

Opening statement to Additional Estimates on 22 February 2019

Phillip Glyde, Chief Executive, Murray-Darling Basin Authority

I would like to acknowledge the ongoing drought conditions, low inflows and record January heat across the Basin. [Water storages across the Basin](#) are at 35% but in the northern Basin they are only at 13%. These conditions are placing immense pressure on communities and the environment. Our staff live and work in the Basin communities, they have regular contact with those affected by the current dry conditions and I want to acknowledge these difficult circumstances.

I, like everyone else, am devastated by the fish deaths in several parts of the Basin during January and the impact this has had on families, farmers and communities particularly in and around Menindee. The fish death events have also shaken the Australian community's confidence in the implementation of the Basin Plan. We have been working with state governments, scientific reviews and the community on short and long term responses.

Finally, it has been a busy fortnight in Parliament and for the assistance of the Committee, I provide an update of work the MDBA has published in the past fortnight which the MDBA considers pertinent to the Committee's work. Hyperlinks to this work is listed below. We appreciate this is a lot of material to consider and would welcome feedback from the Committee and stakeholders when convenient.

I have also attached a statement from the five members of the Murray-Darling Basin Authority regarding the South Australian Royal Commission for the Committee's information. This statement is contained in our 76 page response to the South Australian Royal Commission.

The MDBA remains committed to implementing the Basin Plan for the simple reason that we believe that the Plan provides the best chance to achieve sustainable water use in Australia's most significant water basin.

MDBA response to the South Australian Royal Commission

<https://www.mdba.gov.au/sites/default/files/pubs/MDBA-response-SA-Royal-Commission-Feb-20.pdf>

Response to recent fish death events: Recommended action plan

<https://www.mdba.gov.au/sites/default/files/pubs/Response-fish-death-events-recommended-action%20plan-2019.pdf>

Basin Plan Annual Report

<https://www.mdba.gov.au/basin-plan-roll-out/basin-plan/basin-plan-annual-report>

Climate Change and the Murray-Darling Basin Plan discussion paper

<https://www.mdba.gov.au/sites/default/files/pubs/Climate-change-discussion-paper-Feb-19.pdf>

Sustainable Diversion Limit Adjustment Mechanism Annual Report

<https://www.mdba.gov.au/publications/mdba-reports/adjusting-sustainable-diversion-limits-annual-progress-report>

Basin Environmental watering outlook for 2019-20

<https://www.mdba.gov.au/sites/default/files/pubs/Basin-environmental-watering-outlook-2019-2020.pdf>

2018-19 water delivery shortfall assessment as at February 2019

<https://www.mdba.gov.au/sites/default/files/Water-delivery-shortfall-assessment-2018-19.pdf>

MDBA Basin Plan annual report card

<https://www.mdba.gov.au/basin-plan/basin-plan-annual-report-card>



Australian Government



For the benefit of the Committee I also list reports recently published by others:

Basin Community Committee statement

<https://www.mdba.gov.au/sites/default/files/pubs/open-letter-basin-community-committee-18-Feb-19.pdf>

Independent panel interim report into fish deaths

<https://www.mdba.gov.au/publications/mdba-reports/independent-panel-assess-fish-deaths-lower-darling>

Statement concerning the South Australian Murray–Darling Basin Royal Commission Report

This statement addresses a number of the matters raised in the South Australian Murray-Darling Basin Royal Commission's Report (SARC Report) as they relate to the Murray–Darling Basin Authority (MDBA) and the Basin Plan. A detailed table of responses to the findings and recommendations is attached to this statement. These views may not reflect a whole of government position.

The MDBA was established under the *Water Act 2007* (the Water Act) to develop, implement and monitor the Basin Plan, for the sustainable management of the Murray-Darling Basin's water resources. Management of a generally scarce and highly variable water resource, over such a large area and crossing political boundaries, is a challenging task. While many stakeholders support the concept of a Basin Plan, there is often sharp disagreement up and down the rivers, and across different stakeholder groups, about the appropriate Basin Plan settings.

This is precisely why the MDBA was created. Our role as an independent statutory authority, fully funded by the Australian tax payer and independent of any interest group, is to apply the best available science, feedback from the community and our own expert judgement, to recommend the best Basin Plan we can, consistent with the requirements of the Water Act.

While the SARC Report contains some analysis that we support, our overwhelming view is that the principal conclusion of the report—that we should start all over again and remake the Basin Plan—is reckless and unwarranted. It would set back progress towards a healthy and sustainable Basin and cause substantial uncertainty for Basin communities.

Our main reasoning for this view is set out below.

The Basin Plan is lawful

The MDBA rejects the assertion that the Basin Plan is unlawful or has been made unlawfully.

The Basin Plan, and subsequent amendments, were prepared consistently with the Water Act. The Plan was prepared by the Authority, adopted by the Minister and ultimately supported in the Australian Parliament. It stands as law. This view and the basis for it was made clear in submissions to the Royal Commission by the [MDBA](#) and the [Department of Agriculture and Water Resources](#). The fact that the Commissioner offers a different legal opinion on some matters is not conclusive. It is simply a different opinion.

