



AUSTRALIAN FLOODPLAIN ASSOCIATION

Healthy Rivers - Healthy Communities

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Submission by The Australian Floodplain Association to the Senate Rural and Regional Affairs and Transport References Committee's inquiry into the integrity of the water market in the Murray Darling Basin.

The Australian Floodplain Association (AFA) welcomes this opportunity to make a submission and thanks you for granting a time extension to lodge our submission.

We look forward to presenting our case in person at the Inquiry.

Background:

The AFA represents the interests of floodplain landholders, community groups, local government councils and individuals concerned about river and floodplain management and the impact it has on the social, economic, cultural and natural environmental fabric of communities living in the Murray Darling Basin.

The AFA was formed in 2005 and is the only non-irrigation agricultural voice in the water debate in NSW. Most of our members are floodplain

graziers who pose an alternate view on water management to that put by the irrigation industry. The AFA has lobbied since 2005 for equitable use of the water resource through development and implementation of sound, evidence based public policy. As such it is recognised by the federal government as a peak body and is invited to participate in discussions on water management in the Murray Darling Basin. We have presented at Senate Inquiries, Ministerial Council meetings and lobbied strongly for the current Basin Plan which we support. The AFA is disturbed by the non-collegiate and destructive position being adopted by NSW which is undermining the Plan.

The AFA has used its knowledge and resources to assist in bringing the mismanagement and malpractice of water management in the northern Murray Darling Basin to the public's notice through the ABC Four Corners program aired on 24 July 2017. It is this program which has prompted this senate inquiry.

Terms of Reference for the Inquiry

Many of the Terms of Reference (ToR) for this Inquiry were comprehensively addressed or alluded to in our submission to the MDBA's Northern Basin Review. That submission is attached.

The AFA will address each ToR separately but will also specifically address in Other Matters:

Purchase and management of community (environmental) water

With reference to the specific ToR the AFA makes the following comments:

(a) The allegations of theft and corruption in the management of water resources in the Murray Darling Basin.

As stated earlier, the AFA has been aware for some time of malpractice and potential corruption in the management of water resources specifically in the northern Murray Darling Basin. The AFA partnered with other concerned groups to contribute to the production of the Four Corners program “Pumped” which aired these allegations.

The Four corners program has prompted a number of inquiries at both federal and state which are investigating the allegations and determine if there has been theft and corruption and appropriate governance.

These inquiries are described more fully in The Matthews Review but are listed below:

- *The Murray–Darling Basin Authority’s Basin-wide Water Compliance Review;*
- *Australian National Audit Office extended audit into the performance of NSW under the National Partnership Agreement on Implementing Water Reform in the Murray-Darling Basin relevant to the protection and use of environmental water ;*
- *Commonwealth Senate Rural and Regional Affairs and Transport References Committee inquiry;*
- *The NSW Ombudsman investigation into allegations of public maladministration;*
- *Independent Commission Against Corruption Investigation*

The AFA makes the point that theft, corruption and poor governance associated with water resources in the Northern Basin of the MDB would be a non-event had the NSW government, Murray Darling Basin Authority and the Federal Department of Agriculture and Water Resources ensured best practice water metering systems were in place and compliance programs effectively implemented.

The AFA has long pushed for proper metering to ensure community water resources are protected. It is unsound and negligent business practice to invest billions of dollars of taxpayer funds in water management of the MDB and not have a system in place to measure the time, place and amount of the extracted volume of the water resource. Appropriate systems are in place in the Southern Basin but not in the Northern Basin. This has to be corrected immediately and the AFA is pleased to see that the Matthews Review has made such a recommendation. Governments and the irrigation industry must now act swiftly on this matter to regain some credibility with the community.

(b) The investigation and public disclosure by authorities, including the New South Wales Government and the Murray-Darling Basin Authority, of reported breaches within the Murray-Darling Basin, including the Barwon-Darling Water Sharing Plan.

There has been a lack of commitment and patent neglect by both the NSW government and MDBA in the matter of investigation of reported breaches of malpractice water management in the northern basin.

Investigative reporters in media have pursued this matter and the latest report at the time of writing is by Michael Slezack of the Guardian newspaper on Wednesday 27 September, 2017 "*MDBA knew of allegations of water theft a year before ABC report*". The article and linked articles do not show the MDBA in good light as it tries to deflect blame and responsibility to the NSW government. The Basin Plan is a partnership between the states and the commonwealth and a culture of cooperation, constructiveness, openness and transparency should exist. Such is not the case where NSW is concerned and the intent of the Basin Plan is seriously compromised by the absence of such a culture.

