

Senate Environment Communications and Arts Legislation Committee: Inquiry into the Water (Crisis Powers and Floodwater Diversion Bill) 2010.

The following responses are for 3 questions taken on notice by Mr Tony Slatyer, Department of the Environment, Water, Heritage and the Arts, on 30 June 2010.

*1. From Senator Xenophon: “to what extent do the New South Wales flood plain plans interact with the management of the river system and the interaction with the MDBA in terms of the intergovernmental agreement as well... could you not advise on what the status is of the current plan and the interaction with current policies?”*

The MDB Agreement sets the water sharing arrangements for the River Murray system including the Lower Darling. Water flowing from NSW floodplains into the Barwon-Darling catchment, Darling River and into the Menindee Lakes become subject to the Agreement when Menindee Lakes volumes reach 640GL. They will revert to NSW control when volumes fall below 480GL.

When the Lakes are under MDBA control, the water is managed as part of the overall storages in the Basin, and can contribute for example to flows in the lower Murray.

When the proposed Basin Plan comes into effect, new NSW water sharing plans will be required to ensure that diversions do not exceed the relevant sustainable diversion limit.

*2. Asked by Senator Birmingham: “And those limits need not necessarily be a fixed amount essentially based on ‘here’s an average inflow, here’s an average sustainable extraction limit, that’s what we’re going to work with’? The limits could be set in a manner that responded to times of drought and times of plenty?”*

The *Water Act 2007* requires the setting of long term average sustainable diversion limits (SDLs) for each SDL area defined in the Basin Plan. The SDLs need not necessarily be a fixed amount. Section 23(2) of the Act allows considerable flexibility in how the SDLs may be set, including specific quantities, formulas or any other way that the Authority determines to be appropriate.

*3. Asked by Senator Birmingham: “Has there been any communication between New South Wales and Commonwealth departments or between New South Wales and Commonwealth ministers that you are aware of?”*

Yes. On 25 March 2010 the NSW Minister for Water wrote to the Minister for Climate Change, Energy Efficiency and Water on this matter in her role as Chair of the MDB Ministerial Council. The Minister replied to her NSW counterpart on 11 May 2010.