The Basin Plan retains the support of all Basin governments at state and federal levels, reflecting enduring commitment to a healthy working Basin. This was a hard won achievement.

No improper conduct by the MDBA

The report asserts maladministration, negligence and unlawful conduct by MDBA officers in connection with implementation of the Basin Plan, but does not present any evidence to support such serious accusations. To the extent that these findings depend on the view that the Basin Plan does not comply with the Water Act, as stated above, the MDBA rejects any assertion that the Basin Plan is unlawful or has been made unlawfully.

Any specific evidence of inappropriate behaviour by current or former Authority members and/or staff should be referred to Commonwealth authorities for consideration and investigation.

We take allegations of this kind seriously and recognise the importance of acting promptly, appropriately and proportionately.

The MDBA is a principled organisation and operates consistent with the *Public Service Act 1999* (Cth) and the Australian Public Service Code of Conduct (contained at section 13 of that Act). The Code of Conduct sets the benchmark for standards of honesty, integrity, care and diligence of Australian Public Service employees. We recognise that the MDBA has been entrusted with the task of implementing the Basin Plan and that, with this, comes a high level of responsibility. We endeavour to discharge this responsibility, expecting the highest standards of ethical behaviour from our staff and from Authority members.

The Basin Plan provides a way forward

Remaking the Basin Plan now, midway through its implementation, would in the MDBA's view be a disaster. It would cause substantial uncertainty for Basin communities and put at risk the hard won support for the reform. The progressive improvements now being made to the state of the river system across the Basin, as acknowledged in the recent Productivity Commission report, would be deferred or lost.

The Basin Plan as it stands today may not meet everyone's expectations. But we have had no reason to believe it is legally invalid and point to the wide support for the Plan as a way forward. The ability to adapt in future is hardwired into the Basin Plan. It must be reviewed periodically, with the next review scheduled for 2026. The Act also allows for additional review points in certain circumstances if the Minister or all of the Basin States request this, or if we determine that a review is necessary.

Best available science

The MDBA is committed to using the best available science in all aspects of its work, particularly in development and implementation of the Basin Plan.

Contrary to the claims in the SARC Report, the MDBA did take account of CSIRO's range of projections of climate change out to 2030. CSIRO's advice on how to factor climate change into modelling scenarios was also followed. A number of CSIRO experts were seconded into the MDBA before the Basin Plan was made in 2012 to ensure proper application of knowledge from their benchmark 2008 Sustainable Yields project.

We welcome the fact that the science of climate change is continually improving. Work is already underway with CSIRO to enhance our capacity to analyse how climate change will affect the hydrology, ecology and economy of the Basin. We are also looking to strengthen collaborations with other expert agencies, such as the Bureau of Meteorology and Geoscience Australia.

In some cases there is more work needed to broaden the scientific consensus on complex issues, such as 'return flows'. The concern underlying this problem is that improvements in irrigation efficiency, including those achieved by the Basin Plan, will reduce the volume of water that previously leaked into groundwater systems – and hence it will no longer return to the environment.

Last year, our independent [Advisory Committee on Social, Economic and Environmental Sciences](#) (ACSEES) worked with the University of Melbourne to host a [workshop](#) of surface and groundwater experts, to clarify the science behind this issue. The workshop found that return flows were presently a relatively small risk that is unlikely to undermine the outcomes of the Basin Plan. It also made a number of recommendations on how to monitor and manage future changes in return flows. The MDBA has accepted these recommendations.

Menindee Lakes

The SARC Report raised a number of concerns about the Menindee Lakes Water Savings Project and the recent fish deaths at Menindee Lakes.

The Chair of ACSEES, Professor Robert Vertessy, is chairing a panel of independent experts, who will report to the Government on the underlying causes of this distressing event, the effectiveness of management responses, and strategies that could be implemented to prevent similar events in the future. A separate review is being conducted by the Academy of Sciences, and the MDBA has had the opportunity to brief each of these reviews. These reviews provide a significant opportunity for Basin governments to work together and put in place measures to improve water management.

The Menindee Lakes Water Savings Project is still in the early stages of design and NSW has publicly committed to working with the community during the development of the proposal. The project is an opportunity to significantly improve the management of the Menindee Lakes and Lower Darling.

Transparency

The MDBA is committed to transparency in its work. Scientific reports are routinely published on the MDBA's website, and we are committed to publishing 'open data' where possible. We are committed to consulting the community, to taking account of stakeholder views and engaging them in our work. The MDBA's work is routinely peer-reviewed by experts and their reviews are published.

For example, in conducting the Northern Basin Review, the MDBA established an independently chaired community advisory committee, held three rounds of consultation with communities across the northern Basin to share information, outlined scenarios and obtained feedback. We commissioned a range of additional scientific and socio-economic work to address information gaps. All of this is [available on the MDBA website](#) and includes: the overall summary of the review, the decision making framework used, summaries of stakeholder consultations, multiple reports on hydrologic modelling, social and economic research and a range of environmental science reports.

