



Murray Irrigation

# **Inquiry into the provisions of the Water Act Amendment Bill 2015**

Submission to the Senate Standing  
Committee on Environment and  
Communications – Legislation  
Committee

July 2015

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## Executive summary

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Legislation to impose a statutory limit of 1,500GL on Commonwealth purchases of surface water across the Murray-Darling Basin is consistent with water recovery policies promoted by both major Parties when in Government.

Both sides of politics, in committing to the Basin Plan, have taken on the responsibility to 'bridge the gap' and recover the difference between baseline diversions and sustainable diversion limits. Both sides have been committed to delivering the Basin Plan 'in full and on time' utilising a suite of water recovery methods, of which purchase is just one.

**It therefore stands to reason that all sides of politics should support the intent of this legislation.**

The first Environmental Water Recovery Strategy (EWRS) was a draft for consultation released by the then Labor Government Environment Minister Tony Burke in November 2012<sup>1</sup> that outlined the priority for recovery through infrastructure spending estimated to total 600GL. It also identified capacity for up to 650GL to be recovered through environmental works and measures or 'supply measures' under the Basin Plan sustainable diversion limit adjustment mechanism (offsets) leaving 1,500GL to be acquired through water purchases.

In 2014, the Coalition Government released an updated EWRS<sup>2</sup> that reinforced these numbers and rephrased funding for buybacks stating:

*"The Australian Government has introduced a 1500 gigalitre cap on surface water buybacks to address community and industry stakeholder concerns over the potential adverse social and economic impacts on irrigation dependent communities that may arise from water purchases."*

The document went further to explain that if all other water recovery expectations were met, the actual total volume required to be recovered through purchase would be "significantly less than the 1,500GL cap" (p18).

There has been ongoing debate about the balance, or not, of the Water Act 2007 and its ability to deliver a triple bottom line for social, economic and environmental outcomes. The reality is that the Basin Plan is having significant consequences on businesses like Murray Irrigation who are dependent on delivering water. How the Basin Plan is implemented by Governments can go some way to address our business concerns and the wider social and economic impacts that are being experienced as a result of non-strategic water recovery.

Water recovery has an impact. For our business, which services around 2,400 landholdings and 1,200 unique farm businesses, a reduction in the volume of water delivered through our network has a direct impact on our bottom line and a flow on impact on our customers and our communities.

By far the most significant impact is the exit of productive water through open tender purchase which reduces the volume of water available for productive use as well as regional economic capacity compared to infrastructure investment that maintains productivity while improving water use efficiency, despite investment programs also having a broader, off-farm impact.

There is a limit to the effectiveness of recovery through investment however and this limit will be exceeded if the water for the environment special account is used to recover a fixed volume of water over and above what is required to meet the Sustainable Diversion Limits (SDLs). While not part of the Amendment Bill being reviewed, the Committee should take the opportunity to revisit Part 2AA to apply sense and flexibility to the section.

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<sup>1</sup> Environmental Water Recovery Strategy for the Murray-Darling Basin, Department of Sustainability, Environment, Water, Populations and Communities, November 2012

<sup>2</sup> Water Recovery Strategy for the Murray-Darling Basin, Department of the Environment, June 2014.

# 1 Background

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## 1 Background

Murray Irrigation is pleased to provide this submission to the Senate Standing Committee on Environment and Communications – Legislation Committee, and would be available to respond to any queries or to meet with the Committee to discuss this submission if required.

### 1.1 Murray Irrigation

Murray Irrigation is an unlisted public company that provides irrigation water and associated services to approximately 1,200 family farm businesses over an area of 748,000ha through 3,000km of channels in the NSW southern Riverina.

Murray Irrigation is governed by a Board of Directors comprised of six shareholder directors and two non-shareholder directors.

Murray Irrigation's shareholders are farmers with food, fibre and livestock being the focus of regional production. Murray Irrigation's source of water is the regulated River Murray and the company's water supply is almost exclusively NSW Murray General Security water.

Murray Irrigation is a not-for-profit company and we do not pay dividends.

### 1.2 Membership

Murray Irrigation is a member of both the NSW Irrigators' Council and the National Irrigators' Council. We work with these bodies to ensure the interests of irrigators are represented.

## 2 Water Amendment Bill 2015

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Murray Irrigation makes the following specific comments on the Water Amendment Bill 2015.

### 2.1 Division 5 – 1,500 gigalitre limit on water purchases

As noted in the Explanatory Memorandum to the Water Amendment Bill, the legislation imposes no additional requirements for water recovery, nor does it undermine the efforts to implement the Basin Plan<sup>3</sup>.

