7 May 2021

Retail Entitlements and Markets
Department of Environment, Land, Water and Planning
PO Box 500
East Melbourne, Vic 3002

SUBJECT: Goulburn to Murray trade rule review – Regulatory Impact Statement

Please accept this submission from the Victorian Environmental Water Holder (VEWH) to the Goulburn to Murray trade rule review: Regulatory Impact Statement (RIS).

The VEWH welcomes the review of trade and delivery rules to protect the environmental values of the lower Goulburn River. As you would be aware, unseasonal high flows in summer and autumn due to the delivery of inter-valley transfers (IVTs) cause significant damage to vegetation and bank condition of the lower Goulburn River, which also undermine environmental outcomes of winter-spring environmental water deliveries.

The VEWH supports option 1 to ensure all deliveries remain within recommended environmental flow rates, particularly from November to April. However, given the 'working river' approach, the VEWH provides in-principle support for option 2 as recommended in the RIS, on proviso that:

- The operating rule is applied only to the delivery of IVT, enabling adaptive management of environmental flows to provide the required year-round hydrograph that maximises environmental protection and outcomes. The proposed operating rule limits the delivery of environmental water for 6 months, which the VEWH considers unnecessarily restrictive and will undermine the VEWH's ability to protect and improve the environmental outcomes for the lower Goulburn River.
- The delivery of IVT is not prioritised over the delivery of environmental water as this is likely to prejudice the outcome of the review of Delivery Rights for Environmental Water.
- A comprehensive monitoring program is conducted to assess the impact of the changes to the protection of the lower Goulburn River environmental values as well as IVT delivery in the Campaspe River and lower Broken Creek, with degradation of environmental values in any of these waterways resulting in a review of the operating rules for those waterways.

In summary the VEWH:

- Considers that if the operational rule is applied to environmental water, in addition to IVT, from November to April:
    - It creates an inequitable impact on the VEWH as the only water user in the lower Goulburn River who is being restricted from using their water. It increases the risk of bank erosion and mass failure, by limiting the VEWH's ability to provide required rates of recession following unregulated events. This seems contrary to the objectives of the RIS.

    - It negatively impacts environmental outcomes for native fish and bank vegetation, by preventing appropriately timed environmental flows above the proposed operating rule limit.
- Is concerned that an increase in planned IVT delivery in winter-spring will reduce environmental return flows delivered to the Murray resulting in:
    - A shift of environmental impact from the Goulburn to the Murray, by reducing environmental flows in the Murray at a critical time for environmental outcomes.
    - Increased likelihood of environmental water holders trading out of the Goulburn system as a direct result of reduced opportunity to deliver water in the lower Goulburn River, increasing competition for trade.
    - Increased likelihood of additional environmental water recovery being needed to offset the reduced effectiveness of pre-requisite policy measures (return flows).
- Is concerned that the prioritisation of IVT over water delivered under the VEWHs entitlements ahead of determining environmental delivery rights in the Goulburn River (part of the Delivery Rights for Environmental Water- DREW) is likely to prejudice the outcome of the delivery rights negotiations. The VEWH proposes that this could be part of an annual negotiated process, which provides flexibility ahead of the completion of the DREW project.
- Requests further clarity is needed on the application of losses on the delivery of IVTs.
- Requests that the scientific panel should assess the environmental risk of the proposed operating rule (including the option to increase pulses to 6,000 ML per day) compared to adaptively managed pulses as per environmental flow recommendations.
- Supports the raising in-channel private pumps to reduce interruption and inconvenience to lower Goulburn diverters, noting it should be done for all diverters impacted within existing flow limits.

These issues are further explored below (see Attachment 1).

There are significant benefits from year-round adaptively managed environmental flows in addition to the delivery of IVT as per the operational rule. This will ensure more equitable rights to use water for all lower Goulburn water users, potentially enhance trade opportunity via the delivery of more water to the Murray, reduce competition for trade to the Murray and accelerate the recovery and improvements in the environmental health of the lower Goulburn River, improving outcomes for Traditional Owners, irrigators, recreational users and the environment.

