

The Senate

Environment and Communications
Legislation Committee

Water Amendment (Purchase Limit Repeal)
Bill 2019

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Chapter 1

Introduction

1.1 On 14 February 2019, the Senate, on the recommendation of the Selection of Bills Committee, referred the provisions of the Water Amendment (Purchase Limit Repeal) Bill 2019 (the bill) to the Senate Environment and Communications Legislation Committee (the committee) for inquiry and report by 26 March 2019.¹

1.2 The bill is a private Senator's bill introduced by Senator Louise Pratt, Australian Labor Party.²

Conduct of the inquiry

1.3 In accordance with usual practice, the committee advertised the inquiry on its website and wrote to relevant organisations inviting submissions by 27 February 2019.

1.4 The committee received 45 submissions relating to the bill and these are listed at Appendix 1.

1.5 The committee held public hearings in Adelaide on 12 March 2019, and in Broken Hill on 13 March 2019. The list of witnesses who participated in public hearings is at Appendix 2.

1.6 The public submissions, additional information received, and *Hansard* transcripts are available on the committee's website at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/WaterAmendmentBill2019.

Acknowledgment

1.7 The committee would like to thank all the organisations and individuals that contributed to the inquiry and the witnesses who attended the public hearings.

Reports of other committees

1.8 When examining a bill or draft bill, the committee takes into account any relevant comments published by the Senate Standing Committee for the Scrutiny of Bills. The Scrutiny of Bills Committee assesses legislative proposals against a set of accountability standards that focus on the effect of proposed legislation on individual rights, liberties and obligations, and on parliamentary propriety.

1 *Journals of the Senate*, No. 140, 14 February 2019, p. 4668.

2 *Journals of the Senate*, No. 139, 13 February 2019, p. 4639.

1.9 At the time of writing, the Scrutiny of Bills Committee had not reported on the bill.

Purpose of the bill

1.10 The bill proposes to amend the *Water Act 2007* (the Act) to repeal the statutory limit of 1,500 gigalitres (GL) on Commonwealth purchases of surface water across the Murray-Darling Basin.

1.11 The Explanatory Memorandum (EM) states that by removing the 1,500 GL limit, there is no legislative barrier if a review of the Murray-Darling Basin Plan (Basin Plan), or of the 605 GL 'supply projects' demonstrates the need for more water purchases.³

1.12 The EM explains that the Productivity Commission Review of the Basin Plan, the South Australian Murray-Darling Basin Royal Commission, and recent fish deaths in the Murray-Darling Basin, have all highlighted the need for 'as many options as possible' to restore the river system to health. The EM states 'removing the cap on buybacks adds this option should it be required'.⁴

Background

1.13 In 1994, the Council of Australian Governments (COAG) agreed to a water reform framework in recognition that management of Australia's water resources was a national issue that would require cooperation between the Commonwealth and Basin States. The Intergovernmental Agreement on a National Water Initiative was finalised in 2004.

1.14 The Millenium Drought exposed the limits and weaknesses of how the Basin was managed, and highlighted the need for continuing reform. As a result, in 2007 the then Prime Minister the Hon John Howard announced a \$10 billion plan to improve water efficiency to address the over-allocation of water for rural Australia.⁵ The then Prime Minister the Hon John Howard called on the Basin States to transfer their powers to enable the Commonwealth to oversee the management of the Murray-Darling Basin. Following failure to reach agreement with all the States, the Commonwealth sought to achieve its aims through the use of its constitutional powers.⁶

1.15 The *Water Act 2007* was passed by the Australian Government with bi-partisan support. As a requirement of the legislation the Murray-Darling Basin

3 Explanatory Memorandum (EM), p. 1.

4 EM, p. 1.

5 Murray-Darling Basin Authority, 'Developing the Basin Plan', <https://www.mdba.gov.au/basin-plan-roll-out/basin-plan/developing-basin-plan> (accessed 15 March 2019).

6 Water Bill 2007, Revised Explanatory Memorandum, p. 1.

Authority (MDBA) was established, and the Basin Plan was developed, with the primary objective of limiting the use of water by industries and communities in the Basin.⁷ The Act established mandatory content for the Basin Plan, including:

- long-term annual average sustainable diversion limits (SDLs) for the amount of surface water and groundwater that can be taken from Basin water resources;
- requirements that state water resource plans must comply with if they are to be accredited under the Act;
- an environmental watering plan to optimise environmental outcomes for the Basin;
- a water quality and salinity management plan for the Basin; and
- rules about water trading.⁸

1.16 The Basin Plan 2012, agreed to by the Australian Parliament in November 2012, specifies the sustainable level of diversions and extractions from surface and ground water resources. These limits represent the maximum long-term annual average quantities of water that can be extracted from surface water and groundwater resources in the Basin while maintaining the health of the Basin environment.

1.17 On 27 February 2014, the then Prime Minister the Hon Tony Abbott announced that the Premiers of New South Wales and Queensland had signed the Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin and an amended National Partnership Agreement. It was announced that 'a commitment to cap water purchases at 1,500 gigalitres and prioritising water infrastructure programmes were key components in bringing the two states on board'. Victoria, South Australia and the Australian Capital Territory also signed the amended National Partnership Agreement.⁹

1.18 On 2 June 2014, the Commonwealth released the *Water Recovery Strategy for the Murray-Darling Basin* (the Strategy). The Strategy outlined the Commonwealth's strategy for the recovery of water necessary to bridge the gap to the SDLs in the Basin Plan. In particular, the Strategy outlined that the Government was prioritising infrastructure investment over water buyback, and announced that a 1,500 GL per year limit would be placed on surface water purchases across the Basin. On 10 March 2015, the Commonwealth announced its intention to enshrine in legislation both the 1,500 GL per year limit, and the commitment to infrastructure investment.¹⁰

7 Murray-Darling Basin Authority, 'Developing the Basin Plan', <https://www.mdba.gov.au/basin-plan-roll-out/basin-plan/developing-basin-plan> (accessed 15 March 2019).

8 *Water Act 2007*, s. 22.

9 <https://www.environment.gov.au/minister/birmingham/2014/mr20140227.html>

10 Water Amendment Bill 2015, Explanatory Memorandum, p. 2. See also, *Water Recovery Strategy for the Murray-Darling Basin*, June 2014, p. 3.

