

Mr. Steve Goudie,  
DNR&M  
PO Box 318  
Toowoomba,  
Qld 4350

2<sup>nd</sup> February 2004

Dear Steve,

**Re: Submission on the Draft Water Resource Plan for the Condamine – Balonne catchment of the Queensland Murray Darling Basin.**

The Australian Conservation Foundation (ACF), Inland Rivers Network (IRN), Nature Conservation Council of NSW (NCC), Queensland Conservation Council (QCC), Toowoomba & Region Environment Council Inc. (TREC), and the World Wide Fund for Nature (WWF) [hereafter the 'Environment Groups'] would like to thank you for the opportunity to comment on the Draft Water Resource Plan for the Condamine – Balonne catchment.

Our submission has been prepared with legal advice from the Environmental Defenders Office (Qld) Inc. and approximately follows the format of the draft Water Resource Plan. It includes recommendations and comments on issues that we believe require further consideration and development. They are dealt with under the following headings:

- Underlying principles for the Environment Groups' submission
- Adaptive management
- General comments on the Overview Report for the Draft Condamine – Balonne Water Resource Plan
- Part 3: Outcomes for sustainable management of water
- Part 4: Performance indicators and objectives
- Part 5: Strategies for achieving outcomes
- Part 6: Monitoring and reporting requirements
- Part 7: Implementing the Plan
- Part 8: Minister's report and amending plan

These issues are expanded upon in the following pages. Please contact Ms Sarah Moles, WWF's Wetlands Conservation Officer on 07 4666 6125 or [smoles@wwf.org.au](mailto:smoles@wwf.org.au) should you have any questions regarding this submission.

Yours sincerely,

Phillipa Walsh  
Director of Conservation  
For The Environment Groups.



Queensland  
Conservation  
Council

## **Underlying principles for this submission**

The Environment Groups believe that the Water Resource Plan must be consistent with the purpose and objectives of the Water Act 2000, as well as agreements made by the Council of Australian Governments (CoAG) under the National Competition Council (NCC), including the Water Reform Policy process.

The NCC CoAG Water Reform Policy states: *“In relation to water allocations or entitlements, where they have not already done so, States would give priority to formally determining allocations or entitlements to water, including allocations for the environment as a legitimate user of water.”* ((4)(b) p105, Part 2, Agreements on Related Reforms, Compendium of Competition Policy Agreements, 2<sup>nd</sup> edition, 1998)

The 1994 Council of Australian Governments (CoAG) Water Reforms Framework states that *“...the environmental requirements, wherever possible, will be determined on the best scientific information available... In cases where river systems have been over-allocated, or are deemed to be stressed, arrangements will be instituted and substantial progress made... to provide a better balance in water resource use including appropriate allocations to the environment in order to enhance/restore the health of river systems.”* (Attachment A (4)(d)).

The Environment Groups understand that the nature of Queensland’s legislation makes it difficult to specify an environmental allocation. We therefore suggest that the Draft WRP strengthens the security of environmental flow provisions and provides specific links back to the ecological outcomes specified in s8(h)(i-ix). We believe these need to be statutory requirements in the WRP. See recommendations at Part 4.

## **Smart Targets**

The Environment Groups believe the application of the SMART principle is essential in developing an effective WRP. This means clauses are:

### **Specific**

within the sphere of influence.  
expressed in biophysical terms.

### **Measurable**

clearly defined. For example, targets with percentages. Where qualitative words are used a definition should accompany them.  
relative to an existing baseline or trend.

### **Achievable**

within the bounds of realistic resourcing, ensuring that monitoring, capability and commitment are available.

### **Relevant**

consistent with relevant legislation and strategies.

### **Timebound**

defined within a delivery date

We believe these will enhance the scope of the clauses and their ability to achieve the ‘SMART’ objectives.

### **Adaptive Management**

The Environment Groups believe that water management needs to be sufficiently adaptive to natural and human induced changes, in order to maintain our water resources in an acceptable state for current and future generations. The development of adaptive management systems and research to improve understanding of riverine, floodplain and wetland ecosystems is essential to their management.

Basing environmental requirements on the best available scientific information and regular review of environmental flow provisions is essential for ensuring that the *Water Act 2000* objectives of protecting and restoring aquatic ecosystems are implemented. (s10 (2)(c) (iv) ) The Environment Groups support the proposed links between the Condamine – Balonne WRP and the CRC Northern Laboratory’s Narran Lakes research project.

The CoAG Water Reforms Frameworks also states that “... *jurisdictions would consider establishing environmental contingency allocations which provide for a review of the allocations five years after they have been determined*”. (Attachment A (4)(e)). The Environment Groups strongly support the provision to review the WRP after 5 years as a significant improvement over the 10 year review specified in previous WRPs. We believe such flexibility is essential in the face of possible reductions in available water, likely to arise from climate change or other catchment/landuse practices that may increase water use.

The Environment Groups note that the Draft WRP does not contain provisions for specified amendments relating to environmental water or the impact of a significant water quality incident. It is imperative that the WRP is sufficiently adaptive to anticipate and prevent over-extraction and contamination and adequately deal with contingencies should they occur.

