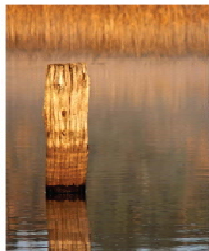
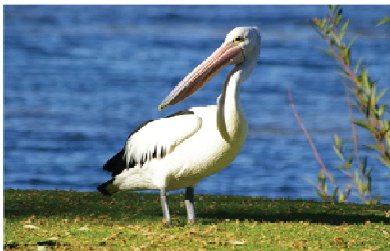


**Waterfind Submission to the
Senate Standing Committee on
Environment, Communication
and the Arts – Inquiry into
Water Licences and Rights**

June 2010



INTRODUCTION

Waterfind welcomes the opportunity to appear before this Senate Standing Committee to discuss the important issue of granting and managing water entitlements in Australia.

Waterfind would like to raise the Committee's attention to the following issues:

- Implementation of the Basin Plan;
- Conduct of the Entitlement Buyback under the Restoring the Balance in the Murray Darling Basin; and
- Water Market Regulation.

IMPLEMENTATION OF THE BASIN PLAN

It is expected that in the next few weeks the draft Basin Plan will be released for consultation by the Murray-Darling Basin Authority which will include suggested Sustainable Diversion Limits.

Waterfind has noted significant levels of concern amongst its clients about the potential impact of the Basin Plan on water licence holders in the MDB. In particular, there appears to be great potential for the consultation and implementation process for the Basin Plan to create uncertainty and anxiety within agricultural communities. At a time when many southern Basin communities are still within EC declared areas and given that the 3 month outlook is for continued lower than median rainfall, it is important to not dampen rural confidence through creating market uncertainty.

One potential impact of uncertainty is the devaluation of water entitlements values. Waterfind has already observed in the past 6 months a significant decline in the value of NSW water entitlements as a result of a combination of factors including general decline in the rural financial outlook and the impact of various, existing water market policies. These demonstrate that the market is extremely sensitive to a variety of drivers and Waterfind is of the opinion that uncertainty around implementation of the Basin Plan could further devalue water assets and erode water licence holders capital base and ability to remain resilient in the face of continued pressures such as low water allocations in the coming season.

Waterfind believes that it is vitally important that the Commonwealth is aware and sensitive to the potential impacts of the implementation process of the Basin Plan and that it consider a range of actions to manage the potential uncertainty, including.

- Set clear and achievable timeframes for specific actions;
- Release details of options that are 'off the table' early on in the consultation process. For example, expressing that addressing SDL reductions through compulsory acquisitions will be off the table;
- Only conduct public consultations and ensure that to the greatest extent possible presentations, notes and transcripts that are used at consultations are published on the internet;
- Alter the current policies for reporting data from Commonwealth water purchases so that more comprehensive price and volume data are reported; and

CONDUCT OF ENTITLEMENT BUYBACK UNDER THE RESTORING THE BALANCE IN THE MURRAY DARLING BASIN

During the 2009/10 irrigation season the Commonwealth Government has purchased water from the Murray-Darling Basin through three tender rounds. The third round for the 2009/10 season closed on the 21st of May and the average prices paid were released on the 16th June. Waterfind has conducted a preliminary analysis of the prices paid by the Commonwealth in the final 2009/10 season tender round and compared these with the average prices in 2008/09 (Table 1).

Table 1. Government Buyback Average Tender Price comparison between 2008/09 and 2009/10 seasons

State	System	2008/09 Avg. Tender Price	2009/10 Final Tender Price	Percentage Change (%)
SA	Murray River	\$2,392	\$1,841	-23%
Victoria	Goulburn	\$2,385	\$1,862	-22%
	Murray Below Choke	\$2,372	\$1,824	-23%
	Murray Above Choke	\$2,173	\$1,613	-26%
	Campaspe	\$2,376	\$1,740	-27%
	Loddon	\$2,388	\$1,636	-31%
NSW General Security	Murrumbidgee	\$1,099	\$864	-21%
	Murray Below Choke	\$1,268	\$926	-27%
	Murray Above Choke	\$1,322	\$796	-40%

The prices paid by the Commonwealth in the third tender round for the 2009/10 season are 25% lower than the average paid in 2008/09 season. The water entitlements that have seen the greatest drop in value are NSW Murray Above Choke General Security. Note that there were no NSW entitlements reported by the Government as purchased in the third round tender as the 60 GL cap had already been reached.

A question that remains is “what has driven this decline in price?” There is strong evidence that at the start of the 2009/10 season, the private market in the southern Murray-Darling Basin traded well below the average prices paid by the Commonwealth in 2008/09. Whether the Government reinforced this reduction in pricing or drove it cannot be concluded with certainty. Clearly though, the Government has benefited from this decline enabling it to purchase more entitlements for the funds available compared with 2008/09.

There is a strong possibility that the Memorandum of Understanding agreed to between the Commonwealth and the NSW State Government, which limited the volume that could be purchased by the Commonwealth from NSW to 60 GL of General Security equivalent entitlements in 2009/10 and has potentially added to a sentiment among sellers that the demand for entitlements from the Commonwealth in the future will be artificially limited.

Compared to the 2008/09 season, the processing of submissions to the Commonwealth has been very prompt with responses received in several weeks compared to the typical waiting time of multiple months experienced in 2008/09.

WATER MARKET REGULATION

Within the Water Market there are two main issues regarding regulation which should be addressed by the Commonwealth Government. These issues, which will improve reliability and confidence in the water market, are:

1. Regulation of the three tiers of the water market, those being Water Market Regulators, Water Market Administrators and Participants; and
2. Regulation of Water Market Intermediaries.

Regulation of the three tiers of water markets requires separation of responsibilities and is the cornerstone of successful markets. The same should now apply for the ever maturing Australian water market. For example, many Government organisations and Irrigation Infrastructure Operators are currently required to fulfill multiple responsibilities in the water market, creating the potential for conflicts of interest.

These issues are an historical relic from the early days of the water market where little trading was conducted and the existence of separate organisations to create rules for the water market and administer the market could not be justified. Now that the market has significantly grown it is time for the role of water market regulators, administrators and participants be reviewed with the intention of greater separation of roles and responsibilities between these three tiers.

Waterfind believes that regulation of water market intermediaries including brokers and exchanges is critical for maturing the market, however this regulation would be unsuccessful if further regulation of the three tiers of water market administration discussed above is not implemented.

Bearing this in mind, Waterfind believes that regulations for intermediaries should be introduced and, as a minimum, include:

- A definition of what constitutes a water market intermediary, the creation of rules for who can and cannot conduct water intermediary activities and the setting of standards of practice for water market intermediaries to adhere to.
- The introduction of a licensing regime for water market intermediaries. Intermediaries should only be able to receive and retain a licence of operation upon providing evidence to the regulatory authority that relevant structures and processes are in place to ensure that they can adhere to legislated standards of practice.
- Agencies responsible for processing water transactions should only be able to accept transactions from licenced water market intermediaries.
- The requirement for intermediaries to conduct all trading activities through a regularly audited trust account which is protected from any actual or potential claims from creditors.
- That intermediaries are precluded from buying or selling water for profit on their own behalf i.e. they would need to establish themselves as a trader, not intermediary.
- The requirement for intermediaries to retain a minimum quantity of professional indemnity insurance to protect their clients against any business negligence, which the regulatory authority would require to cite a certificate of currency to maintain an intermediary licence.