

# Submission

## Murray-Darling Basin Commission of Inquiry Bill 2019

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***The Murray-Darling Commission of Inquiry Bill 2019 should be supported. This submission applies Australia's Auditing Standards to Basin Plan implementation showing the clear need for a Commission of Inquiry.***

Maryanne Slattery  
Roderick Campbell

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Level 1, Endeavour House, 1 Franklin St  
Canberra, ACT 2601  
Tel: (02) 61300530  
Email: [mail@tai.org.au](mailto:mail@tai.org.au)  
Website: [www.tai.org.au](http://www.tai.org.au)  
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# Summary

The Australia Institute supports the Murray-Darling Basin Commission of Inquiry Bill 2019. This submission considers the implementation of the Basin Plan from a financial auditing perspective.

Applying Australian Auditing Standards to the implementation of the Basin Plan shows the clear need for a Commission of Inquiry. These Standards highlight the need to understand the risk environment and the systems of internal control that entities operate in. The implementation of the Plan occurs in a high-risk environment, with weak internal controls.

The Basin Plan is being implemented in a high-risk environment:

- A large quantum of money is involved, approximately \$13 billion.
- The Plan involves complex policy and accounting systems, usually discussed in technical language that is difficult for non-specialists to understand, reducing transparency and scrutiny.
- There are ample opportunities for transfer of wealth, both between public and private stakeholders and within private entities such as irrigation schemes that operate outside of the jurisdiction of most arbitration bodies.
- Multiple agencies across jurisdictions reduce accountability. Requests for information are frequently diverted, delaying and reducing release of documents.

Internal controls are lacking, shown by events such as:

- Water theft.
- Allegations of fraudulent use of funds.
- Agencies withholding information from the Senate.
- Allegations of bribery.
- Controversial water purchases at above-market prices, with minimal tender.
- Class action against water agencies.

Opposition to this Bill focusses on three points – that it would duplicate existing reviews, the opportunity cost of resourcing an Inquiry and the possible delay to implementation of the Basin Plan. None of these arguments are valid.

There has been no comprehensive review of the implementation of the Basin Plan and the multi-jurisdictional nature of the Plan has meant that criticisms of reviews can be avoided or selectively accepted by agencies. Some reviews claimed to be independent are commissioned by the agencies themselves.

A Commission of Inquiry would be an investment, rather than an unnecessary use of taxpayer funds. If the Inquiry has a budget similar to the SA Royal Commission, it would represent:

- 0.065% of the total Basin Plan expenditure,
- 0.01% of the water acquisition commitment,
- 20% of the compensation paid to Webster Ltd at Tandou or
- 40% of the amount of the alleged fraud against the Commonwealth currently before the Queensland courts.

Delaying the Plan's implementation is not a reason for avoiding a Commission of Inquiry, as the risks associated with implementation and the systemic absence or inadequacy of internal controls make have led to the current situation of minimal public confidence in the Plan and the agencies that implement it.

# Introduction

The Australia Institute supports the Murray-Darling Basin Commission of Inquiry Bill 2019. While rarely discussed, a foundation of reform in the Murray Darling Basin is the way water is accounted for and audited. This underlies all systems of water allocation, recovery and trade. Considering the implementation of the Basin Plan from an audit perspective makes clear the need for a Commission of Inquiry such as proposed in this Bill.

The financial auditing profession has a long theoretical and practical history of assessing risks when undertaking independent reviews and audits. Australian accounting and auditing standards are consistent with international standards and are a useful context to assess the risks associated with Basin Plan implementation. The Australian Auditing Standard ASA 315: *Identifying and Assessing the Risks of Material Misstatement through understanding the Entity and its Environment* sets out a method for a financial auditor to:

Identify and assess the risks of material misstatement, whether due to fraud or error...through understanding the **entity and its environment**, including the entity's **internal control**, thereby providing a basis for designing and implementing responses to the assessed risks of material misstatement.<sup>1</sup>

That standard requires auditors to undertake a risk assessment of the entity being audited to avoid material misstatement of their audit conclusion. We have applied this standard to our rationale in reaching our conclusion to support the Bill.