1.19 The EM to the Water Amendment Bill 2015 (which enshrined the 1,500 GL cap in legislation) stated that the purpose of the legislation was to provide increased assurance to rural and irrigation communities regarding the implementation of the Basin Plan, and the commitment to minimise the potential socio-economic impacts of Commonwealth environmental water purchases.¹¹

1.20 The Basin Plan established that 2,750 GL of water needed to be recovered from the consumptive pool to provide for an environmentally sustainable level of take. This figure was amended as a result of the Northern Basin Review, and was reduced to 2,680 GL. It will be further amended by the operation of the SDL Adjustment Mechanism, which provides the equivalent environmental benefits of 605 GL.¹²

1.21 The Basin Plan provides for a reconciliation process in 2024 under which the Sustainable Diversion Limit (SDL) will be reviewed in light of supply measure implementation. This process is intended to account for any variation in ecological outcomes between the package of supply measure projects as originally notified to the MDBA by Basin States (Queensland, New South Wales, Victoria, South Australia and the Australian Capital Territory) and the final configuration of projects as implemented by 30 June 2024.¹³

1.22 In meeting Basin Plan water recovery targets, a total of 1,224 GL of water purchases have been made to date. This means that water purchases are currently 276 GL beneath the purchase limit of 1,500 GL. As at 30 November 2018, if all contracted water is delivered, approximately 30 GL of surface water is needed to bridge the gap to the sustainable diversion limits established in the Basin Plan.¹⁴

1.23 The Department of Agriculture and Water Resources (the department) submitted that in the event of non-delivery of contracted water or adverse impacts on the long term average annual yield of water recovered (as a result of final conversion factors in water resource plans), there remains sufficient capacity available under the 1,500 GL cap to meet the need for any further water recovery that may be required. In addition, any shortfall can be recovered through either direct purchases or through infrastructure works. The department stated that 'it remains the Australian Government's stated preference to recover water through infrastructure over buybacks'.¹⁵

1.24 Further, the cap does not apply to the recovery of 450 GL of efficiency measures required by the year 2024. The recovery of water through efficiency measures is subject to other legislative requirements set out in the Basin Plan and the

11 Department of Agriculture and Water Resources, *Submission 33*, p. 1.

12 Department of Agriculture and Water Resources, *Submission 33*, p. 1.

13 Department of Agriculture and Water Resources, *Submission 33*, p. 1.

14 Department of Agriculture and Water Resources, *Submission 33*, p. 1.

15 Department of Agriculture and Water Resources, *Submission 33*, p. 2.

Water Act. The Basin Plan requires that the water is delivered through works that improve the efficiency of water use and that are socio-economically neutral or positive according to the tests in the Basin Plan. Funds in the Water for the Environment Special Account (the WESA) can only be used for projects that meet the legislative requirements.¹⁶

16 Department of Agriculture and Water Resources, *Submission 33*, p. 2.

Chapter 2

Key issues

2.1 This chapter examines the evidence, both supporting and not supporting the bill, received by the committee.

2.2 Submitters who supported the bill argued that water buybacks are the most cost-effective mechanism for the recovery of water for the environment. Further, submitters argued that there should be no legislative impediment (i.e. the 1,500 GL cap) to the achievement of water recovery for the environment, especially in light of recent fish deaths in the Darling River. Submitters also argued that water efficiencies through supply measure projects have either been exhausted, or are insufficient to meet Basin Plan targets and that buybacks should therefore be prioritised.

2.3 Submitters who supported the bill argued that negative socio-economic impacts from water buybacks have been overstated. Further, that the opponents of the bill have utilised unreliable research to argue that the lifting of the cap would create uncertainty for rural communities.

2.4 In contrast, submitters who raised concern with the bill argued that the 1,500 GL limit has not yet been met and that the bill is therefore based on assumptions of future scenarios which may not eventuate. Further, submitters posited that there is an inherent risk in lifting the cap, namely, that the market may become destabilised through uncertainty and that rural communities will face insecurity of jobs and productivity.

Evidence in support of the bill

2.5 The evidence in support of the bill canvassed the following issues:

- the efficiency and cost-effectiveness of water buybacks, especially in comparison to infrastructure and supply projects;
- the importance of restoring the health of the Basin; and
- that the evidence in relation to the socio-economic impacts of water buybacks is disputed.

Efficiency and cost-effectiveness of water buybacks

2.6 The committee received evidence that water buybacks are cost-efficient, and more effective than irrigation infrastructure and supply projects in returning water to the environment.

2.7 Submitters in favour of the bill argued that 'the direct purchase of water licences from willing sellers is the most efficient use of public funds to restore water

for river and wetland health'.¹ For example, the Environment Victoria pointed to the findings of the Productivity Commission in 2010 that:

Purchasing water from willing sellers (at appropriate prices) is a cost-effective way of meeting the Government's liability for policy induced changes in water availability. Subsidising infrastructure is rarely cost-effective in obtaining water for the environment, nor is it likely to be the best way of sustaining irrigation communities.²

2.8 The National Parks Association of NSW highlighted that the cost-effectiveness of water buybacks from willing sellers has also been 'substantiated' by other reports including the South Australian *Murray-Darling Basin Royal Commission Report*, and the Academy of Sciences *Investigation of the causes of mass fish kills in the Menindee region NSW over the summer of 2018–2019*.³

2.9 The cost-effectiveness of water buybacks when compared to other measures such as irrigation infrastructure and supply projects was raised by witnesses. For example, Professors Sarah Wheeler, Quentin Grafton and John Williams, explained that 'recovering water through irrigation infrastructure costs 2.7 times more per ML [mega litres] than buying water from willing irrigators'.⁴ Professor Quentin Grafton, Professor of Economics, Crawford School of Public Policy, Australian National University also stated:

We found in the midpoint estimates that we did in a paper that was published last week in the *Australasian Journal of Water Resources* that the difference in costs between purchases of water entitlements from willing sellers and water infrastructure subsidies is not a difference of 2½ times; it can be a difference of 25 times. So that is a huge cost difference, and it has a whole range of implications in terms of the money that is available for water for the future, water recovery and, indeed, the whole issues associated with what the Basin Plan can and cannot provide.⁵

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- 1 WWF-Australia, *Submission 1*, p. 1. See also Murray-Darling Basin Authority (MDBA), *Submission 4*, p. 1; Murray Lower Darling Rivers Indigenous Nations (MLDRIN), *Submission 9*, p. 3; Environment Victoria, *Submission 10*, p. 1; Australian Floodplain Association, *Submission 11*, p. 1; National Parks Association of NSW, *Submission 2*, p. 1; Councillor Marion Browne, Deputy Mayor, Broken Hill Council, *Proof Committee Hansard*, 13 March 2019, p. 1; Dr Anne Jensen, *Submission 37*, p. 1; Mr William McClumpha, *Submission 34*, p. 1; Mr Anthony Pease, *Submission 28*, p. 1; EDOs of Australia, *Submission 24*, p. 3; Central West Environment Council, *Submission 16*, p. 1; Inland Rivers Network, *Submission 15*, p. 2.
 - 2 Environment Victoria, *Submission 10*, p. 1, citing Productivity Commission (2010) *Market mechanisms for recovering water in the Murray-Darling Basin*, p. xxii.
 - 3 National Parks Association of NSW, *Submission 2*, p. 1. See also Law Council of Australia, *Submission 36*, p. 2.
 - 4 Professor Sarah Wheeler and others, *Submission 35*, p. 1.
 - 5 Professor Quentin Grafton, *Proof Committee Hansard*, 12 March 2019, p. 1.