### **General comments on the Overview Report for the Draft Condamine – Balonne Water Resource Plan**

#### **Section 1.2. Ecological Condition.**

The Environment Groups note that the Scientific Review Panel “*found that the rivers and wetlands of the Lower Balonne system are presently in a reasonable ecological condition, but this condition is expected to deteriorate if the present capacity to extract water from the system should actually be exercised.*” (p10, Draft WRP, emphasis added.)

The Environment Groups also note that the Draft WRP proposes no net increase in the volume of water to be extracted from the Condamine-Balonne system. Given that Cullen *et al* expect the condition of the rivers and wetlands to deteriorate if the present extraction capacity is exercised, the Environment Groups contend that ‘no net increase’ is insufficient to protect ecological values and is therefore inconsistent with the purpose and objectives of the Water Act 2000.

The Environment Groups understand that the current storage capacity on the Lower Balonne Flood Plain is approximately equal to (within 100,000 ML) the annual average discharge as measured at the NSW / Qld border.

Whilst we acknowledge the Draft WRP for the Condamine-Balonne is moving away from the mean annual flows approach to river management, we are nevertheless concerned that operationalizing the existing levels of extraction and storage capacity will institutionalize the degrading effects of current levels of development. We advocate taking the opportunity to work towards immediate improvement of the ecological condition of the floodplain by making ‘across the board’ reductions to entitlements prior to the completion of the WRP process.

### **Section 2.1. Community Consultation.**

The Environment Groups understand that Ministerial Advisory Councils were established for the upper and middle reaches of the system, while a Community Reference Group was appointed for the Lower Balonne Floodplain.

We further understand that with respect to the Lower Floodplain, working groups comprising members of the CRG were established to:

- build stakeholder understanding of floodplain values and functioning;
- contribute advice and ideas to DNR&M regarding the draft WRP; and
- ensure co-operation and information exchange between the CRG, DNR&M staff and scientific experts and researchers providing the best available and most up-to-date data for planning purposes.

The Environment Groups congratulate the Department of Natural Resources and Mines for the thorough consultation and receipt of community ideas and advice that took place within the Condamine-Balonne catchment during the process of WRP development.

### **Section 2.3 Implementation through the ROP**

The Environment Groups support the opportunity for all interested parties to make submissions on the draft ROP. We look forward to putting forward our ideas on water sharing and trading rules, as well as environmental flow arrangements.

### **Section 2.5. Establishment of MDBC Cap.**

The Environment Groups are strongly in favour of metering all extractions in the Condamine-Balonne catchment, including the harvesting of overland flow water. This data is essential to monitoring of the MDB Cap as well as the implementation and auditing of the WRP.

The Environment Groups support the application of penalties for non-compliance with water license terms and conditions. We believe that reductions in access entitlements provide a far greater incentive to comply with license conditions than financial penalties.

The Environment Groups also support review and / or revision of water sharing or water management rules in the event of actual extractions exceeding predictions. We understand that this could mean a review or revision could be triggered prior to the planned five year review.

### **Section 3.1. Event-based Environmental Flow Management and Water Sharing Rules.**

The Environment Groups are concerned that large flow events are deemed to be ‘less environmentally important’ than low flow events. (p 18, Draft WRP)

The Environment Groups believe that ALL flow levels are important, with different flows being important to different parts of the system. (e.g. low flows - in-stream biota and channel

maintenance; medium flows – benches and floodplain billabongs; high flows – floodplain vegetation communities).

We support the use of water diversions and storage works to maximize the efficiency of environmental water, but believe the floodplain itself should also be a recipient of environmental flows.

We note the concerns of floodplain graziers that the loss of high flow events over the past decade has caused pasture and productivity declines and a trend towards thickening of the woody shrub layer.

The most recent event (January 2004) highlights the concerns we share with graziers on the Lower Balonne Floodplain. We understand that in 1994, a peak discharge of approximately 65,000ML at Jack Taylor Weir resulted in a river height of 5.76 metres at the Brenda gauge and the inundation of some 24,000 hectares of Culgoa floodplain at Brenda Station on the Qld/NSW border. (P. Petersen, pers.comm) The peak discharge for the most recent event (January 2004) was 75,000 ML, yet no water broke out of the river and no floodplain inundation occurred on Brenda Station, nor in downstream areas. We believe this is almost entirely due to the extent of water harvesting along the Culgoa River.

The Environment Groups believe this provides graphic evidence of the impact of water harvesting on the Lower Balonne Floodplain, as well as the urgent need for reductions in all water harvesting entitlements to ensure continued ecosystem functioning and to prevent irreversible damage. Such action would be consistent with the Precautionary Principle and the purpose of the Water Act 2000. It is also economically sound: it is considerably cheaper to prevent damage to natural infrastructure than it is to repair it.

### **Section 3.2. Cap on total Level of Water Extractions.**

With the exception of the specific exemptions listed, the Environment Groups do not believe the WRP should allow for any increase in the amount of water authorised to be taken in the plan area. In particular, we strongly oppose any increase in the taking of overland flow water and believe it essential that a rigorous and transparent process links the WRP and requirements under the *Integrated Planning Act 1997*.