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<sup>1</sup> Auditing and Assurances Standards Board (2015) *Auditing Standard ASA 315: Identifying and Assessing the Risks of Material Misstatement through understanding the Entity and its Environment*, [https://www.auasb.gov.au/admin/file/content102/c3/ASA\\_315\\_Compiled\\_2015.pdf](https://www.auasb.gov.au/admin/file/content102/c3/ASA_315_Compiled_2015.pdf)

# Auditing the implementation of the Basin Plan

The Basin Plan involves a number of risks that require special consideration from an audit perspective. Australia's Auditing Standards make consideration of a number of risks that apply to the implementation of the Basin Plan:

- Whether there is a risk of fraud;
- Whether the risk is related to recent significant economic, accounting or other developments and, therefore, requires specific attention;
- The complexity of transactions;
- Whether the risk involves significant transactions with related parties;
- The degree of subjectivity in the measurement of financial information related to the risk, especially those measurements involving a wide range of measurement uncertainty; and
- Whether the risk involves significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual.<sup>2</sup>

Applying these audit principles to the Basin Plan implementation as an entity we have assessed risk of maladministration or malfeasance. This is broader than illegal activities, such as corruption or fraud. We assume that existing Water Acts and the Basin Plan, if implemented properly, are sufficiently robust to mitigate environmental, economic and social risks and therefore, these risks are not explicitly considered in this risk assessment.

We note that interim Basin Inspector-General Mick Keelty, has stated that the Murray-Darling Basin system is "ripe for corruption" and that "he would not be surprised to learn of more corruption throughout the basin".<sup>3</sup>

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<sup>2</sup> Auditing and Assurances Standards Board (2015) *Auditing Standard ASA 315: Identifying and Assessing the Risks of Material Misstatement through understanding the Entity and its Environment*, [https://www.auasb.gov.au/admin/file/content102/c3/ASA\\_315\\_Compiled\\_2015.pdf](https://www.auasb.gov.au/admin/file/content102/c3/ASA_315_Compiled_2015.pdf)

<sup>3</sup> Middleton (2019) *Keelty warns river 'ripe for corruption'*, <https://www.thesaturdaypaper.com.au/news/politics/2019/04/27/keelty-warns-river-ripe-corruption/15562872008055>; Sullivan (2019) *Murray-Darling Basin Plan 'untenable' says NSW, as Inspector-General says more corruption wouldn't surprise*, <https://www.abc.net.au/news/2019-08-05/murray-darling-basin-plan-untenable-says-nsw/11382396>

# THE BASIN PLAN IMPLEMENTATION AND ITS ENVIRONMENT

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There are several high risks to the implementation of the Basin Plan relating to:

- the quantum of money involved;
- the opportunities to transfer wealth;
- the complexity of the reform;
- reduced accountability due to numerous governments and agencies; and
- the nature of irrigation scheme companies.

## Quantum of money

The Basin Plan is a complex reform and the Commonwealth has committed approximately \$13 billion towards its implementation, of which nearly \$9 billion has already been spent.<sup>4</sup> Areas of expenditure include water buy-backs, water infrastructure projects (both on-farm and public), removing physical and policy constraints for environmental water delivery, and State implementation costs.<sup>5</sup> Small percentages of committed monies out of any program is financially material and therefore increases risk. This is a risk that requires special attention because it involves significant economic developments.<sup>6</sup>

## Opportunity to transfer wealth

The water reforms have resulted in a major shift of water ownership and location of water use in the Southern Connected System through the water market, water buy-backs (\$3.1 billion) and the water efficiency program (\$4.9 billion).<sup>7</sup> This will continue when supply (\$1.3 billion), efficiency (\$1.6 billion) and constraint (\$0.2 billion) measures are implemented.<sup>8</sup> The tangible opportunities for wealth transfer through Basin Plan initiatives increase the risk to Basin Plan implementation.

