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17 April 2018

Productivity Commission
Murray Darling Basin: Five-year Review

By email: Basin.plan@pc.gov.au

Dear Commissioners,

EDOs of Australia (**EDOA**) welcomes the opportunity to provide input to the Murray Darling Basin Plan: Five Year Assessment. We appreciate the opportunity to provide our expert feedback through meetings with the Commission and participation in the Stakeholder Working Group.

EDOA is a network of community legal centres specialising in public interest environmental law. A number of our offices service clients – including community groups, dryland farmers and irrigators – located across the Murray-Darling Basin (**MDB**). We therefore support evidence-based laws and policies that guarantee the long-term, sustainable management of the MDB's highly variable water resources *and* promote regional development.

We have many years' experience engaging with water law and policy processes at both State and Commonwealth levels. We also have extensive experience advising a broad range of clients on the *Water Act 2007* (Cth), Basin Plan, State legislation and policies. Our work involves legal advice on specific issues as well as broader legal analysis of systemic issues and legal questions. It often draws on advice from scientific experts on our technical advisory panel, as well as irrigators with considerable experience in managing their properties in a variable climate.

Based on this experience, we have considerable concerns regarding the current management of water in the Basin and concerns regarding whether the Basin Plan will be implemented in full and on time. Our overarching concern relates to the failure on the part of the Commonwealth and certain Basin States to actively ensure we have a scientifically rigorous, risk-based approach to the management of the MDB's variable and scarce water resources, underpinned by strong laws. In addition to identifying progress of the many elements of Basin Plan implementation against set timeframes, a key issue for this review should be to determine whether desired *outcomes* are actually going to be delivered.

In this context, we welcome the identification of the key elements in the *Murray-Darling Basin Plan: Five-year assessment – Productivity Commission Issues Paper* (March 2018) for implementation as including: sustainable diversion limits and adjustments (including the adjustment mechanism, Northern Basin Review, groundwater reviews); constraints management; recovery of water for the environment; water resource plans; environmental water planning and management (including coordinating water delivery, prerequisite policy measures, complementary works); water quality and salinity management; water trading

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rules; critical human water needs; compliance (both MDBA and state compliance and enforcement); and monitoring, evaluation and reporting.

Under each of these key elements sit significant legal and technical detail. EDO has made submissions on these various components including recommendations for the strengthening each element to ensure the Basin Plan is delivered on time in full, and actually delivers the desired outcomes for a healthy and sustainable Basin. We refer the Commission to the following submissions:

- *Submission to the inquiry in to the management and use of environmental water – EDOs of Australia, 16 April 2018 – [awaiting parliamentary permission to publish – will be available shortly on www.edo.org.au/submissions]*
- *Submission on the NSW Water Reform Action Plan – EDO NSW submission, 15 April 2018 [available at www.edonsw.org.au/water_management_policy shortly]*
- *Proposed adjustment to Sustainable Diversion Limit (SDL) Adjustment Mechanism - EDO Australia submission, November 2017 - [Download submission](#)*
- *Submission responding to the Productivity Commission's Draft Report into National Water Reform - EDOs of Australia, 3 November 2017 - [Download this PDF](#).*
- *Submission to the Inquiry into the Integrity of the Water Market in the Murray-Darling Basin - EDOs of Australia, 17 October 2017 - [Download PDF](#)*
- *Inquiry into National Water Reform – EDOs of Australia submission, May 2017 - [Download PDF](#)*
- *Surface Water Status and Issues Papers for the Barwon-Darling and Namoi catchments – EDO NSW submissions, March 2017*
- *Murray Darling Northern Basin Review – EDOs of Australia submission, February 2017 - [Download PDF](#)*
- *Gwydir Water Resource Plan Surface Water Issues Paper – EDO NSW submission, December 2016 - [Download PDF](#)*
- *EDOs of Australia submission to Senate Inquiry into the Water Amendment (Review Implementation and Other Measures) Bill 2015, 5 February 2016 - [Download PDF](#)*
- *EDO NSW submission on the Commonwealth On-Farm Further Irrigation Efficiency Program (COFFIE Program), 10 December 2015 - [Download PDF](#)*
- *EDOs of Australia submission to the Select Committee on the Murray-Darling Basin Plan, 25 September 2015 - [Download PDF](#)*
- *Submission on Water Amendment Bill 2015 (Cth), 31 July 2015 - [Download PDF](#)*
- *ANEDO Submission to the Murray-Darling Basin Authority regarding the Draft Basin-wide Environmental Watering Strategy, September 2014 [Download PDF](#)*
- *ANEDO Submission to statutory review of the Water Act 2007 (Cth), 9 July 2014 - [Download PDF](#)*

We also wish to draw the Commission's attention to the Murray-Darling Basin Authority's assessments of each of the 36 supply measure projects linked to the proposed amendment to the Basin Plan that is currently before Parliament. These documents were made available as a consequence of an 'order to produce' in the Australian Senate and reveal the MDBA's serious concerns regarding the integrity of the proposed projects. We note that this is a complex matter that goes to the heart of Basin Plan implementation, including consistency with core requirements of the *Water Act 2007*. It also raises serious questions regarding the integrity of the implementation process and the possible, longer-

term consequences of approving projects for which an appropriate level of risk assessment has not been undertaken.

Given the breadth of our work on these issues – and their complexity – we would like to request a meeting with Commission review team so that we can provide the most relevant recommendations for each element under review.

Please contact emma.carmody@edonsw.org.au or rachel.walmsley@edonsw.org.au for further information and to arrange a convenient time for us to discuss our work and recommendations with the Commission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R Walmsley', written in a cursive style.

Rachel Walmsley
Policy & Law Reform Director EDO NSW
On behalf of EDOA