### **Section 3.3. Conversion of Licenses to Water Allocations.**

The Environment Groups note that the Condamine-Balonne community has made a concerted effort to allow sleeper licenses to come on-line with no increase in overall extractions. We support the notion of a sunset clause for development of these licenses, but believe that if the timeline expires before a license is activated, then the license should be cancelled outright and not re-allocated anywhere in the system. Rather, this water should be returned to the environment.

### **Section 3.4. Development of Water Trading Rules.**

The Environment Groups note that tradable allocations may result in water being directed to higher value uses. We believe there is an underlying – and false – assumption inherent in this point. Higher value uses of water are more economically efficient, but not necessarily environmentally beneficial. (Isaacs 2002)

The Environment Groups note that conditions may be imposed on traded water for social or economic reasons. We believe such conditions should apply for environmental reasons. We therefore support the establishment of rules that ensure consistency with Environmental Flow Objectives and conditions such as restricted access to protect natural features such as waterholes or lakes.

The Environment Groups strongly support the requirement for approved land and water management plans for use of traded water

### **Section 3.5. Integration of Overland Flow Management.**

The Environment Groups find the distinction between Type A (no downstream impact) and Type B water (downstream impact) difficult to reconcile and unnecessarily complex. We are concerned by the sheer volume of overland flow water that is extracted from the Condamine-Balonne system. This water is essential for floodplain functioning, including maintaining floodplain pastures, bushland communities, wetlands and downstream users. We strongly believe that substantial cuts should be made to all overland flow entitlements, to secure the long-term health of the floodplain before irreversible damage is done. This should be done prior to the completion of the WRP so that compensation is not required.

The Environment Groups strongly support the regulation of overland flow water for irrigation purposes in the draft WRP.

We strongly support the measurement (metering) of overland flow water.

The Environment Groups also support the non-tradability of overland flow water.

### **Section 3.6. Monitoring, Assessment and Reporting Systems.**

The Environment Groups believe there is a need for a clear understanding of the probable (or desirable) ecological consequences of the plan. These should be statutory requirements and detailed in Part 3 ‘ecological outcomes’ of the WRP. As presented in the Draft Plan, the ecological outcomes are poorly defined. The Environment Groups are concerned that this will make it difficult to accurately assess whether the WRP is achieving its objectives.

The Environment Groups recognise that the Draft WRP is breaking new ground in river management and that rigorous monitoring will be required to evaluate the new approach. We are concerned that the resources required to adequately monitor the efficacy of the plan will be significant and beyond the budget available to the Department of Natural Resources & Mines.

Environment Groups support the proposed 5-year report on:

- the accuracy of stream flow gauging;
- implementation of the WRP;
- appropriateness of Performance Indicators;
- effectiveness of event management rules; and
- progress in research activities into Narran Lakes and the Culgoa Floodplains National Parks’ vegetation communities.

We particularly support monitoring of the condition of natural ecosystems and the development of real time monitoring systems to underpin proposed event management arrangements.

The Environment Groups strongly support metering of all volumes taken by all water licenses and water allocations, including overland flow extractions. This is essential for demonstrating compliance with the MDB Cap

### **Section 3.7. Formation of Water Advisory Councils.**

The Environment Groups support the proposed establishment of Water Advisory Councils, particularly with respect to the Lower Balonne for the implementation of event management rules.

We believe it will be essential for this body to have broad geographic representation as well as access to a comprehensive set of skills. Experts in ecology and water management from both Queensland and NSW should be involved. Equitable representation by community stakeholders will be essential to countering perceptions of bias.

Finally, the Environment Groups believe that the process by which it was agreed to allow sleeper licenses in the Lower Balonne to develop up to the 30<sup>th</sup> percentile should be covered in the Overview report. We regard transparency as an essential requirement.

#### **Comments on Supporting Documents – Upper and Middle Condamine MAC Proposals.**

The Environment Groups do not support a new allocation of 40,000 ML in the middle reach of the Condamine-Balonne. Further allocations would come at the expense of the reliability of existing users, including the environment, which is not acceptable.

We believe a 2 year timeframe for the development of sleeper licenses (on a ‘no net increase in extractions’ basis) is generous and reasonable. We strongly recommend that undeveloped licenses be cancelled and not re-issued after this time has elapsed.

The Environment Groups vigorously oppose any development of new in-stream structures in the Condamine-Balonne system.

## **COMMENTS ON THE DRAFT WRP**

### **Part 3: Outcomes for sustainable management of water**

‘Ecological outcomes’ means a consequence for an ecosystem in its component parts specified for aquifers, drainage basins, catchments, sub catchments and water courses. All water resource plans must state outcomes, including *ecological outcomes* for the sustainable management of water.(definition, Water Act 2000)

Thus the consequence for an ecosystem must be in accordance with the concept *sustainable management*, the key part of the purpose of Chapter 2 of the Water Act 2000.