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<sup>4</sup> Wentworth Group of Concerned Scientists (2017) *Review of water reform in the Murray-Darling Basin*, <https://wentworthgroup.org/wp-content/uploads/2017/12/Wentworth-Group-Review-of-water-reform-in-MDB-Nov-2017.pdf>

<sup>5</sup> Wentworth Group of Concerned Scientists (2017) *Review of water reform in the Murray-Darling Basin*, <https://wentworthgroup.org/wp-content/uploads/2017/12/Wentworth-Group-Review-of-water-reform-in-MDB-Nov-2017.pdf>

<sup>6</sup> Auditing and Assurances Standards Board (2015) *Auditing Standard ASA 315: Identifying and Assessing the Risks of Material Misstatement through understanding the Entity and its Environment*, [https://www.auasb.gov.au/admin/file/content102/c3/ASA\\_315\\_Compiled\\_2015.pdf](https://www.auasb.gov.au/admin/file/content102/c3/ASA_315_Compiled_2015.pdf)

<sup>7</sup> Wentworth Group of Concerned Scientists (2017) *Review of water reform in the Murray-Darling Basin*, <https://wentworthgroup.org/wp-content/uploads/2017/12/Wentworth-Group-Review-of-water-reform-in-MDB-Nov-2017.pdf>

<sup>8</sup> Ibid

## Complexity

The Basin Plan is notoriously complex: hydrologically, ecologically, economically and socially. The necessary compromise of the reform has resulted in a complicated policy framework. Unnecessarily, it is described in technical language that is difficult for anyone but insiders to understand. This limits public participation, transparency and parliamentary public scrutiny.

## Accountability

The Basin Plan has various roles and responsibilities for the Australian, Queensland, New South Wales, Victorian, South Australian governments. Within each government there are multiple water agencies and statutory positions for water policy, administration, delivery and environmental water. The number of entities involved in Basin Plan implementation makes accountability very challenging. For example, Freedom of Information requests (and State equivalents) are routinely delayed and avoided by agencies referring the request on to other agencies. Several requests have been made to state and Federal agencies seeking a list of projects completed under the Commonwealth's water efficiency program. Neither the Commonwealth nor NSW has provided a list of such projects in NSW, and both deny they have the information and that it is held by the other government. Similarly, answers in Senate estimates (and state equivalents) are often avoided by referring them to another level of government that are absent and fall outside that parliamentary process. The lack of accountability increases the risk.

## The nature of irrigation schemes

Irrigation schemes are typically managed through private companies or trusts. Individual irrigators are shareholders in the irrigation company. The NSW Natural Resource Access Regulator has no jurisdiction within irrigation schemes.<sup>9</sup> For example, there is a long-standing dispute in the Murrumbidgee Irrigation Scheme relating to incorrect water meters. There is no external authority to assess the complaint or arbitrate, other than through Murrumbidgee Irrigation, who are the subject of the farmer's complaint.<sup>10</sup>

We have received anecdotal reports from farmers in one scheme about egregious actions by the scheme operators to the benefit of one or two irrigators. They claim to be threatened that their water will not be delivered at critical times if they speak out. We are also aware of

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<sup>9</sup> NSW Government (2018) *NSW Non-Urban Water Metering Policy*,  
[https://www.industry.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0017/205442/NSW-non-urban-water-metering-policy.pdf](https://www.industry.nsw.gov.au/__data/assets/pdf_file/0017/205442/NSW-non-urban-water-metering-policy.pdf)

<sup>10</sup> Calver (2019) *Decades long dispute reaches a new low*,  
<https://www.canberratimes.com.au/story/6275515/murrumbidgee-irrigation-escorted-by-security-to-remove-water-meters/?cs=14231>



several journalists who have corroborating stories about that particular scheme. There seems to be no regulator or remedial course safely available to these farmers.

In NSW there is no trade data publicly available for trades within a scheme, as these are considered to be the company's private shareholder accounts. In some valleys, this represents more than half of the valley's total water shares. This lack of transparency also means that the irrigation company could be trading water speculatively against the interests of its own members and there are rumours of this occurring in some schemes.