Please contact [redacted] should you like to discuss this submission further.

Yours sincerely

Paulo Lay
Co-Chief Executive Officer
Victorian Environmental Water Holder

Attachment 1: Additional context

Inequity of new constraints and limits being applied to entitlement holders and water users in the lower Goulburn River

If the operating rule limit from November to April is applied to all water, the impact on lower Goulburn River diverters and urban water supply needs to be clarified. Our understanding from the proposed operating rule is that the VEWH would be the only water user in the lower Goulburn who is limited in using their water.

If the VEWH is the only water user in the lower Goulburn limited in using water via the proposed operating limit from November to April, this would be inequitable and significantly impact the VEWH. This inequity in the rights of Goulburn system entitlement holders to use their water in, or take their water from, the lower Goulburn should not occur as a result of a trade rule under the Basin Plan trading rules.

Interaction of environmental flows and the proposed operating rule

The primary mechanism to protect the environmental values of the lower Goulburn River is the proposed operational rule. The operational rule should and does provide a baseline limit for the delivery of inter-valley transfers (IVT) in a more environmentally sustainable manner in the lower Goulburn River when higher flows are damaging to the environment. This follows on from the interim operating rules applied in 2019-20 and 2020-21 of monthly limits on IVT deliveries.

The interaction of the proposed operational rule with planned environmental flows in the lower Goulburn River needs to be clarified. In particular whether planned environmental flows from November to April can be delivered where they are aligned to the objectives of the RIS and proposed operating rule and will exceed the baseline operating limit.

The introduction of new, additional constraints and limits on the delivery of environmental flows in the lower Goulburn River between November and April would create perverse and contradictory outcomes. For example, when opportunities to increase the volume of water delivered from the Goulburn to the Murray align with the protection and improvement of environmental values in the lower Goulburn River – a win-win situation – additional flows above the baseline operating rule limit should be delivered.

The environmental flows that may be delivered above the baseline operating rule are proposed by the Goulburn Broken Catchment Management Authority (GBCMA) based on the local community led *Kaiela (Lower Goulburn River) Environmental Flows Study*[1] completed in 2020 and incorporating the latest scientific knowledge from monitoring programs. These proposed actions are then included in the VEWHs annual Seasonal Watering Plan, which enables delivery of environmental flows in the lower Goulburn throughout the year in partnership with GBCMA and other environmental watering program partners.

A proposed November to April operating rule that is applied as a ‘set and forget’ approach to the delivery of environmental flows under the VEWHs Goulburn system environmental bulk entitlements would raise the following significant concerns for the VEWH.

[1] https://www.gbcma.vic.gov.au/downloads/Environmental_Water/Kaiela-Goulburn_Eflows%20Final%20Report.pdf

Proposed limits on the VEWHs ability to use water in the lower Goulburn River between November and April will cause additional environmental harm, limit recovery of the lower banks and reduce outcomes for native fish and other environmental values.

The damage to the banks and bank vegetation of the lower Goulburn River has been caused by the delivery of IVTs. Therefore, the proposed operating rule should only apply to the delivery of IVTs as a sustainable baseline flow in the lower Goulburn River.

The VEWH's ability to deliver water year-round under its entitlements for the benefit of the lower Goulburn River environment needs to occur in a flexible and adaptive manner, as flows cannot be 'set and forget' without risking environmental harm or missed opportunity for improved environmental outcomes. For example, at times the baseline operational rule limit would meet or slightly exceed recommended environmental flow rates, meaning water above the baseline limit is highly undesirable and likely to cause environmental damage. At other times, flows above the baseline operational limit may be needed to prevent further damage to the banks or support recovery of the environment. The flexibility and adaptability of flows is fundamental to supporting the environmental values of the lower Goulburn River, and cannot be incorporated into a baseline operational rule.