2.10 Professor Grafton explained:

On the latest numbers from the Australian government data that's available, the difference is approximately \$5,400 per megalitre for water infrastructure subsidies versus just over \$2,000 per megalitre for the purchase of water entitlements from willing sellers. That is just from the government data.⁶

2.11 Professor Sarah Wheeler, Associate Director, Research, Centre for Global Food and Resources, University of Adelaide, concluded that, 'looking at the evidence...I do not know one water economist in Australia who would not say that buyback is the best way to go forward.'⁷

2.12 Mrs Katharine McBride, a pastoralist living on Tolarno Station located 50 kilometres south of the Menindee Lakes, noted that as of the end of the last financial year, just over 2,100 GL had been returned to the rivers with approximately 1,200 GL of that achieved through water buybacks. Mrs McBride noted that at a minimum, 650 GL of water still need to be recovered under the Basin Plan and the Water Act, however the 1,500 statutory limit means that only a further 300 GL can be obtained through buybacks. Mrs McBride stated:

As a method of water recovery it's well recognised that the direct purchase of water licences from willing sellers is the most cost-efficient way to recover water. The Murray-Darling Basin Plan utilises public funds to recover water and, therefore, in our opinion it is contrary to public interest that the cap remain in place. The most cost-effective method should be available as a method of water recovery, with the provision that there isn't significant detrimental socioeconomic impacts...The cap on buybacks was never part of the plan; it was never part of the original plan. It impedes the effective implementation of the plan, and we need flexibility to ensure that we can actually successfully implement the plan and return our rivers to health. There is no flexibility when there is a cap on buybacks, and therefore we support the bill.⁸

2.13 Submitters highlighted that the 1,500 GL cap was not included in the original Basin Plan, and argued that the cap has 'severely constrained' the ability of governments to meet the water recovery targets established under the Basin Plan.⁹ For example, Professor Wheeler, University of Adelaide, argued that the 1,500 GL cap has constrained water recovery through water buybacks since 2015.

6 Professor Quentin Grafton, *Proof Committee Hansard*, 12 March 2019, p. 1.

7 Professor Sarah Wheeler, *Proof Committee Hansard*, 12 March 2019, p. 10.

8 Mrs Katharine McBride, *Proof Committee Hansard*, 13 March 2019, pp. 39–40.

9 WWF-Australia, *Submission 1*, p. 1. See also River Lakes and Coorong Action Group Inc, *Submission 42*, p. 1; Goulburn Valley Environment Group Inc, *Submission 13*, p. 1.

2.14 Professor Wheeler stated:

...if you look at the data—and we provided this in table 1 of our submission, about the cap on buyback which was put in place in 2015; ever since 2014-15 it's been like a psychological cap on buyback—it's pretty much stopped, apart from a few very high expenses, which Rex has gone into. This is one of the points of repealing the cap: going back to buyback as a form. We can't say, 'Well, we've still got room to move in the cap.' The fact is that it's been acting as a psychological cap, and it's been stopping water recovery through buyback ever since 2015.¹⁰

The importance of restoring the health of the Basin

2.15 The need for the health of the Basin to be restored was highlighted by a range of submitters. Evidence included the importance of the Murray-Darling Basin to the cultural continuity and sustainability of Aboriginal Nations and the impact of recent mass fish deaths and algal blooms in the Darling River on local communities. Submitters argued that the removal of the 1,500 GL cap is crucial to restoring the ecological health of the Basin.¹¹

2.16 The committee heard that the health of the Murray-Darling Basin is crucially important to the cultural continuity and sustainability of over 40 unique Aboriginal Nations. Indeed, the very right to practice and sustain culture is underpinned by the maintenance and recovery of the environment of the Basin.¹² Mr Derek Hardman, Chief Executive Officer, Barkandji Native Title Corporation, told the committee that

For us, the Barka [Darling River] is who we are. We're named after the river. We belong to it and will always belong to it. Our evidence goes back 65,000-plus years. That's how long we've been part of that landscape. It's our identity, our culture and our belonging. It's everything.¹³

2.17 The committee heard evidence of the impact of mass fish deaths and the lack of water in the Darling River on the Barkandji community. Mr Warlpa Thompson, Barkandji Native Title Corporation, stated:

For all of us, our lives are bound up with the river...Going to Menindee a few weeks ago and seeing those fish kills, I saw my ancestors dead in the water. It's heartbreaking. To know it's from mismanagement of the water that comes through our country is even more heartbreaking, especially given we're meant to be a bit more technologically advanced. Growing up in Wilcannia, your life is bound to the river—everything is. Every spare moment you had, you were either in the bush or down the river, fishing and being with old people and your parents. You're just constantly learning. It's

10 Professor Sarah Wheeler, *Proof Committee Hansard*, 12 March 2019, p. 10.

11 Friends of the Earth, *Submission 19*, p. 1. See also Inland Rivers Network, *Submission 15*, p. 3.

12 MLDRIN, *Submission 9*, p. 2. See also Ms Nicole McKay, *Submission 45*, p. 1.

13 Mr Derek Hardman, Barkandji Native Title Corporation, *Proof Committee Hansard*, 13 March 2019, p. 44.

a place of learning, growing and teaching. Because of the social disadvantage in Wilcannia, it's this place of freedom and freeness; you don't need money to go and have a swim.¹⁴

2.18 The Murray Lower Darling Rivers Indigenous Nations (MLDRIN) submitted that 'recent mass fish deaths on the Darling River evidence the severity of risks to the health of our waterways, water dependent ecology and cultural values and uses arising from over allocation of our rivers'.¹⁵

2.19 Mr Craig Wilkins, Chief Executive, Conservation Council of SA, noted that there are also indicators in South Australia that the Murray-Darling ecosystem is suffering. Mr Wilkins stated:

If you look at a range of environmental indicators—black box, turtles, fish, waterbirds—you see that they're all in tragic decline. That's particularly current in the Coorong, which is internationally listed wetland and is deeply suffering. We know that the health of a river is always judged by the health of the end of it, and that's a sign that the whole system is struggling.¹⁶

2.20 The committee also received evidence regarding the impact of mass fish deaths in the Menindee, a lack of water in the Darling River and the presence of blue-green algae on families, businesses such as graziers, tourism and fishing, and livestock and native fauna in the area. For example, Mrs Katharine McBride, pastoralist, stated:

Our family was witness to the fish kills at Menindee earlier this year, and we know directly the human cost of what it means when our rivers are dying. Every day we continue to battle to get water to our thousands of sheep and rangeland goats, the kangaroos, the emus and the other native animals with water that has blue-green algae in it. We can't turn on our taps and have safe drinking water. Community members fear not only for the immediate severe health impacts of unsafe water with the blue-green algae but also the long-term risks such as the potential risk of motor neurone disease. I haven't actually been able to be with my family on Tolarno because we decided that having a river with blue-green algae in it wasn't a safe place for a newborn baby, which has had a huge bearing physically and emotionally for my family. We believe that safe drinking water is a basic human right that all Australians should have access to.¹⁷

14 Mr Warlpa Thompson, Barkandji Native Title Corporation, *Proof Committee Hansard*, 13 March 2019, p. 44. See also Ryde-Hunter Hill's Flora and Fauna Preservation Society, *Submission 21*, p. 2.