The NSW government has failed in its compliance obligations. This was clearly shown on the Four Corners program and from the findings of the Matthews Report. The MDBA may also not be able to ensure appropriate scrutiny of the 2019 Water Resource Plans according to a report by Mike Seccombe in The Saturday Paper's 23 September 2017 article "Proving political collusion in water buybacks". This article claims the MDBA compliance capability has been seriously compromised and the agency does not presently have the capacity to properly evaluate the 2019 Water Resource Plans. The article also discusses the politicisation of the Murray Darling Basin issue. This leads to rigorous, peer reviewed science and sound evidence based policy being overridden by politics. Such political behaviour causes disillusionment and a feeling of disempowerment among community stakeholder groups seeking equity and fairness in water management.

(c) The actions of member states in responding to allegations of corruption and the potential undermining of the Murray-Darling Basin Plan.

Member states were caught unawares by the potency of the Four Corners report and the widespread community anger arising therefrom. Consequently there was a mixed time response as states examined and/or played on the potential political fallout, depending on their position. South Australia expressed outrage at NSW's apparent "undermining" of the Basin Plan. Embarrassed and exposed, the NSW government quickly initiated a review by Mr Ken Matthews, Chair and CEO of the former National Water Commission.

The Terms of Reference of the Matthews Review were considered by the AFA to be narrow in both scope and timeframe, suggesting that the review would be of little use in changing culture and behaviour of the NSW water management agency and government.

Terms of reference review of issues regarding water management and compliance

Context

The ABC “4 Corners” program 24 July 2017 contained allegations of corruption, misconduct and maladministration in water management and compliance actions within DPI Water. The concerns raised are summarised as:

1. not properly investigating and/or failing to take appropriate action in relation to:

- water allegedly illegally pumped or used between 1–5 June 2015 for use on the property “Burren Downs”
- water allegedly illegally pumped or used at the property “Miralwyn” on 20 August 2015
- water allegedly illegally pumped or used at the “Rumleigh” property on 13 February 2016
- water allegedly illegally pumped or used for the benefit of properties owned by Peter Harris
- construction of an irrigation channel on the “Miralwyn” property which allegedly altered the course of a Crown Road potentially in breach of the *Water Management Act 2000* and/or the *Crown Lands Act 1989*.

1. allegations that senior management of DPI-Water refused to approve a major investigation into alleged water management breaches in the north west of NSW (including allegations of meter

tampering) as recommended by the (former) manager of the Strategic Investigation Unit

2. allegations that Gavin Hanlon, Deputy Director General Water inappropriately acted by:

- disclosing sensitive or confidential government information and documents
- advising groups external to government on actions to further their interests, including management options affecting the future of the Murray Darling Basin Plan

3. allegations that compliance resourcing decisions, including the abolition of the Strategic Investigation Unit and transfer of some staff and functions to Water NSW was motivated by the department not having an interest in pursuing compliance matters.

Investigation goals

The Investigation's goals are to:

1. determine the facts and circumstances related to the above matters

2. assess whether the department's policies and procedures (including the department's Code of Conduct) were complied with in relation to the above matters
3. assess whether departmental actions in relation to the above matters were appropriate in the circumstances
4. identify whether further action should be undertaken in relation to the above matters including for example further investigation or referral to other authorities.
5. identify opportunities to improve the department's water management, compliance and enforcement performance.

However, the interim report by Matthews has waylaid any fears that the AFA held. It is apparent the review was and is being conducted professionally, swiftly and incisively, producing recommendations which the NSW government can only ignore at its peril.

Gavin Hanlon, Deputy Director General Water has since resigned and his senior executive assistant moved out of water management within the DPI Water structure. Other structural changes have been made within the water agency.

In summary, the action taken by the NSW government was swift and has the potential to significantly improve water management in the Northern Basin if the recommendations of the Matthews Review are adopted and implemented.

- (d) The use of Commonwealth-owned environmental water for irrigation purposes, and the impact on Basin communities and the environment**

The AFA does not oppose the temporary transfer of Commonwealth-owned environmental water (by sale) for use by irrigators providing it does not disadvantage the broader community and the natural environment. In other words the Commonwealth-owned water may be used for irrigation purposes under certain circumstances. This would be a win-win situation.