## THE BASIN PLAN'S INTERNAL CONTROL

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Internal controls are the processes and procedures an entity has in place to prevent, detect and mitigate risks. Internal controls should be increased where the nature of the entity and/or its environment are a high risk to mitigate against those risks. It is clear that the internal controls of the Basin Plan are inadequate and not commensurate with its risks.

In July 2017, Four Corners aired allegations of widespread water theft facilitated by governments. In the following 10 months, there were more than 100 separate examples of the mismanagement and malfeasance of the implementation of the Basin Plan reported in the media.<sup>11</sup> Those issues include:

- water theft;
- political and regulatory capture;
- water agencies with a culture of non-compliance;
- water purchases above market prices;
- alleged fraudulent use of commonwealth funds;
- Murray-Darling Basin Authority (MDBA) withholding information critical to Basin Plan amendments from the Senate
- the development of the Broken Hill pipeline without transparency;
- government manipulation of the data that underpin the Basin Plan; and
- allegation of a \$10 million bribe offered to an Aboriginal elder to advocate for amendments to the Basin Plan.

Since that report several more serious issues relating to the implementation of the Basin Plan continue to emerge, including:

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<sup>11</sup> Slattery and Campbell (2018) *The Basin Files: Maladministration of the Basin Plan: Volume 1*, <https://www.tai.org.au/sites/default/files/P531%20The%20Basin%20files%20Vol%20I%20%20%5BWEB%5D.pdf>

- the South Australian Royal Commission report which included an opinion that the implementation of the Basin Plan is unlawful in many areas, and that the Plan is maladministered and that the MDBA operates with unnecessary secrecy;<sup>12</sup>
- the MDBA draining Menindee Lakes in 2016 and 2017 when there was no downstream demand for that water;<sup>13</sup>
- the subsequent death of millions of dead fish at Menindee Lakes;<sup>14</sup>
- the MDBA operating the River Murray contrary to operating rules, causing significant economic and ecological harm to Murray irrigators and the Ramsar listed Barmah-Millewa forest;<sup>15</sup>
- a class action by hundreds of irrigators against the MDBA for negligence;<sup>16</sup>
- \$200 million water purchases for water that is likely to exist only on paper, including one purchase that has become widely known as #Watergate<sup>17,18</sup>
- More than \$40 million in compensation paid to a company after selling their water at a premium, while no other stakeholder has received such compensation;<sup>19,20</sup>
- The South Australian Government using Commonwealth environmental water to maintain water levels in the Lower Lakes for boating and recreation, rather than for environmental watering;<sup>21</sup>
- Large amounts of cotton grown while towns run out of drinking water;<sup>22</sup>
- Four Corners Cash Splash expose on maladministration of monies out of the efficiency program in the Murrumbidgee;<sup>23</sup> and

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<sup>12</sup> Walker (2019) *Murray-Darling Basin Royal Commission Report*,

<https://www.mdbrc.sa.gov.au/sites/default/files/murray-darling-basin-royal-commission-report.pdf?v=1548898371>

<sup>13</sup> Slattery and Campbell (2019) *A fish kill Qanda*, <https://www.tai.org.au/content/fish-kill-qanda>

<sup>14</sup> Australian Academy of Scientists (2019) *Investigation of the causes of mass fish kills in the Menindee region NSW over the summer of 2018-19*, <https://www.science.org.au/files/userfiles/support/reports-and-plans/2019/academy-science-report-mass-fish-kills-digital.pdf>

<sup>15</sup> Slattery and Campbell (2019) *Southern Discomfort*,

<https://www.tai.org.au/sites/default/files/P742%20Southern%20Discomfort%20%20%5BWEB%5D.pdf>

<sup>16</sup> Jones (2019) *Hundreds of farmers join \$750 million class action against the MDBA*,

<https://www.theland.com.au/story/6225673/farmers-join-750m-class-action-against-mdba/>

<sup>17</sup> Slattery and Campbell (2019) *Debugging Watergate: interpreting official responses*,

<https://www.tai.org.au/content/debugging-watergate-interpreting-official-responses>