15 MLDRIN, *Submission 9*, p. 4.

16 Mr Craig Wilkins, Conservation Council of SA, *Proof Committee Hansard*, 12 March 2019, p. 34. See also Ms Carol Bailey, MurrayWatch, *Proof Committee Hansard*, 12 March 2019, pp. 34–35.

17 Mrs Katharine McBride, *Proof Committee Hansard*, 13 March 2019, p. 39. See also Mr Graeme McCrabb, Committee Member, Menindee Regional Tourist Association, *Proof Committee Hansard*, 13 March 2019, pp. 21–22.

2.21 Submitters argued that the mass fish deaths in the Darling River demonstrate that 'more water needs to be returned to the environment as rapidly as possible in order to improve the ecological condition of the Darling, and other rivers across the Basin'. Further, this can only be achieved in the short term by increasing the volume of water that can be purchased from willing sellers in affected catchments.¹⁸ For example, the Conservation Council of SA submitted that 'more water for our river systems is critical to prevent the ecological disasters such as the recent Darling River fish kills'.¹⁹ Similarly, the Australian Floodplain Association submitted that:

The fish kills and toxic algal blooms in the Lower Darling are the inevitable, predicable result of over-allocation and provide clear evidence of the need to return more water to the environment in the northern MDB in particular.²⁰

2.22 The National Parks Association of NSW was critical that the Independent Assessment of the 2018–19 Fish Deaths in the Lower Darling – Interim Report did not consider water buybacks and submitted:

It is perhaps not surprising that no specific reference is made to buy back in the interim report on fish kills commissioned by the Government, since this option was specifically ruled out under the regrettable capping decision referred to in the second reading speech for this current bill.²¹

2.23 MLDRIN submitted that the Australian Government is bound to recognise and give effect to the rights and interests of Basin Aboriginal Nations through its ratification of the UN Declaration on the Rights of Indigenous People (UNDRIP) and the Convention on Biological Diversity (CBD). Further, the 1,500 GL cap undermines the Australian Government's commitment to these rights. MLDRIN concluded that:

The 1500 GL cap on water recovery through direct purchase is an arbitrary and politically motivated restriction, which undermines the Australian Government's ability to meet the objectives of the Basin Plan, therefore detrimentally impacts on the rights, interests, and cultural obligations of our members.²²

18 WWF-Australia, *Submission 1*, p. 2.

19 Conservation Council of SA, *Submission 5*, p. 1. See also Healthy Rivers Dubbo, *Submission 22*, p. 2.

20 Australian Floodplain Association, *Submission 11*, p. 1.

21 National Parks Association of NSW, *Submission 2*, p. 1.

22 MLDRIN, *Submission 9*, p. 2.

2.24 Mr Derek Hardman, Barkandji Native Title Corporation, offered broad support for measures which would result in health rivers in the Basin. Mr Hardman also noted that though native title rights to water theoretically provide unlimited rights to water, without water in the river, these rights cannot be exercised. Mr Hardman stated:

I'm sort of down the middle of the road. Any amount of water the government can get back to put back in the river I'm in favour of, but how we got here, how we allowed it to get to this point, also is a concern. You've got these basin plans. You've got these things that are supposed to work and supposed to keep our rivers in our communities and in our country healthy, and it's not happening. By us agreeing to say: 'Okay, buy back some more water. Don't put a cap on it; whatever it takes,' that's where it should be for us. Is that level of a certain amount enough? What is enough? We've got native title rights over water and we've got cultural rights over water. Since 2015 we haven't had any of them. At the moment, we can't exercise any of those rights at all, because we've got no water. I know the bill looks at putting water back, buying water back, putting in a cap or whatever. But we don't have anything that says native title is unlimited. Native title rights to water give us unlimited rights to water under our native title determination.²³

2.25 Professor Jeffrey Connor, Professor in Water Economics, School of Commerce, University of South Australia, stated that without effective water recovery (i.e. water buybacks), a 'very, very high-cost situation' will eventuate. Professor Connor stated:

We literally spent billions of dollars on infrastructure at the time of the millennium drought—for example, bringing water to the Ngarrindjeri people with very expensive pipelines at the end of the Coorong. If we look at the example recently, of the fish kill in Menindee Lakes, one part that seems to be ignored is that we're actually not providing stock and domestic water to a large number of people along that stretch of the river as the result of, essentially, taking too much water out of the system. We're actually taking water out of the system, and, if we don't recover that water effectively—and real water—we will face very, very large costs in another drought.²⁴

Social and economic impacts of buybacks

2.26 The committee received evidence challenging claims that water buybacks have negative socio-economic impacts and that lifting the 1,500 GL cap would lead to negative consequences for Basin communities. Submitters stated that 'economic modelling and applied research has repeatedly shown that reducing water available for irrigation has not to date had a strong negative impact on agricultural production and

23 Mr Derek Hardman, Barkandji Native Title Corporation, *Proof Committee Hansard*, 13 March 2019, p. 46.

24 Professor Jeffrey Connor, *Proof Committee Hansard*, 12 March 2019, p. 11.

associated employment'.²⁵ For example, Mr Robert McBride and Mrs Katharine McBride submitted:

Research undertaken by the Murray Darling Basin Authority has shown that the socioeconomic impacts of buybacks are not as significant as previously stated, and that reducing the amount of water available for irrigation has not had a strong negative impact on either agricultural production and associated employment.²⁶

2.27 Professors Wheeler, Grafton and Williams provided evidence challenging claims that water buyback has decimated local communities. Professors Wheeler, Grafton and Williams were critical of the socio-economic models utilised by the MDBA in assessing the impact of water buybacks, and stated that the models did not include all other drivers of change.²⁷

2.28 The committee received evidence that the connection between water buybacks and rural decline may be one of correlation rather than causation, and were cautioned against research that makes assumptions without considering all drivers of change.²⁸ Professor Glyn Wittwer noted that 'halting voluntary and fully compensated water buybacks has done nothing to help basin communities' and suggested that 'maintaining public funding for essential services in regional communities is the best avenue available to government for assisting the Basin'.²⁹

2.29 Professors Wheeler, Grafton and Williams were also critical of the 'robustness' of the work undertaken by the MDBA and stated that the models were 'highly simplistic, employing less than rigorous statistical approaches that confounded mis-specified assumptions about hydrological, agricultural and/or economic relationships'.³⁰ Professors Wheeler, Grafton and Williams concluded that 'there is no strong social welfare argument that water should be recovered through irrigation infrastructure versus buying the water back from willing irrigators'.³¹

2.30 Similarly, Professor Connor told the committee that claims regarding the impact of water buyback have been 'highly exaggerated'. Professor Connor stated:

What we find is that some of the argument that we can't buy back water because it's going to have too much economic impact is highly exaggerated compared to the empirical work. Some of the work that was the basis for that decision—for example, Thompson and others by the MDBA—assumes

25 Conservation Council of SA, *Submission 5*, p. 1.

26 Mr Robert McBride and Mrs Katharine McBride, *Submission 12*, p. 2. See also Inland Rivers Network, *Submission 15*, p. 2.