*Sustainable management* is management that-

1. allows for the allocation and use of water for the physical, economic and social wellbeing of the people of Queensland within limits that can be sustained indefinitely; and
2. protects the biological diversity and health of natural ecosystems; and
3. contributes to-(*a list of 9 actions*).

Thus sustainable management means that protection of biological diversity and health of ecosystems must occur, AND indefinitely sustainable use of water AND some contribution (which may fall short of full achievement) is made to each of the nine listed actions.

The definition of sustainable development excludes water use that cannot be sustained indefinitely and excludes economic development that is not within the principles of ecologically sustainable development.

The Environment Groups are concerned with the approach taken in the draft WRP for the Condamine - Balonne for several reasons:

Part 3 s 8 states that “*Water is to be allocated and managed in such a way that seeks to achieve a balance in the following outcomes.*”

The term ‘balance’ is not quantified, making it impossible to understand what the ecological consequences of the plan might be.

Part 3 s8 then goes on to list outcomes (a) to (p) of which (h) mentions ecological outcomes and contains 9 examples of those. Other outcomes include

*to make water available to sustain current levels of and to support future growth in , economic activity in the plan area while recognizing the social and cultural values of communities in the basin.*

The Environment Groups believe that the outcomes should not be balanced against each other. This is contrary to a proper interpretation of the purpose statement of Chapter 2, Water Act 2000, which clearly gives priority to the protection of biological diversity and ecosystem health over other outcomes. Sustainable management is not the same as ecologically sustainable development as that term is loosely described.

The environmental flow objectives do seek to protect the health of natural ecosystems and achieve the Plan’s ecological outcomes for the catchment. There is however no attempt to suggest means or strategies of going beyond those outcomes to achieve improved ecological sustainability.

The Environment Groups believe that there should be reasonable grounds to believe that the strategies in the WRP will deliver the desired ecological outcomes for the Plan. We are concerned that the outcomes stated in s8(h) (i) – (ix) and s8(l) and s8(m) of the draft WRP are too general to achieve the purpose of the Water Act 2000. The majority of these outcomes refer to ‘maintaining’ or ‘improving’ particular habitats or ‘reducing’ the adverse impacts of degrading processes. While the outcomes are clear in their objective, there is no defined meaning within the Plan for ‘maintain’, ‘improve’ or ‘reduce’. The current draft could permit the degradation or destruction of eg. some pool habitats, on the grounds that the use of the water contained therein would not impact on the health of the total river or the total riverine environment. The Environment Groups are concerned that DNR&M would find such an argument difficult to defend.

The environmental flow objectives are based on a 5-year period following the commencement of this plan. It is reasonably foreseeable that some outcomes may not be able to be attained within a 5-year period. In the event that some outcomes are not met within the 5-year period, provisions should ideally be made for appropriate actions to be taken to ensure that those outcomes are achieved.

The Environment Groups believe that the ecological outcomes must be made more specific and relate expressly and directly to features in the plan area. We suggest that ecological outcomes be defined as trajectories of continuous improvement – an approach consistent with recommendations by the CRCFE at the River Health Forum in Dalby, May 2001. The Environment Groups suggest consideration of the following examples as desirable ecological outcomes for the Condamine - Balonne catchments:

- that the condition and extent of all wetland types in the Plan area is maintained or improved.
- Riverine waterholes and permanent/mostly permanent waterholes are maintained as permanent/mostly permanent.

- Frequency and extent of connectivity between the river and floodplain wetlands is maintained.
- Abundance, diversity and opportunities for recruitment of native fish are maintained.
- Hydrological variability is maintained, including flood duration, frequency, amplitude, seasonal timing, rate of rise and fall, and extent of floodplain inundation.

We would welcome the opportunity to be involved in the development more specific ecological outcomes for the Plan area.

*Recommendation:*

*That s8 be amended to read: 'The outcomes for the plan area are:'*

*That a list of ecological outcomes, related to specific features in the WRP area be developed in consultation with appropriate ecological experts and listed under s8 as worded above.*

*That the terms 'maintain', 'improve' and 'reduce' be defined in Schedule 5.*

#### **Part 4: Performance indicators and objectives**

The Water Act 2000 defines “performance indicator” as: “a measure that can be calculated and is stated in a water resource plan to assess the impact of an allocation and management decision or proposal on water entitlements and natural ecosystems.” (p386 Water Act 2000, Reprint No 2)

The Environment Groups believe that the performance indicators ('low flow', summer flow', etc) have little or no ecological relevance. We understand they are derived from preliminary statistical associations with no firm conceptual basis in ecology. We are concerned with the underlying assumption that improvement in flows will deliver better ecological outcomes, when there are no related ecological indicators against which to measure this.

Performance indicators for EFOs need to relate to specific features in the Plan area. We recognise that the event management rules for the Lower Balonne are moving in this direction, but specific features in the Plan area are needed for the Middle and Upper catchments. We suggest that the riparian forest from Pratten to Macalister, and floodplain wetlands and billabongs along the middle reach are appropriate ecological assets and specific features which could be included in monitoring and assessment frameworks.

