broad phases:

1. Pre-feasibility *(to the end of 2014 to involve consideration of the focus areas including community consultation followed by development of reach reports on each area)*
2. Feasibility (to June 2016), and
3. Implementation (until 2024)

- The key steps in phase 1 (pre-feasibility) outlining the issues to be considered and methods to be used in completing the pre-feasibility analysis
- The action plan or next steps for each of the seven key focus areas in the Basin identified as worthy of further consideration
- An overview of the Basin's river management practices, canvassing their impact on the ability to deliver environmental water.

CMS Focus Areas *(Pre-feasibility phase)*

The seven focus areas in the Basin identified where the relaxation of constraints needs detailed consideration are:

- Hume to Yarrawonga (Upper Murray)
- Below Yarrawonga to Wakook Junction (Mid-Murray)
- Goulburn
- Murrumbidgee
- Lower Darling
- Gwydir
- South Australia (Lower Murray).

The MDBA website in relation to the *Hydrologic modelling of the relaxation of operational constraints in the southern connected system: Methods and results* which underpins the CMS states*:*

> *"In June 2012 the Ministerial Council asked the MDBA to model a 3200 GL/y environmental water recovery scenario assuming that several river operating constraints were removed or "relaxed". The Authority had previously completed modelling of three different amounts of water recovered for the environment (2400, 2800 and 3200GL/y). During this work it became clear that river operating constraints impact on achieving certain environmental outcomes, particularly for mid and high floodplain environments in the southern Basin.*
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> *"The MDBA has completed two 'relaxed constraints' scenarios where eight key river operating constraints relaxed in the southern connected system with water recovery of 2800 and 3200 GL/y. The constraints relaxed modelling confirms the MDBA's previous assessment that increasing the SDL to 3200GL/y without changing some of the restrictions on environmental watering will achieve few additional benefits. The results showed that relaxing constraints with 2800GL/y delivers modest benefits including higher peaks and longer durations for environmentally important flow events. This means larger areas of floodplain would receive water for a longer period. It would also mean more high flow days per year, refreshed floodplain ground water systems and increased flushing of salt from the system.*
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> *"The modelling found that the combination of relaxing constraints and an additional 400GL could achieve 17 out of 18 targets for the River Murray compared to 13 under current constraints. The findings also show that higher flow peaks of a longer duration could be achieved in the southern basin and more frequent inundation of the mid to high level floodplain below the Murray–Darling junction would occur (an additional 30,000ha). Furthermore, four of the previously unmet high flow targets for sites such as Gunbower-Perricoota-Koondrook forest and Riverland-Chowilla floodplain would be met and there would be improved health of red gum and black box woodlands.*
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> *"The feasibility of relaxing constraints will be investigated through the development of a constraints management strategy under the Basin Plan. Many of these constraints are complex to address and will require state agreement and high levels of collaboration. Furthermore, the potential social and economic impacts of additional water recovery mean*

that there are important considerations to be addressed before the anticipated benefits of the modelled results can be delivered in the Murray–Darling Basin."

The question that the Government or MINCO has not answered is if the eight constraints cannot be relaxed and the additional environmental benefits won't be realised then why are they going ahead with recovering an additional 450 gigalitres of water over and above the 2750 gigalitres which is needed to 'bridge the gap'.

The Parliamentary Secretary for Water, Senator Simon Birmingham was reported in relation to any potential rules changes associated with the CMS in The Land and on the ABC on 15 October 2013:

Senator Birmingham has ruled out the compulsory acquisition of land for easements, and has also assured irrigators the security of their water entitlements won't change.

'What the Authority has flagged is that they want to have a look at some of the rules of how the system works,' Senator Birmingham said.

'Now I'm not against looking at the rules. But very importantly, and it's not just the position of the Government, the MDBA itself has made clear that the strategy will not create any new risks to the reliability of water entitlements.

'I will hold them to that 100 per cent, that's the word of the Authority and I take them at their word. But we will also be making sure at the government level that irrigators' rights are not undermined in any way.'