27 Professor Sarah Wheeler and others, *Submission 35*, p. 6.

28 Professor Sarah Wheeler, *Proof Committee Hansard*, 12 March 2019, p. 17.

29 Professor Glyn Wittwer, *Submission 43*, pp. 4–5.

30 Professor Sarah Wheeler and others, *Submission 35*, p. 3.

31 Professor Sarah Wheeler and others, *Submission 35*, p. 6.

that every time we have one less megalitre of water we have one less hectare on a farm that's irrigated and one less dollar returned. But, in truth, what we've seen from the empirical evidence is that farmers adapt in many ways—they adjust their feed; they adjust their inputs; they adjust their intensity; they change their crop mix—and the impact is more like one to one-seventh, so that's more like the empirical number. The empirical number is more like one-seventh of the economic impact that is put forward in some of the reporting that is using simplistic and unrealistic assumptions that aren't consistent with the actual empirical evidence.³²

2.31 The Conservation Council of SA also submitted that 'there is generous public funding available to assist the irrigation industry to be more efficient in water use'. Further the Basin Plan provides financial support for rural communities to adjust to any changes.³³

Evidence opposed to the bill

2.32 The committee received evidence from submitters opposed to the bill. This evidence included claims that:

- lifting the cap will lead to increased uncertainty for rural communities; and
- there is no evidence that the bill is necessary, as the legislated limit on water buybacks has not yet been reached.

2.33 The following sections canvass this evidence.

Social and economic impacts

2.34 Submitters highlighted that the 1,500 GL statutory limit on water buybacks was introduced because it was 'acknowledged by both sides of politics' that the 'loss of water [through buybacks] and the resulting reduction in food/fibre causes social and economic destruction in rural communities'.³⁴ For example, the National Farmers' Federation (NFF) stated:

In 2015, the Federal Government introduced a legislative cap of 1500 GL which was strongly supported by the farming community and the Parliament to limit the socio-economic impacts of buybacks and to ensure that acquiring water from the irrigation sector was balanced with other water recovery measures in the Murray-Darling Basin Plan (Plan) such as

32 Professor Jeffrey Connor, *Proof Committee Hansard*, 12 March 2019, p. 11.

33 Conservation Council of SA, *Submission 5*, p. 2. See also Ms Peta Thornton, *Submission 41*, p. 2; Ms Jane Judd, *Submission 40*, p. 1; Ms Sarah Moles, *Submission 39*, p. 1; Healthy Rivers Dubbo, *Submission 22*, p. 1; Inland Rivers Network, *Submission 15*, p. 3; Goulburn Valley Environment Group Inc, *Submission 13*, p. 1.

34 New South Wales Irrigators' Council (NSWIC), *Submission 6*, p. 4.

infrastructure and other efficiency measures. The NFF made a submission in 2015 arguing the case for the cap. This position still stands today.³⁵

2.35 Similarly, the NSW Farmers Association submitted that the introduction of the 1,500 GL statutory limit was a 'great example of how good environmental outcomes can be achieved, while also providing protection to rural and regional communities'. Further, the limit 'balances the critical need for a triple-bottom line approach to be taken with respect to water in the Murray Darling Basin'.³⁶ Border Rivers Food and Fibre also submitted that:

The existing 1500GL limit on buyback protects regional communities from impacts of buyback which have been shown to be devastating on vulnerable, irrigation-dependent communities. The limit currently provides some certainty to small regional communities that government won't intentionally destroy their livelihoods.³⁷

2.36 Submitters expressed concern that lifting the cap could lead to negative consequences for rural communities, and the agricultural sector more broadly. For example, the New South Wales Irrigators' Council (NSWIC) submitted that while it is accurate to state that there are no immediate or direct financial impacts of the bill, the indirect impacts of the bill should be considered if further buybacks are required. The NSWIC submitted:

Specifically, the opportunity cost of the lost production would be substantial given the gross value of irrigated agricultural production in 2015-16 was \$15.0 billion. This is more in one year, than the total cost of the Basin Plan.³⁸

2.37 The NSWIC posited that the indirect impacts of repealing the cap would also include the social welfare costs associated with regional unemployment, as it has been shown that water buybacks cause job losses in regional communities.³⁹

2.38 The NSWIC also argued that it 'must be recognised that despite buybacks being voluntary', the current drought conditions 'means that sellers will be distressed sellers, rather than willing sellers'.⁴⁰ Mr Luke Simpkins, Chief Executive Officer, NSWIC, explained:

If people weren't under pressure—financial pressure from the banks, to pay their bills and to try to keep a roof over their heads—they would probably have a different view about selling. Sometimes we've got to consider that—

35 National Farmers' Federation, *Submission 3*, p. 1. See also Mr Les Gordon, Chair, Water Taskforce, National Farmers' Federation, *Proof Committee Hansard*, 12 March 2019, p. 25.

36 NSW Farmers Association, *Submission 8*, p. 1.

37 Border Rivers Food and Fibre, *Submission 26*, p. 3.

38 NSWIC, *Submission 6*, p. 5.

39 NSWIC, *Submission 6*, p. 6.

40 NSWIC, *Submission 6*, p. 6.

just because someone agrees—sometimes consent isn't given when people are under pressure, when they're under duress. It might be that there's an opportunity here to almost be opportunistic about trying to buy water from people who are distressed, who are fragile and who are in a weakened state, and people should be careful about taking advantage of the sector in that way.⁴¹

2.39 The National Irrigators' Council submitted that irrigators in the Basin are currently suffering 'very real drought impacts' such as 'loss of production causing lost income and increasing debt'. In addition, these irrigators 'feel that they are being unfairly blamed for environmental problems caused by drought' which has an impact on the mental health and well-being of families. It concluded that 'this bill, and its timing, exacerbates that negative impact'.⁴² Similarly, Mr Les Gordon, Chair, Water Taskforce, NFF, stated that:

The burden of drought, zero allocations and community concerns are difficult enough. To add further uncertainty through bills like this and other political brinkmanship puts unnecessary burdens on an already fragile community. Caution and care in commentary and posturing must be taken.⁴³

2.40 The NFF concluded that given the lived experience of farmers impacted by buybacks, the NFF remains opposed the removal of the legislative cap that could see further water recovery through buybacks beyond a reasonable level.⁴⁴

Research into the impact of water buybacks

2.41 The committee received evidence in relation to a number of studies conducted into the impact of water buybacks on Basin communities. For example, the NFF noted that in November/December 2018, the Department of Agriculture and Water Resources commissioned Seftons to prepare an independent report for the Murray-Darling Basin Water Infrastructure Program's public consultation initiative, collating community sentiments in regards to the 450 GL efficiency measures as part of the Plan.⁴⁵

2.42 The NFF submitted that in regards to buybacks, the report found that the implementation of the Plan, particularly through buybacks, had both positive and negative impacts and had affected participants' willingness to engage in the program.