The Environment Groups are also concerned that the relationship between performance indicators and environmental flow objectives is extremely and unnecessarily complicated. We understand that a performance indicator is usually a meaningful number. The performance indicators presented in s9 (a)-(e) appear to be elements of an equation, the workings of which will define the environmental flow objectives. We believe that the reverse should be the case (i.e. that a formula that includes the environmental flow objectives should determine the performance indicators, which should be presented as meaningful numbers).

Even with reference to the Dictionary provided at the end of the Water Act 2000, it is difficult to calculate the EFOs. The Ecosystem Principles developed by ARMCANZ states that accountability is an important factor. We suggest that performance indicators and EFOs should be defined in the WRP and given with details that make the information more accessible to the public and which therefore encourage accountability. A table format could be useful in this regard.

The EFOs and WASOs as set out in Part 4 do appear to have regard to recent scientific information. The critical indicators that are referred to have been adapted from *Watershed, CRCFE, February 2002*.

The Environment Groups understand that for some key hydrological indicators, 66% natural flow is inadequate. The Cooperative Research Centre for Freshwater Ecology's Expert Reference Panel for the Murray River system note that analyses carried out by the Technical Advisory Panel for the Condamine-Balonne and Fitzroy Basin WAMP "clearly identify that for a range of key hydrological indicators, assessed across several Australian river systems, the limit for an increased risk of unacceptable environmental degradation (environmental flow limit) generally lies within the range of 65 - 75% natural"<sup>1</sup>.

To permit flows to fall below 66% would therefore be inconsistent with the purpose of Chapter 2 of the Water Act 2000. We further understand that there is no basis for an upper limit of 133%. We would welcome an opportunity to discuss this issue.

The Environment Groups understand that in the neighbouring Border Rivers Catchment, one of the performance indicators is an end of system flow of at least 61% of the pre-development flow pattern. While this indicator will benefit mostly NSW, it would also be of benefit to the catchment generally. This is more specific than the EFOs in the Condamine - Balonne. The Environment Groups suggest that a percentage should also be set for the Condamine-Balonne.

The Environment Groups are concerned that s10 (Environmental Flow Objectives) and s11 (EFOs (assessing impact of decisions)) will not implement strategies for progressive improvements. Environment Groups believe that the WRP should contain obligations for progressive improvement in EFOs. This would be consistent with the policy intent and purpose of Chapter 2, Water Act 2000. We suggest that trend information could be useful in this regard, making it possible to assess the predicted effects of the Plan against those actually resulting from its implementation, and whether the environment is actually a recipient of more water.

The Environment Groups believe that s10, (Environmental flow objectives) is poorly worded and the meaning uncertain. We are concerned that use of the term 'not less than the lesser of' is inconsistent with the Precautionary Principle; and that the words 'be minimised' will be interpreted subjectively. These weaknesses could institutionalise current levels of development when legitimate opportunities to restore environmental flows exist and should be taken to protect riverine health. Furthermore, these weaknesses make the assessment process uncertain and subject to challenge by consumptive users.

The Environment Groups believe that s11, Environmental flow objectives (assessing impact of decisions) is complicated, poorly worded and the meaning vague and uncertain. We believe the current phrasing will make it difficult to determine

- clear cut entitlements and access conditions for irrigators;
- whether environmental flow objectives are being met; and
- whether operating rules are adhered to.

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<sup>1</sup> *Independent Report of the Expert Reference Panel on Environmental Flows and Water Quality Requirements for the River Murray System*

Prepared for the Environmental Flows and Water Quality Objectives for the River Murray Project Board, Cooperative Research Centre for Freshwater Ecology, February 2002, accessed at <http://www.mdbc.gov.au/naturalresources/e-flows/pdf/ERPreport.pdf>

The Environment Groups believe that the WRP must clearly state environmental flow objectives so that there is no room for misinterpretation. A list of proposed habitat, biological, physical and chemical performance indicators is included in Appendix 1.

*Recommendation:*

*That the words “be minimised” be deleted from s 10(a) and (b).*

*That s11 be reworded to clarify its meaning and strengthen the security of environmental flow objectives.*

## **Part 5: Strategies for achieving outcomes**

s16 (1) of the Draft WRP states that “the chief executive must not make a decision that would increase the average total volume of water that may be taken annually in the plan area.” No timeframe is provided to indicate how the ‘average’ is determined. The Environment Groups believe this must be specified for clarity.

The Environment Groups advocate consistent legislative and policy frameworks, co-ordinated across all aspects of government business. We believe that it is unacceptable to increase the total volume of water that may be taken if environmental flow objectives will be compromised.

The Environment Groups believe that all decisions must be consistent with the objectives of the WRP. We fail to understand why decisions relating to event-management in the Lower Balonne should be an exception and recommend that s17(3) be deleted.

S19(2) appears to contain drafting errors. The Environment Groups propose rewording this clause as recommended below

The Environment Groups note that the catchment community has made efforts to allow sleeper and dozer licenses to develop without increasing total extractions. We believe s23(2)(e) is too broadly defined and needs to relate back to the specific ecological outcomes specified at s8(h)(i-ix) in order to strengthen those purposes. This is consistent with the finding in the case Friends of Springbrook Vs Gold Coast City Council and Stone, which found broad outcomes to be insufficient to ensure ecological outcomes are achieved.