<sup>18</sup> Slattery and Campbell (2019) *#WaterMates*, <https://www.tai.org.au/content/watergate-s-water-mates-buyers-and-sellers-australia-s-most-controversial-water>

<sup>19</sup> Slattery and Campbell (2018) *Trickle Out Effect*, <https://www.tai.org.au/content/trickle-out-effect>

<sup>20</sup> Slattery and Campbell (2018) *I'll have what they're having*, <https://www.tai.org.au/content/ill-have-what-theyre-having>

<sup>21</sup> Slattery and Campbell (2018) *Coorong don't make a right*, <https://www.tai.org.au/content/coorong-don-t-make-right>

<sup>22</sup> Slattery, Johnson and Campbell (2019) *Owing down the river*, <https://www.tai.org.au/content/owing-down-river-0>

<sup>23</sup> Rubinstein-Dunlop (2019) *Cash Splash*, <https://www.abc.net.au/4corners/cash-splash/11289412>

- The NSW Natural Resource Commissioner draft review of the Barwon-Darling Water Sharing Plan, which found that this plan does not meet the objectives of the NSW Water Management Act and has contributed to the Barwon-Darling eco-system being “in crisis” and extreme stress on communities that live along the river.<sup>24</sup>

These issues are widespread across the implementation of the Basin Plan. They are indicative of systemic failure of the implementation of the Basin Plan, and demonstrate that internal controls and existing governance arrangements have not identified and addressed those failures.

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<sup>24</sup> Natural Resource Commission (2019) *draft Water Sharing Plan Review: Barwon-Darling Unregulated & Alluvial Water Sources 2012*, <https://www.nrc.nsw.gov.au/2018-2019-wsp-reviews>

# Opposition to the Bill

We note that some stakeholders oppose this Bill, claiming:

- it would duplicate reviews that have already taken place
- it would be an expensive use of taxpayer funds
- it would delay the implementation of the Basin Plan

We do not accept that any of these reasons justify not supporting the Bill.

## DUPLICATE REVIEWS ALREADY TAKEN PLACE

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There have been many reviews of aspects of the Basin Plan since July 2017 and some stakeholders argue that a further Commission of Inquiry is not required because of these other inquiries. We believe this is not sufficient justification to reject the bill for the following reasons:

- selective acceptance of criticisms across jurisdictions
- no comprehensive review
- most reviews are not independent
- insiders at risk of not being impartial

### Selective acceptance of criticisms across jurisdictions

It is important to note, that where reviews are critical of the Basin Plan implementation, or water agencies such as the MDBA, they tend to be ignored or accepted only selectively across jurisdictions. For example, the South Australian Royal Commission report was highly critical of MDBA, but the MDBA's response mostly denied responsibility or rejected the recommendations.<sup>25</sup>

Critical reports or any review that does not align with the water agencies' public relations messages are often maligned as being politically motivated. For example, Minister Littleproud rejected a report on the Menindee fish kills undertaken by the Australian Academy of Science:

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<sup>25</sup> MDBA (2019) *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>

It's a shame the Australian Academy of Science seems to have done the Labor Party's bidding and opened itself up to claims that he who pays the piper calls the tune.<sup>26</sup>

Or, the voice/s are maligned for having an agenda to 'destroy' the Basin Plan and thereby the criticism is invalid:

Reports like this amplify superficial and sensationalist stories running in the media since the critical reporting of the SA Royal Commission into the Murray-Darling Basin. These stories have invoked the name of science to justify claims of the Plan's failures, lending an air of credibility to calls by various interests to "pause the Plan", or worse, scrap it altogether and conduct a witch hunt to embarrass public officials involved in the water reforms.<sup>27</sup>

The Australia Institute has published numerous reports highlighting maladministration of the Basin Plan since October 2017. The response by water agencies is to reject our research via press release, without ever identifying errors of fact.

## No comprehensive review

There has been no comprehensive inquiry with the required powers and scope into the implementation of the Basin Plan. The South Australian Royal Commission had far reaching powers but was restricted in scope by time and the refusal of other governments to co-operate. The Commonwealth Government was even prepared to go to the High Court to resist co-operation by the water agencies, past and present bureaucrats. This does not add weight to the argument that there have been enough reviews. Instead it suggests that the Commonwealth avoided the South Australian Royal Commission to avoid proper scrutiny.