When the MDBA consulted on the Northern Basin Review, we responded to 752 public requests for information. Our staff attended 640 meetings with stakeholders, two-thirds of which were held outside Canberra.

The MDBA acknowledges that the supply measure projects developed in recent years by Basin States should have been developed in a more transparent manner. The MDBA encouraged Basin States — as the proponents — to do this. Implementation of these projects is to occur by 2024, and leading up to this the MDBA will publish annual reports on progress, the first of which is due in February 2019. The MDBA encourages Basin States to improve consultation during design and implementation to 2024.

Like any organisation, there is more we can do to improve communications and transparency, and this remains a priority for the MDBA. An example is that we now publish immediately on our website any water resources plans that Basin States put to us for accreditation. The MDBA also has an active network of regional engagement officers in seven locations around the Basin, and now has offices in Adelaide, Albury-Wodonga, Canberra, Goondiwindi and Toowoomba.

Involving Aboriginal people in the Basin Plan

The SARC Report casts the MDBA's consultation with Aboriginal Nations as superficial. We disagree. The MDBA has financially supported two self-determining bodies representing the water management interests of Aboriginal Nations across the Basin since their inception: the Murray

Lower Darling Rivers Indigenous Nations (MLDRIN) and the Northern Basin Aboriginal Nations (NBAN).

The MDBA has supported the landmark National Cultural Flows Research Project since its inception in 2010, with key research published last year (see <http://www.culturalflows.com.au>). We have also worked with Aboriginal people to develop other tools and information, such as [Aboriginal Waterways Assessments](#), to better document and understand their interests in water and river Country. The MDBA has advocated with states to use these tools in their planning processes, and has encouraged states to engage with MLDRIN, NBAN and other Aboriginal people in water planning and management.

The MDBA and Aboriginal people co-designed the consultation process during the development of the Basin Plan and the Northern Basin Review. This is consistent with the Akwé: Kon Guidelines. The MDBA is committed to applying the principles of free and prior informed consent.

We also understand that the Australian Government is proposing to appoint an Indigenous member to the MDBA Board – a move that we strongly support.

Compliance is improving

The SARC Report rightly recognises that over the past 18 months the NSW Government has dramatically lifted its performance on water compliance, including through establishing the Natural Resources Access Regulator. This is good news. Over this period the MDBA has also established a stronger role in regulating the work of state agencies. And most importantly, the Council of Australian Governments has signed up to a range of actions under a [Basin Compliance Compact](#), developed by the MDBA in consultation with Basin governments. The MDBA and Basin States are committed to continual improvement in compliance and will achieve this by implementing the Basin Compliance Compact.

Areas of agreement

Putting aside the serious concerns the MDBA has expressed about parts of the SARC Report, we recognise that it does draw attention to some important issues. At the end of 2018 the MDBA released a [report card](#) highlighting many of these concerns. The recent Productivity Commission review also covered this ground.

Some of the highest priority challenges and issues that need addressing are:

- completing the water recovery task, including the 450 GL of efficiency measures, due to be finalised by 2024
- implementing the supply and constraints projects put forward by New South Wales, Victoria and South Australia, including to reduce losses and improve environmental outcomes at Menindee Lakes
- reforming water access rules and river operations to achieve synergies between the delivery of water for environmental outcomes and extractive use
- improving the protection of environmental flows, including low flows in the northern Basin
- strengthening the participation of Aboriginal Nations
- improving regulation, management and accounting of floodplain harvesting
- strengthening our understanding of climate change and its likely effect on the Basin's water resources
- improving community access, involvement and transparency of the reform
- enhancing the monitoring of the Basin's ecological health, including better coordination amongst government agencies

- improving compliance arrangements across the Basin.

The challenge of implementation

The Basin Plan stands amongst best practice globally when confronting the management of over-allocated water resources that cross jurisdictional boundaries. Once implemented, the Basin Plan will reduce water extractions by around 20 per cent or equivalent, and improve river operations to achieve the best use of this increased water for the environment. Irrigation will be substantially more efficient than before, helping to partly offset the economic impact of reduced water availability.

The Basin Plan represents an unprecedented improvement for the environment and a significant structural adjustment for industries and communities. It represents leading edge and world first improvements in water reform.

While the MDBA is an active champion for implementing the Basin Plan, success will depend on the cooperation of all governments and the wider community. This requires ongoing support from governments and the community.

As expressed in the [MDBA's submission](#) to the SA Royal Commission, we consider the best course of action is for everyone to work together to implement the Basin Plan in its entirety, and to progressively adapt and improve. Australians deserve the opportunity to benefit from the Plan, and in our opinion, the SARC Report does not offer a better or more workable alternative.

The South Australian Premier has requested that the findings of the Royal Commission be considered at the next Council of Australian Governments meeting. A meeting of relevant First Ministers is expected to take place later this year. The MDBA is committed to continue working with Basin governments and the wider community to implement the Basin Plan in the interests of all Australians.

Ms Joanna Hewitt AO – Acting Chair

Ms Susan Madden

Mr George Warne

Professor Stuart Bunn

Mr Phillip Glyde