Furthermore, while we support the ‘sunset’ clause on the development of sleeper licenses, we believe those licenses that are not developed within the timeframe should be cancelled. We recommend the addition of a clause 23(3) to facilitate such action.

The Environment Groups believe s25 should be linked back to the ecological outcomes stated at s8(h)(i-ix) in order to strengthen the achievement of those outcomes.

S25(3) reduces by 5% the maximum rate for taking unsupplemented in the Lower Balonne. We understand that this reduction facilitates the development of sleeper and dozer licenses in the Lower Balonne up to the 30<sup>th</sup> percentile with no net increase in overall extractions.

S33(1) then allows entitlement holders in the Lower Balonne to take 5% more than the maximum rate for taking water stated on their entitlement for the first 5 years of this Plan. S33(2) states that s33(1) expires 5 years after the commencement of this Plan. We question the need – and indeed the wisdom – of such temporary, transitional arrangements. All stakeholders in the Lower Balonne (and indeed the whole Condamine-Balonne) are well aware of the water planning process and those new arrangements, including adjustment to entitlements, are likely. We believe the effect of s33(1) will be to delay the implementation of adjusted entitlements. Furthermore, we are deeply concerned that such temporary arrangements will undermine the usefulness of monitoring programs established to assess the efficacy of the WRP.

S27 should define the volumetric limit for unsupplemented water in the upper and middle reaches of the catchment. S27(a) and (b) cover the social and economic outcomes, but not the ecological outcomes stated in s8. We believe that requiring the chief executive to have regard to the matters identified in s8(h)(i-ix) will improve the capacity of the WRP to achieve its ecological outcomes and the purpose of the of the Water Act 2000..

S28(4) does not limit the matters the chief executive may consider. We believe this is another clause that is too general and needs to be specifically linked back to the ecological outcomes stated in s8(h)(i-ix).

The Environment Groups oppose the construction of further in-stream structures in the Condamine-Balonne catchment. We accept that modifications may be required to existing infrastructure, and recommend that consideration be given to removing existing works to improve environmental flows.

The Environment Groups welcome the inclusion of clauses that specify purposes for the management of low and medium flows and the filling of Narran Lakes to support bird-breeding events.

As noted elsewhere in this submission, the Environment Groups share the concerns of graziers on the floodplain regarding the total volume of water extractions in the Condamine-Balonne catchment. We acknowledge that the Draft WRP attempts to move towards more sustainable use and management of water, but are concerned that the Draft provisions may be too little, too late. For this reason we believe more specific reductions in water harvesting must be made, and advocate the deletion of terms such as ‘up to’ and ‘up to a maximum period of’. We believe such terms are weak, discretionary and may be subject to individual interpretation by water harvesters. This may hinder the achievement of the purposes of sections 37 – 39.

The purpose of s38 does not make it clear that the rule is intended to reduce the impacts of water harvesting on country naturally flooded under pre-development flow patterns. See recommendation for re-wording below.

The Environment Groups understand that irrigators on the Lower Balonne floodplain agreed that the flow event management rules for filling Narran Lakes would apply to all water harvesters on all distributary streams, not just those on the Narran River. (S. Moles, pers comm.) We commend this agreement and co-operation. We understand the rationale was one of equity as well as addressing protection of the ecological asset identified by Cullen et al – ie. ‘the biota of rivers and distributary channels of the Lower Balonne and their associated wetlands.’ The Environment Groups believe that s 39 should be amended to make it quite clear that all distributary streams are subject to this rule.

The Environment Groups note that Cullen et al identified the National Parks of the Culgoa Floodplains as critical ecological assets on the Lower Balonne floodplain. We believe that the event management rules should also address the management of high flow events, with the purpose of a high flow rule being to maintain the floodplain vegetation communities of the Culgoa Floodplain National Parks. Whilst acknowledging that high flows provide compensation for allocations foregone under s37-39, we believe maintaining these ecological assets may require specific management intervention for some high flow events. We believe specific provision must be made targeting this need. Therefore, a new clause must be inserted, linked to the reporting requirements in s 55(2)(d), to address high flow management and the vegetation communities of the Culgoa Floodplain National Parks.

The Environment Groups welcome the inclusion and regulation of overland flow water in the Draft WRP and support the assessment process with a clear cut-off date, for the notification of existing works. Without such a timeframe, there is no motivation for landholders to notify the Department of their works. Furthermore, there should be provision for the Department to place conditions on these works to meet environmental objectives. We support the assessment of overland flow works as assessable development under IPA 1997, so that impacts on eg. wetlands and riparian zones, are properly assessed.

S45 is designed to allow DNR&M to license the harvesting of overland flow water “if the chief executive is satisfied there has been, or may be, an increase in the average annual volume of overland flow water taken using the works, above the average annual volume that could have been taken under the operating arrangements in place immediately before the commencement of this plan.”

We believe this section is open to challenge and uncertain in its operations. No starting point in time is indicated in the Draft WRP, from which to judge any increase. Without a clear starting point, we fail to understand how the chief executive would determine whether more overland flow water is actually being taken.