41 Mr Luke Simpkins, NSWIC, *Proof Committee Hansard*, 12 March 2019, p. 21. See also Mr Steve Whan, National Irrigators' Council, *Proof Committee Hansard*, p. 20.

42 National Irrigators' Council, *Submission 31*, p. 1.

43 Mr Les Gordon, National Farmers' Federation, *Proof Committee Hansard*, 12 March 2019, p. 25.

44 National Farmers' Federation, *Submission 3*, p. 3.

45 National Farmers' Federation, *Submission 3*, p. 3. See also Murray Irrigation, *Submission 18*, pp. 4–5.

One pronounced impact was the 'swiss cheese' effect, where fixed costs (from stranded assets) had been left in irrigation districts and had to be amortised across the remaining irrigators, which added to the existing socio-economic hardship.⁴⁶

2.43 The MDBA similarly submitted that it undertook research in 2016/2017 on the social and economic effects of environmental water recovery on communities and industries.⁴⁷ The MDBA submitted:

Importantly, the work separately identifies the effects of the Basin Plan from other factors leading to changes in social and economic conditions in these communities. For example, around one third of the reduction in total employment in southern Basin communities between 2001 and 2016 has been attributed to environmental water recovery. Non-Basin Plan factors account for the remainder.

For 30 of the 40 southern Basin communities studied, the effects of environmental water recovery was small or modest. However, 10 communities had experienced substantial changes in social and economic conditions between 2001 and 2016 and the Basin Plan has been identified as a strong contributor to those changes.⁴⁸

2.44 The MDBA stated that it has 'always acknowledged that buybacks can be lowest cost in terms of direct budgets outlays'. However, there are other considerations for governments when choosing methods of water recovery, including the socio-economic impacts.⁴⁹

2.45 The MDBA noted that in undertaking research into the socio-economic impact of water recovery measures, it found that that not all of the benefits of infrastructure investment have been realised yet. Mr Phil Townsend, Special Advisor, Science and Knowledge, MDBA explained:

One of the things we did pick up in the social and economic work is the benefits of the on-farm and off-farm infrastructure investment together. It's taken a while for this to become evident, but in the irrigation districts in particular is where we've had off-farm irrigation infrastructure investment and on-farm infrastructure investment there are compounding benefits flowing through to the farmers. We're only just starting to see that arise now. So when people raise criticisms about the costs and the benefits of the

46 National Farmers' Federation, *Submission 3*, p. 3.

47 Available at <https://www.mdba.gov.au/publications/mdba-reports/northern-basin-review-technicaloverview-socio-economic-analysis> and <https://www.mdba.gov.au/publications/mdba-reports/southern-basin-community-profiles>.

48 Murray-Darling Basin Authority, *Submission 4*, p. 2. See also NSW Farmers' Association, *Submission 8*, p. 1; South Australian Murray Irrigators, *Submission 27*, p. 1; National Irrigators' Council, *Submission 31*, pp. 3–4; Cotton Australia, *Submission 32*, p. 2; Balonne Shire Council, *Submission 14*, p. 1.

49 Mr Colin Mues, Head, Science and Knowledge, Murray-Darling Basin Authority (MDBA), *Proof Committee Hansard*, 12 March 2019, p. 41.

infrastructure investment, we are nowhere near realising all of the benefits of the infrastructure investment to date.⁵⁰

2.46 In noting the research undertaken by the MDBA, Mr Steve Whan, Chief Executive Officer, National Irrigators' Council, stated that 'there is extensive evidence which proves that buyback has a far more negative impact on communities than recovering water through efficiencies'. Mr Whan explained that the research by the MDBA showed:

...conclusively at community level that those communities which had the greater amount of water recovered through buyback have had far greater negative impacts through population loss and through loss of production, and that is something which can't be underestimated. The Northern Basin Review showed, for example, that a community like Dirranbandi had an impact which was 18 times greater than the impact on Adelaide from the closure of Holden plant. There were similar impacts in communities like Wakool, where they've had substantial population loss.⁵¹

2.47 Mr Whan, National Irrigators' Council described the research conducted by the MDBA as 'the most thorough research in the public domain', and stated that it is supported by research undertaken by the Victorian Government in the Shepparton, and Goulburn Murray area.⁵² Mr Whan also cautioned against research available which measures community and social impacts on a Basin-wide scale. Mr Whan highlighted that:

...each community has seen a very different level of impact and that that level of impact from buyback has been far greater than in those communities where most of the recovery has occurred through efficiencies. So, in some of the areas where water has been recovered through efficiencies, you've seen irrigation continue to employ the same number of people and you've seen those communities do reasonably well economically.⁵³

The bill is not evidence-based and creates uncertainty

2.48 Submitters argued that the bill is not evidence-based, and further, creates uncertainty for rural communities. For example, the NSWIC stated, 'this bill is based on assumptions of future needs that may or may not be realised. It is inappropriate to alter legislation based on preconceived assumptions'.⁵⁴

50 Mr Phil Townsend, MDBA, *Proof Committee Hansard*, 12 March 2019, p. 41.

51 Mr Steve Whan, National Irrigators' Council, *Proof Committee Hansard*, 12 March 2019, p. 19. See also Reardon Operations, *Submission 44*, p. 4; Cotton Australia, *Submission 32*, p. 2;

52 Mr Steve Whan, National Irrigators' Council, *Proof Committee Hansard*, 12 March 2019, p. 20.

53 Mr Steve Whan, National Irrigators' Council, *Proof Committee Hansard*, 12 March 2019, p. 19.

54 NSWIC, *Submission 6*, p. 4.

2.49 The NSWIC argued that regional communities require certainty, and that the fundamental principle of the bill is 'an uncertain "if", which is justified by the need to have more options'.⁵⁵ Similarly, Mr Whan, National Irrigators Council, told the committee that the bill is unnecessary as the 1,500 GL has not yet been reached. Further, Mr Whan, suggested that the lifting of the cap should only be made following a full review of the Basin Plan. Mr Whan stated:

...the cap hasn't been reached. There are still 280 gigalitres that could be recovered through buyback, and, in any case, the legislation makes it clear that the minister can request a review of the Basin Plan and, following receipt of that review, get rid of the cap. I would suggest to senators that that is a far more appropriate way to go about any process like this—that is, to have a full review and actually have a consideration of that before lifting the cap.⁵⁶

2.50 The NSW Farmers Association similarly submitted that:

Currently, the limit on water purchases has not been reached and the Plan is halfway through its implementation; removing the limit is premature and would create further uncertainty for Basin communities.⁵⁷

2.51 As noted in Chapter 1, the Department of Agriculture and Water Resources submitted that water purchases are 276 GL beneath the purchase limit of 1,500 GL. Further, that if all contracted water is delivered, 30 GL remains to be recovered to bridge the gap between the sustainable diversion limits established in the Basin Plan.⁵⁸ Mr Paul Morris, First Assistant Secretary, Water Division, Department of Agriculture and Water Resources, told the committee that the amount to be recovered is 'not a huge amount' and that infrastructure programs would be 'the first port of call' to achieve recovery, through there is a possibility of strategic purchases being made with the approval of the minister.⁵⁹

2.52 The committee also received evidence that the bill will create uncertainty for rural communities through the creation of more options for water buybacks to occur. The NSWIC explained that 'there is an inherent risk in opening up more options' including that the market will become destabilised through uncertainty, and that rural communities will face job and productivity insecurity. The NSWIC concluded:

This Bill ignores the very reason why the statutory limit was brought in – to protect the productive capacity of rural communities during water recovery.