If the baseline operating rule limit from November to April was applied to the VEWH, it would prevent the VEWH from meeting its statutory obligations under the Water Act 1989 of improving the environmental values and health of water ecosystems, which also support Traditional Owner values and social and recreational values and uses of the lower Goulburn River. Examples of further environmental damage or lost environmental improvements that would occur if the baseline operating rule is applied to the VEWHs deliveries include:

- Preventing the delivery of a late-spring fresh in November of a magnitude (>6,000 ML/d) and timing (based on water temperatures at the time of delivery) that achieves successful spawning of golden and silver perch, compromising the recovery of native fish populations.
- Further damage to the lower Goulburn riverbank, as planned environmental flows to slow the recession of unregulated flows (control the rate of fall) following summer storm events are likely to exceed the operational limit and be prevented from being delivered, increasing the likelihood of bank failure and slumping in summer and autumn.
- Preventing the delivery of an autumn fresh of a magnitude (>5,700 ML/d) when a timing of March or April is required to achieve germination of seeds and recruitment of new plants on the lower banks and improves habitat and food resources for native fish.
- Reducing outcomes for Traditional Owners and recreational users through reduced environmental health of the ecological values of the waterway, including bank condition, vegetation and native fish populations.

The prioritisation of IVT delivery over the delivery of water for the environment, including the planned increase in IVT delivery in winter-spring is not supported by the VEWH, noting that work is underway - but not yet complete - to define the VEWHs delivery rights.

The prioritisation of IVT over the VEWHs entitlements will:

- Reduce the volume of environmental return flows in the Murray system originating from the Goulburn, compromising the ability to meet environmental outcomes at

internationally recognised Victorian sites such as Gunbower Forest, Hattah Lakes and the Kerang Lakes, as well as other downstream environmental demands. For example, in 2018-19 over 70% (33,000 ML) of the 43,000 ML delivered to Gunbower Forest was return flows from the Goulburn and Campaspe rivers.

- Increase competition between users for the available trade capacity out of the Goulburn, as environmental water holders may look to trade allocation out of the Goulburn to the Murray system to meet downstream demands that were previously met by return flows. This would create a perverse outcome of increasing competition between all types of water users for the limited opportunity to trade allocation out of the Goulburn system.
- Reduce the effectiveness of efficiency measures under Basin Plan such as access to return flows that are needed to meet Basin Plan environmental targets. This may mean additional water needs to be recovered for the environment to meet Basin Plan obligations.

Other matters

Further clarity is needed on the application of losses on the delivery of IVTs. While environmental water holders have covered the loss of diversion of IVTs via the lower Broken Creek in the past, this may not occur in the future. Additionally, the delivery of pulsed environmental flows in the lower Goulburn River has a loss deduction. Increasing the size of IVT pulses to 6,000 ML/d may increase the loss component on the delivery of traded water.

The VEWH supports the need for ongoing monitoring of the impact on bank condition and bank vegetation of the delivery of IVTs under ongoing operational limits. This should be undertaken in the lower Goulburn River, Campaspe River and lower Broken Creek, and coordinated with existing environmental monitoring programs.

The VEWH also supports the proposed raising of in-channel privately owned pumps in the lower Goulburn River to reduce the disruption to lower Goulburn River diverters and enable improved flexibility for all environmentally sustainable water delivery within existing constraints of up to ~9,500 ML/d in the lower Goulburn River (the current maximum flow constraint for environmental water deliveries in the lower Goulburn River).

It is important to reinforce that increasing the operating limit for IVT delivery should not be considered, as it does not provide the flexibility and adaptability to ensure the health of the lower Goulburn River is protected and recovery of the lower banks can occur. Avoiding new constraints on the VEWH and its environmental program partners should be a priority. Enabling the delivery of flexible and adaptively managed environmental flows between November and April that are designed to protect and repair the damaged banks and bank vegetation and further enhance environmental outcomes is required.

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