The Environment Groups therefore suggest that some presumptions need to be written into the WRP to make it easier for the chief executive to license overland flows. The chief executive might have absolute discretion to license overland flow water up to the average annual volume taken before commencement of the WRP. It could then be the water user’s responsibility to prove how much was taken at the commencement of the WRP, not up to the chief executive to prove that amount was taken. For new works, the user could provide evidence of eg date of construction of works, or be presumed to have initiated such works after the commencement of the WRP.

The Environment Groups support the provision in the Draft WRP for the ROP to reduce the volume of overland flow water taken to meet the objectives and outcomes of the Plan. However, we believe s46(1)(d) is discretionary and needs amending to strengthen the Plan.

s 45 (2)(b) The Environment Groups are concerned that average annual volumes are not useful as conditions on overland flows, as these flows are not annual events. We believe the conditions should be referenced around some other more relevant criterion and would welcome an opportunity to discuss this further.

Sections 46 and 47 – are confusing and may be mutually exclusive. Ie. if s 46 applies then s 47 does not and vice versa. s 46 has general application and s 47 applies to the Lower Balonne. All the criteria in 46(1) (d) which refer to the volume of water available for sharing should also apply to s 47.

*Recommendation:*

*That s16(1) be amended to clarify the term ‘average volume’ by including the word/s (e.g.) ‘annual’ or ‘over the life of this Plan’ as appropriate.*

*That s 17(3) be deleted.*

*That s19(2) be amended to read: “In assessing a change in allocation and calculating the decision’s consistency with the water allocation security objectives, the performance indicators are calculated on the basis that the water allocation is not part of the allocation group to which it is being added, or from which it has come.”*

*That s23(2)(e) be amended to include each outcome contained in s8(h)(i-ix).*

*That an additional clause 23(3) be added stating that “Sleeper licenses that are not developed within 2 years of the commencement of this Plan will be cancelled and not re-allocated.”*

*That s25(4) be amended to read “The chief executive must have regard to the outcomes stated at s8(h)(i-ix) of this Plan.*

*That s27 be amended to define the absolute volumetric limit to taking water in a given year.*

*That a new sub-clause (c) be added to s27 stating “the ecological outcomes stated in s8(h)(i-ix).”*

*That s28(4) be amended to specifically include the ecological outcomes stated in s8(h)(i-ix).*

*That s30 be amended to read “modifying or removing works for improving the passage through the watercourse system of environmentally significant flows.”*

*That s33(1) and s33(2) be deleted.*

*That the words “up to a maximum period of 5 days” be deleted from s37(3)(b)(i)(A).*

*That the words “up to” be deleted from s 37(3)(b)(i)(B).*

*That the words “up to” be deleted from s37(3)(c).*

*That s 38(1) be amended to read “The purpose of the rules for the management of medium flow events is to reduce the impact of water hater harvesting on the area naturally flooded by medium flow events under pre-development flow patterns.*

*That the words “up to a maximum period of 5 days” be deleted from s38(2).*

*That the words “and to protect the biota of the rivers and distributary channels of the Lower Balonne and their associated wetlands” be added to s 39(1).*

*That the words “up to a maximum period of 10 days” be deleted from s 39(2 and s 39(3)*

*That a new s40 be inserted to manage high flows, with the specific purpose of maintaining the vegetation communities of Culgoa Floodplains National Park.*

*That s45(1)(b) be rewritten to reflect the words used in s38(4) of the Water Act 2000..I.e: “The Chief Executive is satisfied that there is a risk that the taking or interfering with overland flow water in the Plan area may significantly affect ... “ (add all facts in s38(4)(b) (i) to (iii) of the Water Act 2000.*

*That the word “may” be replaced with the word “must” in s 46(1)(d).*

*That s 47 be amended to include the criteria listed in s 46(1)(d)*

*That s51(3) be deleted.*

## **Part 6: Monitoring and reporting requirements**

Water monitoring requirements are quite extensive and include programs that relate to both water quality and quantity. It is acknowledged (s.53(3) of the Plan) that the monitoring programs must assist in enabling the chief executive to assess the effectiveness of the strategies in Part 5 of the Plan.

The Environment Groups note that the draft WRP mentions hydrological performance indicators, as well as biological, chemical, physical or habitat indicators of ecosystem health.

The Environment Groups believe this suite of monitoring requirements is a significant improvement over those specified for other WRPs and are likely to give a more comprehensive

and accurate picture of aquatic health. We acknowledge that current data sets are limited, but believe that on-going monitoring will provide further information for these sets, which will prove useful for adaptive management in the future.

The Environment Groups support the inclusion of monitoring for the condition of riverine habitats, and the involvement of community groups in monitoring programs (s52). However, we are concerned by recent reductions in staffing within this area of the Department. Adequate resources must be provided for appropriate monitoring.

The Environment Groups support transparent and accountable processes and advocate Quadruple Bottom Line accounting in the interests of good governance. We recommend the independent auditing of water infrastructure operators' reports as well as the data on which they are based (s54).