Water recovery for the environment as held water entitlements, even where recovery is through infrastructure projects, negatively impacts on irrigation communities and particularly irrigation districts serviced by irrigation infrastructure operators (IIOs) such as Murray Irrigation. This is due to the fact that the cost of operating and maintaining the system remains even where entitlement has been sold to the Commonwealth. Reduced water sales, without a matching reduction in costs results in a higher effective price per megalitre (ML) for remaining customers.

The advantage of infrastructure investment is it is designed to maintain productivity while reducing the amount of water used to achieve that level of productivity. It therefore retains economic activity in the region and is by far the preferred recovery method for irrigators.

On the other hand buyback in simplistic terms appears to provide the most value for money but is in fact the most detrimental to communities because it does not implement measures to maintain productivity in a region. So while an individual is compensated for the reduction in water (through sale of entitlement) the community is not compensated for the flow-on impacts of the sale.

A cap on water purchase will not reduce the amount of entitlement to be recovered from the irrigation industry, it will however ensure that sufficient entitlement recovery is achieved through investment to retain regional productivity and contribute to sustaining communities. It effectively acts as a safety net for those communities.

#### 2.1.1 Exceptions: 85C (4)

Murray Irrigation agrees that a contract is not a water purchase for the purposes of the cap if the contract was entered into as the result of a Commonwealth program for rationalisation or reconfiguration of an irrigation network and/or activities relating to water infrastructure consistent with (a) and (c) of this section.

With regards to (b) of this section, Murray Irrigation would like clarification that the purchase from a Basin State is not in lieu of Commonwealth purchases. For example, Murray Irrigation would not want to see open water purchase tenders conducted by a State for resale to the Commonwealth. However, we do agree that there should be capacity for the Commonwealth to buy entitlement from a Basin State if the entitlement is the result of an infrastructure initiative such as those described in (a) and (c).

Murray Irrigation supports trade as a key tool available to the Commonwealth Environmental Water Holder (CEWH); however, we do not condone the exemption of water entitlement purchases by the CEWH in accordance with part 6 of the *Water Act 2007* from the Cap.

In 2012 Murray Irrigation made a submission to the CEW office (CEWO) regarding potential trade arrangements. In this submission we noted:

*“Murray Irrigation has long been calling for the Commonwealth Government’s purchasing program to reflect need rather than ease of acquisition. We support trade being used to ensure it is possible to*

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<sup>3</sup> Water Amendment Bill 2015 Explanatory Memorandum, June 2015, paragraph 6.

## 2 Water Amendment Bill 2015

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*deliver environmental outcomes; however, we do not support trade being used to obtain entitlements in any particular valley in excess of that required under the proposed Basin Plan..... Beyond the Basin Plan, if there are future identified environmental needs, it must be addressed through an appropriate review of the Basin Plan and not through further purchase of entitlement by the CEWH.”<sup>4</sup>*

Murray Irrigation remains of this view. The Basin Plan is ostensibly based on “best available science” and identifies sustainable diversion limits and associated water recoveries needed both in valley and throughout the connected systems (north and south). There should be no need for the CEWO to recover more entitlement than identified in the Basin Plan. If experience shows that the Department of Environment has purchased entitlement in the wrong areas or the wrong products for the need, then it stands to reason the CEWO can re-balance their portfolio – but this should not exceed the cap on volume recovery requirements.

Murray Irrigation is concerned with section 85C(4)(e) that states a contract is not a purchase for the purposes of the cap if:

*“the cost of the water access entitlement purchased under the contract is or was debited from the Water for the Environment Special Account.”*

If, as noted in the Explanatory Memorandum, the Special Account (Part 2AA of the *Water Act 2007*) ensures the Commonwealth may only obtain water access rights in conjunction with projects to improve water use efficiency or alternative arrangements proposed by a Basin State, this section is redundant as these purchases will meet the definitions of parts (a), (b) or (c) of this section.

A concern regarding Part 2AA of the *Water Act 2007* that still remains is the wording of Section 86AA(3)(b) that effectively requires the Government of the day to recover 450GL of water through the Special Account regardless of whether or not it can achieve outcomes, represents value for money or is consistent with the objects of the SDL adjustment mechanism.