However, in the case highlighted by the Four Corners program, the Commonwealth-owned environmental water was allegedly taken without approval or authority for private irrigation purposes to benefit a particular person or business at the expense of the Australian taxpayer community, downstream users and the natural environment. The AFA opposes such behaviour in the strongest possible terms as this is simply stealing from the community and the environment. This is a win-lose situation.

The 2012 Water Sharing Plan for the Barwon-Darling system has contributed to the present parlous state of the Darling River. It was amended just prior to the Basin Plan being signed-off in November 2012 to allow greater take of low flows by irrigators. Low to medium flows are critical to maintaining river health and resilience but the present water sharing plan permits more of these flows to be utilised than in the past. And the present

policy of the NSW government is to not shepherd community water down the Darling River. Consequently community owned-water is being pumped for irrigation, providing free water to the irrigator. This is an unconscionable policy of the NSW government. Communities downstream of major irrigation developments suffer socially, economically and culturally while the natural environment also suffers. The basic riparian rights of communities and landholders downstream have been seriously compromised by this flawed plan. A new plan must correct this flaw and the MDBA has a responsibility and the power to ensure that it does. The MDBA must exercise this responsibility and power.

The AFA would like to make the point that legislation says that water is to be returned to the environment – the natural environment! But the “environmental water” does more than nurture the natural environment. It plays an important social, cultural and economic role for all people and communities who live along rivers or on floodplains and use them in any number of ways. So “environmental water” is really “community water” because the community has bought it via taxes and the community benefits from its presence through improved well-being.

Water in the river and on floodplains lifts the spirits. It attracts tourism, recreational fishers, photographers’, bird watchers and adventure seekers. It supports organic grazing and cropping industries. It emboldens Aboriginal culture, providing food, recreation and education of the young by Elders.

Current and proposed policy for the Northern Basin favours one sector of the broader community above all others – the irrigation

industry. But communities only survive if they are resilient and resilience is dependent upon two things - industry diversity and a healthy natural environment. It is imperative that the Darling River be allowed to support diverse production systems along its length rather than just the irrigation industry. Communities along the Darling River will collapse unless proper weight is given to non-irrigation production systems and “environmental water” acknowledged as “community water” for the broader social, cultural and economic good it provides.

The table³ below is a true record of water flows at the Wilcannia gauge and show why the AFA is calling for the low flows to be protected. It also

indicates why there are significant problems in the management of Menindee Lakes. (Wise, G. 2016; Northern Basin Advisory Committee Business Paper “Achieving Sustainability of the Darling River Downstream of Bourke”)

ANALYSIS OF WILCANNIA FLOWS JULY 1920 TO MAY 2016					
	JULY 1920 TO JUNE 1994		JULY 1994 to MAY 2016		DECREASE IN RELIABILITY
	NO. OF YEARS	% OF YEARS	NO. OF YEARS	% OF YEARS	
<i># Financial Years</i>	74		22		
TOTAL FINANCIAL YEARS RECORDING ZERO FLOWS IN AT LEAST ONE MONTH	7	9.4%	10	45.4%	480%
	NO. OF MONTHS	% OF YEARS	NO. OF MONTHS	% OF YEARS	
<i>Total Months</i>	888		264		
<i>Months with No recorded Data</i>	16		0		
<i>TOTAL MONTHS WITH RECORDED DATA</i>	872	98.19%	264	100%	
TOTAL DECEMBERS WITH ZERO FLOWS	2	2.7%	6	27%	1000%
TOTAL OCTOBER, NOVEMBER, DECEMBER WITH LESS THAN 33.3ML/Day	12	5.5%	29	44%	800%
TOTAL MONTHS WITH MONTHLY TOTAL LESS THAN 30ML (less than average daily flow rate of 1 ML)	15	1.7%	36	13.6%	800%
TOTAL MONTHS with MONTHLY TOTALS LESS THAN 1000ML (Average Daily flows of less than 33.3ML/day)	30	3.4%	65	24.6%	720%
TOTAL NOVEMBER, DECEMBER, JANUARY & FEBRUARY WITH ZERO FLOWS	11	3.7%	18	20.5%	550%

(e) The operation, expenditure and oversight of the Water for the Environment Special Account.

The AFA is concerned about the lack of transparency associated with the management of this account. It contains \$1.775 billion dollars but the government reporting system tells the public little of how the money is spent, to whom it is allocated and why and what the accrued benefits are for the Australian taxpayer. How much water is being returned to rivers through this process and what is the cost benefit?