## Independence of agency-commissioned reviews

Many reviews that water agencies call 'independent' actually have their terms of reference set by water agencies, are appointed by the water agency, are paid by the water agency and frequently have the final report 'fact-checked' by the water agency. That is, they are actually consultancies and cannot be called independent. This compromises the perceived or actual independence of the review. See for example, the *SDL Adjustment Mechanism Process Review*.<sup>28</sup>

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<sup>26</sup> Lloyd (2019) 'Drought, poor management' caused mass fish kill, <https://www.theaustralian.com.au/nation/climate/drought-poor-management-caused-mass-fish-kill/news-story/8ee19a451a7269d20eae579f28303a7b>

<sup>27</sup> Vertessey, Thompson et al (2019) *An open letter from scientists on the Murray-Darling Basin*, <https://ingenium.eng.unimelb.edu.au/2019/07/19/an-open-letter-from-scientists-on-the-murray-darling-basin/>

<sup>28</sup> Tucker, Davies, Turner (2018) *SDL Adjustment Mechanism Process Review*, [https://www.mdba.gov.au/sites/default/files/pubs/SDL-adjustment-process-review-report-may-2018\\_2.pdf](https://www.mdba.gov.au/sites/default/files/pubs/SDL-adjustment-process-review-report-may-2018_2.pdf)

The complexity of the reform is used to justify most review or assurance processes being performed by a small group of insiders. At times, assurance functions are undertaken by a party on their own work.<sup>29</sup>

Reviews conducted by parties external to the water reform have been scathing of its implementation, notably:

- the Ken Matthews report;<sup>30</sup>
- NSW Ombudsman Report;<sup>31</sup>
- the South Australian Royal Commission into the Murray-Darling Basin plan;<sup>32</sup>
- the Natural Resource Commission *Draft report - Barwon-Darling Water Sharing Plan Review*<sup>33</sup>

Reviews undertaken by water industry insiders have been much less critical, or even dismissive of criticism. For example:

- the independent review of return flows<sup>34</sup>
- the Productivity Commission's Five-year assessment of the Murray-Darling Basin Plan<sup>35</sup>

Some investigations have also been impeded by interjurisdictional boundaries. For example, NSW ICAC is reported to be investigating some matters after *Four Corners Pumped* was aired in July 2017. NSW ICAC only has jurisdiction over NSW government officials, so they will not have jurisdiction where their investigations involve Commonwealth officials. Given the Commonwealth is funding the reform, Commonwealth officials are likely to be involved in part in any investigations undertaken by ICAC.

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<sup>29</sup> Slattery (2018) *South Australia Murray-Darling Basin Royal Commission: Submission*, <https://www.tai.org.au/sites/default/files/The%20Australia%20Institute%20submission%20to%20the%20Murray-Darling%20Basin%20Royal%20Commission.pdf>

<sup>30</sup> Matthews (2017) *Independent investigation into NSW water management and compliance: Advice on implementation*, [https://www.industry.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0019/131905/Matthews-final-report-NSW-water-management-and-compliance.pdf](https://www.industry.nsw.gov.au/__data/assets/pdf_file/0019/131905/Matthews-final-report-NSW-water-management-and-compliance.pdf)

<sup>31</sup> NSW Ombudsmen (2018) *Investigation into water compliance and enforcement 2007-17*, [https://www.ombo.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0012/50133/Investigation-into-water-compliance-and-enforcement-2007-17.pdf](https://www.ombo.nsw.gov.au/__data/assets/pdf_file/0012/50133/Investigation-into-water-compliance-and-enforcement-2007-17.pdf)

<sup>32</sup> Walker (2019) *Murray-Darling Basin Royal Commission Report*, <https://www.mdbrc.sa.gov.au/sites/default/files/murray-darling-basin-royal-commission-report.pdf?v=1548898371>