In 2012 the House of Representatives Standing Committee on Regional Australia reviewed the *Water Act Amendment Special (water for the Environment) Account Bill*. At that time, the Bill read:

*Part 2AA S86AA(3) The object of this part is to be achieved by:*

*(b) increasing the volume of the Basin water resources that is available for environmental use by up to 450 gigalitres. (emphasis added)*

In making its recommendation for the amendment to be passed by Parliament the Committee noted:

*“The Committee does not agree with the recommendation made by the Senate Committee to amend subclause 86AA(3)(b) to establish a mandatory recovery target of 450GL. The program established by the Special Account is entirely voluntary. To establish a mandatory recovery target of 450GL as recommended by the Senate would establish a quasi-compulsory program which the Committee is strongly opposed to.”<sup>5</sup>*

Contrary to the Committee’s view, the Senate amended the Bill to remove the words “up to”. While not currently included in the amendment before the Committee, Murray Irrigation would urge the Committee to review the current requirement under Part 2AA and re-insert the words “up to” as recommended by the Standing Committee on Regional Australia in 2012.

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<sup>4</sup> Murray Irrigation submission to the Commonwealth Environmental Water Office regarding discussion paper on Commonwealth Environmental Water trade arrangements, May 2012.

<sup>5</sup> Advisory Report, *Water Amendment (Water for the Environment Special Account) Bill 2012*, House of Representatives Standing Committee of Regional Australia, November 2012, p14

## 2 Water Amendment Bill 2015

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**Recommendation:** Remove Sections 85C(4)(d) and (e) from the Amendment.

Section (d) is inconsistent with the intent of the amendment to limit entitlement purchase by the Commonwealth and Section (e) is redundant due to clauses (a), (b) and (c).

### 2.2 Part 2 – Amendment of the Basin Plan 2012

Murray Irrigation does not support further water recovery over and above the 2,750GL target contained in the proposed Murray-Darling Basin Plan. While the special account and associated “efficiency measure” criteria contained in the Basin Plan promote water recovery with “neutral or improved socio-economic outcomes”<sup>6</sup>, Murray Irrigation is concerned that to date there is still not a universally accepted social and economic benchmark from which to measure neutrality.

Further, as mentioned previously, all water recovery has an impact particularly in areas serviced by an IIO. Recovery through infrastructure investment improves water use efficiency; however, it still has a flow on impact on an IIOs operations through reduced volume delivery and more broadly the water market through less available volume.

The issue is that while the provision for efficiency measures is included in the Basin Plan, Murray Irrigation supports the inclusion of a new sub-paragraph to enable participation by consumptive water users, including irrigation infrastructure operators, in projects that recover water through works to improve water use efficiency off-farm.

In August 2012 Murray Irrigation wrote to then Environment Minister Tony Bourke highlighting the fact that without capacity for IIO’s to retire or reconfigure irrigation systems in response to reduced consumptive volume the reduced water sales would result in a higher effective price per megalitre for remaining customers.

In a submission on the *Water Amendment (Water for the Environment Special Account) Bill 2012* Murray Irrigation wrote:

*“The difficulty for IIOs is that it is impossible to know where water recovery will occur within our own region.... it needs to be recognised that the transfer of water entitlements from an IIO’s area of operations will impact customer fees unless there is an ongoing ability for IIOs to retire and reconfigure their systems as the full impact of water recovery within their system becomes apparent.”<sup>7</sup>*

The inclusion of 7.17(2)(b)(ia) in the Basin Plan recognises that there are efficiencies to be gained on and off-farm through infrastructure investment.

**Recommendation:** Accept this amendment to the Basin Plan to allow industry to participate in projects designed to improve off-farm as well as on-farm water use efficiency.

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<sup>6</sup> Murray-Darling Basin Plan, Section 7.17(2)(b), 2012.

<sup>7</sup> Murray Irrigation Submission to the House of Representatives Standing Committee on Regional Australia: Inquiry into the Water Amendment (Water for the Environment Special Account) Bill 2012, November 2012

## 3 Conclusion

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## 3 Conclusion

Murray Irrigation commends the Water Act Amendment 2015 to the Senate Committee on Environment and Communications.

In recommending the removal of sections of the amendment, Murray Irrigation is not proposing to change the intent of the legislation, rather clarify that intention and the provisions of the Bill.

This legislation will provide a safety net for irrigation businesses and communities by ensuring water recovery efforts are focussed on the more economically sustainable infrastructure and investment venture.

The legislation does not preclude buyback as an option for water recoveries, however, by implementing an upper limit, it requires the Government to consider all options before resorting to buyback.

Murray Irrigation supports the passage of this legislation through both Houses of Parliament to legislate what has to date been bi-partisan policy with regards to environmental water recovery.

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