55 NSWIC, *Submission 6*, p. 5.

56 Mr Steve Whan, National Irrigators' Council, *Proof Committee Hansard*, 12 March 2019, p. 19.

57 NSW Farmers Association, *Submission 8*, p. 2. See also National Irrigators' Council, *Submission 31*, p. 6; Ricegrowers' Association of Australia, *Submission 17*, p. 3.

58 Department of Agriculture and Water Resources, *Submission 33*, p.1.

59 Mr Paul Morris, Department of Agriculture and Water Resources, *Proof Committee Hansard*, 12 March 2019, p. 55.

The need to protect rural communities has not changed, if anything, it has become more important.⁶⁰

2.53 The committee also heard that the bill creates uncertainty and worry in regional communities that water purchases may be made pre-emptively (i.e. before the review of the Basin Plan in 2024). Mr Whan, National Irrigators' Council, explained:

The point I made before is that taking it [the cap] away now makes communities feel uncertain and worried. And it makes them feel worried that a future Labor government might go into the market earlier and try and recover that water. These projects need to be given the opportunity and maximum flexibility to achieve the outcomes, because that's a benefit for the environment as well as for the communities. So we suggest that giving this signal now is punishing the wrong people. This signal does nothing to encourage the governments to get on and do the job; it just says to communities: 'Right, we're willing to take it out on you if they fail.'⁶¹

2.54 South Australian Murray Irrigators (SAMI) noted that 'if buyback is adequately funded, targeted and coupled with local and socially beneficial offsets', then there is a sector of water entitlement holders who would participate in buyback which would stop the 'endless water recovery grants that have created uncertainty amongst water markets'. SAMI stated that 'water returns going forward should affect an efficiently functioning river that restores security and certainty to the future of irrigation businesses'. However, it argued that at present, the current legislated cap of 1,500GL has not been met, and that under current arrangements there is opportunity to test the 'appetite for buyback' before creating further market uncertainty through the lifting of the cap.⁶²

Drought

2.55 The National Farmers' Federation argued that the bill has arisen out of a misunderstanding of the cause of mass fish deaths in the Menindee Lakes, and more broadly that there is a 'lack of understanding about the complexities of the Murray-Darling Basin'. Mr Gordon, NFF, noted that research has found that drought rather than water use was the greatest contributor to the fish deaths. Mr Gordon told the committee that:

...the Academy of Science report and the interim Vertessy committee report found the drought was by far the greatest contributor to the lack of inflows which had caused the fish deaths. The recent Bureau of Meteorology update confirmed that northern New South Wales was

60 NSWIC, *Submission 6*, p. 5.

61 Mr Steve Whan, National Irrigators' Council, *Proof Committee Hansard*, 12 March 2019, pp. 23–24. See also Reardon Operations, *Submission 44*, p. 44; Mungindi Cotton Growers and Water Users Association, *Submission 20*, p. 1.

62 South Australian Murray Irrigators, *Submission 27*, p. 4.

exceptionally both dry and hot in 2018, contributing to one of the lowest water inflows on record.⁶³

2.56 Mr Gordon went on to explain that repealing the 1,500 GL cap on water purchases would not result in more water being available in northern New South Wales. Mr Gordon stated that any further acquisitions of water would most likely occur in the Murray River, where water is constrained by the Barmah choke with both irrigators and the Commonwealth Environmental Water Holder competing for water. Mr Gordon explained:

By far the biggest challenge here is channel capacity, so recovering more water from the Murray would constrain the system even more and certainly not bring about any more water into the Darling.⁶⁴

2.57 Similarly, the Department of Agriculture and Water Resources acknowledged the distress which has arisen as a result of the mass fish deaths but noted the findings of the interim investigation. Mr Morris, Department of Agriculture and Water Resources stated:

The government at the moment has got a review underway by eminent scientists to find out what the cause of the incident was. They put out an interim report, as you know, and found largely factors relating to drought, river flows, temperature changes and so forth were the primary cause of the event. Obviously it caused a lot of distress for everyone, including most of the people in the region. They obviously have had to suffer a lot, and there's been a lot of sympathy for their situation. The government is acting by trying to find out what the reason is and what the best management advice we can get from scientists is.⁶⁵

63 Mr Les Gordon, National Farmers' Federation, *Proof Committee Hansard*, 12 March 2019, p. 25.

64 Mr Les Gordon, National Farmers' Federation, *Proof Committee Hansard*, 12 March 2019, p. 25.

65 Mr Paul Morris, Department of Agriculture and Water Resources, *Proof Committee Hansard*, 12 March 2019, p. 55.

Other issues

2.58 The committee received broad evidence in relation to the management of the Murray-Darling Basin. This evidence includes:

- the need for improved water accounting, and the establishment of a National Water Commissioner and a water registry;⁶⁶
- discussions regarding the impact of the 70 GL reduction in recovery target as a result of the Northern Basin Review;⁶⁷
- concerns that supply projects in the Basin may not deliver the required recovery of water, and are being affected by political decisions;⁶⁸ and
- that there has been a lack of consultation with the Barkandji Native Title Corporation in relation to the implementation of the Basin Plan, and the management of the Basin.⁶⁹

Committee view

2.59 The 1,500 GL statutory limit on water purchases was introduced with bipartisan political support to provide clarity and flexibility, and allow for certainty in future planning and investment opportunities by farmers and irrigators. It is integral in delivering the triple bottom-line outcomes of the Basin Plan, that is, social, economic and environmental benefits.

2.60 The committee notes that the 1,500 GL limit has not yet been reached, and that it is expected that water recovery targets will be met by 2024, without the need for additional purchases of water.

66 Professor Sarah Wheeler, *Proof Committee Hansard*, 12 March 2019, pp. 11–12; Professor Quentin Grafton, *Proof Committee Hansard*, 12 March 2019, p. 2; Professor Jeffrey Connor, *Proof Committee Hansard*, 12 March 2019, p. 15; Mr Steve Whan, National Irrigators' Council, *Proof Committee Hansard*, 12 March 2019, p. 24; Mr Craig Wilkins, Conservation Council of SA, *Proof Committee Hansard*, 12 March 2019, p. 36; Ms Caren Martin, South Australian Murray Irrigators, *Proof Committee Hansard*, 12 March 2019, p. 61; Mr Justin McClure, Australian Floodplain Association, *Proof Committee Hansard*, 13 March 2019, p. 9; South Australian Murray Irrigators, *Submission 27*, p. 4.