<sup>33</sup> Natural Resource Commission (2019) *Draft report – Barwon-Darling Water Sharing Plan Review*, <https://www.nrc.nsw.gov.au/2018-2019-wsp-reviews>

<sup>34</sup> Wang, Walker and Avril (2018) *Potential impacts of groundwater Sustainable Diversion Limits and irrigation efficiency projects on river flow volume under the Murray-Darling Basin Plan*, <https://www.mdba.gov.au/sites/default/files/pubs/Impacts-groundwater-and-efficiency-programs-on-flows-October-2018.pdf>

<sup>35</sup> Productivity Commission (2019) *Murray-Darling Basin Plan: Five-year assessment*, <https://www.pc.gov.au/inquiries/completed/basin-plan/report>

Since Four Corners in July 2017 and the ongoing media coverage, governments have reacted with various reviews and policy commitments. There is no doubt that the spate of reviews has been in response to the attention by the media bringing these issues to public attention. Importantly, all of these issues were known to governments and water agencies, who failed to address them in the absence of scrutiny by the media. Issues that have not been raised by the media have not been resolved proactively by government agencies or many of these reviews. We agree with Mick Keelty, the Interim Inspector General, who recently said:

First and foremost, none of the major inquiries that have emerged out of the Murray-Darling Basin have come from any of the departments themselves, they've come from journalists.

Why aren't the systems in place to deal with complaints – either of integrity matters or complaints over how the system is operating?<sup>36</sup>

One example of many is the Lamey family in Goondiwindi who sent 76 separate pieces of correspondence to State and Federal water agencies, alerting them of a neighbour's unapproved earthworks built to capture overland flows, which were allegedly fraudulently funded out of the Commonwealth's water efficiency program.<sup>37</sup> However, governments failed to even recognise there was an issue until the Queensland police charged the neighbour with fraudulent use of more than \$20m of Commonwealth funds. Even then, the Department of Agriculture and Water Resources did not establish an audit program of the efficiency program until the weeks prior to Four Corners aired *Cash Splash*, which highlighted further issues with the expenditure of monies under that program, more than two years after the alleged fraud was aired publicly.<sup>38</sup>

## USE OF TAXPAYER FUNDS

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The South Australian Royal Commission had a total budget of \$8.5 million and spent a little over \$5 million.<sup>39</sup> Assuming a Commission of Inquiry conducted under this Bill would cost a similar amount, this represents just 0.065% of the total Basin Plan expenditure (\$13

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<sup>36</sup> Sullivan (2019) *Murray-Darling Basin Plan 'untenable' says NSW, as Inspector-General says more corruption wouldn't surprise*, <https://www.abc.net.au/news/2019-08-05/murray-darling-basin-plan-untenable-says-nsw/11382396>

<sup>37</sup> Brewster (2018) *One of Queensland's largest irrigators expected to be charged with fraud*, <https://www.theguardian.com/environment/2018/apr/09/one-of-queenslands-largest-irrigators-expected-to-be-charged-with>

<sup>38</sup> Hayter and Bryant (2019) *Irrigators reject claims that taxpayer-funded water-saving scheme is not audited*, <https://www.abc.net.au/news/2019-07-12/irrigators-reject-claims-murray-darling-water-scheme-not-audited/11302590>

<sup>39</sup> Marshall (2019) *Press Release: Murray Darling Basin Royal Commission*, <https://premier.sa.gov.au/news/murray-darling-basin-royal-commission>

billion);<sup>40</sup> 0.01% of the water acquisition commitment (\$9.6 billion);<sup>41</sup> just over 20% of the compensation paid to Webster Ltd at Tandou (\$40 million),<sup>42</sup> or only 40% of the amount of the alleged fraud against the Commonwealth currently before the Queensland courts (\$20 million).<sup>43</sup> This list is not exhaustive.

A Commission of Inquiry would be an investment, rather than an unnecessary use of taxpayer funds.