The Environment Groups believe this Part of the WRP should contain provisions for adaptive management and triggers for a review of the WRP should it fail to achieve performance indicators, ecological outcomes and / or environmental flow objectives.

*Recommendation:*

*That a new clause s 52(3) be inserted to trigger a review of the WRP if monitoring indicates strategies under Part 5 are not being achieved.*

*That s54 (1) be amended to read "Each water infrastructure operator must provide the chief executive with all water monitoring data collected under s 53(2) for independent auditing, as well as a written report containing the following - ...".*

## **Part7: Implementing and Amending the Plan**

The Environment Groups look forward to having input to the Resource Operations Plan.

The Environment Groups support the establishment of advisory councils. However, we believe that the reference to stakeholders in s 59 is weak and not sufficiently inclusive and should be amended to ensure representation by cultural, economic and environmental interests. This would then be consistent with s 41 of the Water Act 2000.

We welcome the inclusion of sections to amend the WRP under s57 Water Act 2000. However, the Environment Groups believe that s57 should allow for amendments to the WRP during its 10-year life in the event that performance indicators, ecological outcomes and environmental flow objectives are not being achieved.

*Recommendation:*

*That s57(b)(ii) be deleted.*

*That s 59 be amended to read "An advisory council is to consist of the members, appointed by the Minister, representing cultural, economic and environmental interests in the part of the plan area for which the council is established."*

## **Conclusion**

The Environment Groups are concerned that the Draft Plan does not give effect to the Purpose of the Water Act 2000 and is potentially invalid and open to legal challenge.

Like the Integrated Planning Act 1997, the Draft WRP is pro-development. Although it contains environmental purpose statements, these are not adequately reflected elsewhere in the document. We urge adoption of the stated recommendations to strengthen the environmental purposes of the WRP and to remove vague and uncertain meanings.

## REFERENCES

National Competition Council, COAG Water Reform Framework

Isaacs, M 2002. *The Political Economy of Water Reform Feasibility in Australia*  
University of Queensland.

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Cooperative Research Centre for Freshwater Ecology, Feb 2002. *Independent Report of the Expert Reference Panel on Environmental Flows and Water Quality Requirements for the River Murray System*. Prepared for the Environmental Flows and Water Quality Objectives for the River Murray Project Board, accessed at  
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## Appendix.

**Table 1. Proposed Environmental Performance Indicators**

<b>Biological Performance Indicators</b>	<b>Chemical Performance Indicators</b>	<b>Physical Performance Indicators</b>	<b>Habitat Performance Indicators</b>
<ul style="list-style-type: none"> <li>• Invertebrates               <ul style="list-style-type: none"> <li>- DNRM and community role</li> <li>- require seasonal monitoring (spring/autumn)</li> <li>- AusRivas western model may be appropriate.</li> <li>- Need to monitor:                   <ul style="list-style-type: none"> <li>- hyporrhheic</li> <li>- sediment</li> <li>- water column</li> <li>- surface</li> <li>- vegetative</li> <li>- shellfish, crustaceans etc</li> </ul> </li> </ul> </li> <li>• Fish               <ul style="list-style-type: none"> <li>- DPI/DNRM Fisheries and Universities role</li> <li>- need to monitor fish species and abundance - need to monitor seasonally (i.e. 4 times a year)</li> </ul> </li> <li>• Birds</li> <li>• CAMBA and JAMBA requirements               <ul style="list-style-type: none"> <li>- QPWS and community role</li> <li>- Need to monitor species and abundance (including breeding events)</li> </ul> </li> <li>• Mammals/vertebrates               <ul style="list-style-type: none"> <li>- QPWS and community role</li> <li>- need to include threatened species and species of local significance</li> </ul> </li> <li>• E.coli, bacteria, viruses, algae</li> <li>• Vegetation – species and abundance</li> </ul>	<ul style="list-style-type: none"> <li>• Water quality (ANZECC guideline "trigger values")               <ul style="list-style-type: none"> <li>Need to monitor:                   <ul style="list-style-type: none"> <li>- pH</li> <li>- BOD</li> <li>- Turbidity</li> <li>- TDS</li> <li>- Temperature</li> <li>- Total Nitrogen</li> <li>- Total Phosphorus</li> <li>- Pesticides</li> <li>- Herbicides</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• DNRM , universities &amp; community role</li> <li>• Erosion</li> <li>• Siltation</li> <li>• Bank stability</li> <li>• Flows               <ul style="list-style-type: none"> <li>• velocity</li> <li>• quantity</li> <li>• seasonality</li> </ul> </li> <li>• Depth to water table</li> <li>• Bench wetting</li> <li>• Floodplain inundation</li> <li>• Duration &amp; frequency of cease to flow</li> <li>• Subsidence</li> <li>• Riffle/pool connection</li> <li>• Water usage</li> </ul>	<ul style="list-style-type: none"> <li>• Riparian veg extent and health</li> <li>• Aquatic veg extent and health</li> <li>• Weeds</li> <li>• Snags</li> <li>• GDE's condition &amp; extent</li> <li>• Wetlands – condition, frequency of filling, fish/frog breeding</li> </ul>