86AG Amounts to be credited to the Water for the Environment Special Account

At the beginning of 1 July in each financial year specified in the following table, the amount specified in the table for that year is credited by force of this section to the Water for the Environment Special Account. Source - Australian Government website.

Yearly payments		
Item	Financial year	Amount for financial year
1	2014-2015	\$15,000,000.00
2	2015-2016	\$40,000,000.00
3	2016-2017	\$110,000,000.00
4	2017-2018	\$430,000,000.00
5	2018-2019	\$320,000,000.00
6	2019-2020	\$350,000,000.00

Yearly payments		
Item	Financial year	Amount for financial year
7	2020-2021	\$315,000,000.00
8	2021-2022	\$105,000,000.00
9	2022-2023	\$60,000,000.00
10	2023-2024	\$30,000,000.00

The recent publication (*Perry, Chris; Steduto, Pasquale; Karajeh, Fawzi (2017) Does improved irrigation technology save water? A review of the evidence. Discussion Paper on irrigation and sustainable water resources management in the Near east and North Africa, FAO document*) assesses the issue of subsidising on-farm improvements. It contains a chapter on Australia where it examines the on-farm program and concludes:

“However, the current evaluation of investments includes no apparent basis for assessing whether subsidized introduction of hi-tech systems will actually release water to alternative uses, or simply increase consumption by the extra amount allocated to the farmer.” , and

“Most recently, writing in a Special Issue of Water Economics and Policy that addressed many of the complexities of managing water scarcity in the Murray Darling basin, Grafton (2017) made the following key observations regarding the Australian experience with providing subsidies for on-farm improvements in irrigation technology:

- About USD 2.5 billion of taxpayers’ funds used for improving farm irrigation has primarily benefitted private individuals;*
- These investments have had no discernible impact in terms of reduced water use on a per-hectare basis, or release of water to alternative users;*

- *The buyback of water rights from willing sellers was the most effective use of taxpayer funds to release water to alternative uses;*
- *Investments in irrigation to raise "crop-per-drop" productivity had failed to deliver water savings on a basin scale"*

Analyses of the cost benefits of farm the improvement scheme are on-going. The AFA contends that these analyses must be rigorous, independent, comprehensive and transparent if the Australian taxpayer investment is to be protected.

OTHER RELATED MATTERS:

Purchase of Community Water and Price Paid

Billions of dollars have been spent purchasing community water throughout the Basin. Some recent examples of sales are:

2 × \$39 million for Eastern Agriculture

1× \$7.4 million for Dunston

1× \$9.4 million for Dunston

1× \$81.9 million for Tandou

Water trades can be found through the following link:

<https://www.tenders.gov.au/?event=public.reports.CN.Published.form>

Unreasonably High Purchase Price Tandou water

The AFA does not have the details of the quantity or class of entitlement of water bought from Eastern Agriculture or Dunston but believe it would be low security floodplain harvested water because of the location.

However, the AFA has done an analysis of permanent trades of general security and high security water in the Lower Darling management area from 24 September 2013 to 19 June 2017, using data from the NSW water trade website and is seriously concerned at the \$81.9 million listed as being paid for the Tandou water.

Our analysis shows that high security water has averaged \$1600 per mega litre and general security water has averaged \$780 per mega litre for permanent trades. The Commonwealth has paid around \$3500 per mega litre on average for the whole parcel of water from Tandou. The AFA asked Deputy Prime Minister Joyce to explain the exceptionally high price paid for such unreliable water but has not received a response.

The AFA is convinced that many millions of dollars of taxpayer money is benefiting relatively few irrigators with little or no benefit accruing to the natural, social, cultural or economic environment of communities within the Basin. Added to this is the NSW government's opposition to shepherding or protecting this community water as it flows down rivers. Such a public policy is indefensible.

Thank you for the opportunity to comment.

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References:

Ken Matthews AO, Independent Investigation in NSW Water Management and Compliance Interim Report, 8 September 2017

Mike Seccombe in The Saturday Paper 23 September 2017 “Proving political collusion in water buybacks”

Michael Slezack of the Guardian newspaper on Wednesday 27 September 2017 “*MDBA knew of allegations of water theft a year before ABC report*”

Perry, Chris; Steduto, Pasquale; Karajeh, Fawzi (2017) Does improved irrigation technology save water? A review of the evidence. Discussion paper on irrigation and sustainable water resources management in the Near East and North Africa, FAO document

Wise, G. 2016; Northern Basin Advisory Committee Business Paper: Achieving Sustainability of the Darling River Downstream of Bourke.