## DELAY TO THE BASIN PLAN

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When fully implemented under the current policy settings, the Basin Plan will result in:

- Legislated Water Resource Plans for the following 10 years.
- The transformation of some valleys, through infrastructure spending such as large (several km<sup>2</sup>) dams and floodplain harvesting schemes. Some of these works are already causing significant negative impacts to downstream economies, communities and environment.
- Large engineering projects under the supply measures program that will re-engineer lakes, rivers and creeks. The intent is to improve on nature by achieving 'equivalent environmental outcomes' with less water. However, this concept is not well tested. Similar engineering works built during the previous reform - The Living Murray, are creating worse, not better environmental outcomes. One of these projects is at the Koondrook-Perricoota forest, which MDBA describes as being "under significant environmental strain".<sup>44,45</sup> Two major projects – Menindee Lakes and Yanco Creek, have

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<sup>40</sup> Wentworth Group of Concerned Scientists (2017) *Review of water reform in the Murray-Darling Basin*, <https://wentworthgroup.org/wp-content/uploads/2017/12/Wentworth-Group-Review-of-water-reform-in-MDB-Nov-2017.pdf>

<sup>41</sup> Wentworth Group of Concerned Scientists (2017) *Review of water reform in the Murray-Darling Basin*, <https://wentworthgroup.org/wp-content/uploads/2017/12/Wentworth-Group-Review-of-water-reform-in-MDB-Nov-2017.pdf>

<sup>42</sup> Slattery and Campbell (2018) *Trickle Out Effect*, <https://www.tai.org.au/content/trickle-out-effect>

<sup>43</sup> Brewster (2018) *Queensland cotton farmer charged with \$20m Murray-Darling plan fraud*, <https://www.theguardian.com/australia-news/2018/aug/28/queensland-cotton-farmer-charged-with-20m-murray-darling-plan>

<sup>44</sup> MDBA (2019) *Water for the environment is making the grade*, <https://www.mdba.gov.au/media/mr/water-environment-making-grade>

<sup>45</sup> Duncan and Martin (2017) *Koondrook-Perricoota Forest Icon Site Fish Condition Monitoring 2017 Annual Report*, <https://www.dpi.nsw.gov.au/content/research/fishing-aquaculture/seventh-lay-summary>



been approved without assessing the equivalent environmental outcomes.<sup>46,47,48</sup> All of these types of works are unlikely to be reversible once implemented.

The full implementation of the Basin Plan will have long-term (if not permanent) and large-scale changes. Given the high risks associated with its implementation and the systemic absence or inadequacy of internal controls, it is reckless to proceed without the Commission of Inquiry as described in this Bill.

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<sup>46</sup> Walker (2019) *Murray-Darling Basin Royal Commission Report*,  
<https://www.mdbrc.sa.gov.au/sites/default/files/murray-darling-basin-royal-commission-report.pdf?v=1548898371>

<sup>47</sup> MDBA (2014) *Fact Sheet: Environmental Equivalence Test (for SDL adjustment assessment)*,  
<https://www.mdba.gov.au/sites/default/files/pubs/Environmental-equivalence-factsheet.pdf>

<sup>48</sup> MDBA (2012) *Hydrological modelling to inform the proposed Basin Plan: Methods and results*,  
[https://www.mdba.gov.au/sites/default/files/pubs/Hydrologic\\_Modelling\\_Report.pdf](https://www.mdba.gov.au/sites/default/files/pubs/Hydrologic_Modelling_Report.pdf)

# Conclusion

While rarely discussed, a foundation of reform in the Murray Darling Basin is the way water is accounted for and audited. This underlies all systems of water allocation, recovery and trade. Considering the implementation of the Basin Plan from an audit perspective makes clear the need for a Commission of Inquiry such as proposed in this Bill.

In every other aspect of public debate, audits are required regularly and taken seriously. No company beset by scandal would be able to delay an audit by complaining that ICAC and the state ombudsman were already looking into them. No public service agency could avoid scrutiny by an Auditor General by pointing to a recent Royal Commission.

The Murray Darling Basin is special. The Basin Plan is a pioneering reform. However, the stakeholders that are responsible for the mismanagement of the Basin and its reform are no different to other parties that are held responsible for their failures. This Bill would help bring long-overdue accountability to the management of our greatest rivers.