67 Mr Justin McClure, Australian Floodplain Association, *Proof Committee Hansard*, 13 March 2019, p. 8, p. 10–13; Mr Colin Mues, MDBA, *Proof Committee Hansard*, 12 March 2019, pp. 44–45.

68 Ms Nicole McKay, *Submission 45*, p. 2. See also Ms Jane Judd, *Submission 40*, p. 1; Ms Sarah Moles, *Submission 39*, p. 1; Mr Brian Stevens, *Submission 38*, p. 1; Dr Anne Jensen, *Submission 37*, p. 1; Riverland Environment Group, *Submission 23*, p. 1; Ryde-Hunter Hill's Flora and Fauna Preservation Society, *Submission 21*, p. 1

69 Mr Derek Hardman, Barkandji Native Title Corporation, *Proof Committee Hansard*, 13 March 2019, pp. 47–48; Mr Warlpa Thompson, Barkandji Native Title Corporation, *Proof Committee Hansard*, 13 March 2019, pp. 48–49.

2.61 The committee considers this bill to be predicated on possible future scenarios which may or may not eventuate (i.e. if a review of the Murray-Darling Basin Plan, or of the 605 GL supply projects demonstrates the need for more water purchases).

2.62 The committee supports the Australian Government's prioritisation of infrastructure over buybacks and accepts the evidence that such projects have comparatively lower negative socio-economic impacts on rural communities.

2.63 The committee is of the view that removing the 1,500 GL statutory limit will lead to uncertainty for rural and regional communities, and negative socio-economic consequences. This is unacceptable, especially noting the considerable pressures facing rural and regional communities as a result of drought conditions which have had devastating consequences.

Recommendation 1

2.64 The committee recommends that the Water Amendment (Purchase Limit Repeal) Bill 2019 not be passed by the Senate.

**Senator Jonathon Duniam
Chair**

Labor Senators' dissenting report

1.1 Labor Senators thank all organisations and individuals that made submissions to this inquiry and gave evidence at hearings, as well as the Secretariat for their ongoing research and administrative support.

1.2 Labor wants the Basin Plan implemented in full. We want to secure the health of the River while supporting Basin communities.

1.3 Labor Senators consider this Bill is necessary to ensure Basin governments and communities have all options available to meet the Basin Plan and to encourage action from States and the Commonwealth to deliver high quality projects and programs.

1.4 The Water Amendment (Purchase Limit Repeal) Bill 2019 repeals Division 5 of Part 2 of the *Water Act 2007*, removing the entire section related to the 1500GL cap on voluntary water purchases from willing sellers. By removing the cap on buybacks, the Parliament will remove the legislative barrier to providing water for the Basin via voluntary sales, if that is what is needed. Failing to remove the cap sends a message that the Government's business as usual approach is adequate when evidence to this inquiry and numerous recent reports¹ clearly demonstrate there are tremendous risks to the delivery of the Basin Plan.

1.5 Labor Senators note the cap was inserted into the Water Act by the Abbott Government in 2015—it was never a part of the original Murray Darling Basin Plan. At the time, Labor made clear that we would oppose it if it compromised our overarching goal—the delivery of the Basin Plan in full and securing the health of the River.

1.6 Labor Senators note evidence from the Department of Agriculture and Water Resources (the Department) which confirms there is effectively just 246GL of water remaining within the 1500GL cap². We note the Department argues there is sufficient water within the cap to meet the Basin Plan water recovery targets.

1.7 Meeting the relevant target is now largely predicated on the successful implementation of the 605GL 'supply projects' by June 2024. Labor supported the

1 See for example: Productivity Commission Report – South Australian Royal Commission – and Wentworth Group of Concerned Scientists Review into management of the Basin; Academy of Sciences investigation into the Menindee Fish Kills; and MDBA Annual Report into the Sustainable Diversion Limit Adjustment Mechanism.

2 The Department of Agriculture and Water Resources confirmed 1224GL of water purchases had been made to date and after accounting for current contracts and including the full 605GL of supply projects a further 30GL of surface water is needed to meet the Basin Plan. Officials confirmed there are no firm plans in place for the delivery of the 30GL and voluntary purchases are an option, therefore effectively just 246GL remains within the cap.

supply projects in the Parliament and wants them to succeed. However, given the uncertainty over the viability of many of the supply projects, and the limited scope for water purchases within the cap, it is prudent to ensure that state Basin governments and communities are aware that if the supply projects do not achieve sufficient water savings, voluntary purchases from willing sellers must be a viable option to ensure the Basin Plan is delivered in full.

1.8 Labor Senators are taking a risk-based approach because the evidence we have heard and the Government's management of the Basin Plan, particularly under Water Minister Barnaby Joyce, can only be described as neglect. Whether it is active or passive neglect is unclear but the actions of the Government have seen the community lose faith in how the Plan is being implemented.

1.9 Labor Senators note the conclusions of the Coalition majority report are silent on the risks to the supply projects. Instead, the Coalition Senators claim removing the cap is unnecessary and will create uncertainty for Basin communities at a time of severe drought.

1.10 Unlike the Coalition, Labor Senators consider inaction is not an adequate response from the Commonwealth Government either for Basin communities or for the environment. The clear evidence to this inquiry, repeating numerous recent reports, is that the current supply projects are unlikely to deliver the required water savings by 2024 due to project engineering and business case difficulties, delays by governments, and inadequate community consultation. Labor wants these projects to work but the government is not giving confidence they are being prioritised.

1.11 Labor Senators believe Basin communities need honest leadership from the Commonwealth Government, not false hope. We note the Coalition Senators do not rule out removing the cap in 2024. Labor's approach of supporting the supply projects but leaving open the option of voluntary water purchases if the projects don't deliver by 2024 ensures full transparency with Basin communities and governments and that all options are available to implement the Basin Plan in full.

Status of the supply projects

1.12 Significant evidence to the inquiry and in recent reports demonstrates concerns around the slow pace of implementation, lack of consultation and feasibility of many of the 605GL supply projects. Labor Senators consider this issue worthy of further discussion.

1.13 Recent research from the Productivity Commission,³ Wentworth Group of Concerned Scientists⁴ and SA Royal Commission⁵ all articulate clear concerns with

3 Productivity Commission 2018, *Murray-Darling Basin Plan: Five-year assessment*, Final Report no. 90, Canberra, pp. 38–39.

the status of implementation of the supply projects by 2024. Each then make recommendations to inform Basin governments approach and improve governance and transparency.

1.14 Mr Justin McClure a Committee Member with the Australian Floodplain Association and farmer from Tilpa in Western NSW noted that the AFA is 'very, very sceptical' the supply projects will succeed and consider that only 'maybe 25 percent of the recovery is possible'.⁶ Similarly, Mrs Bronwyn Petrie from the NSW Farmers Association noted its Executive has recently called for an independent audit of all supply projects to test the rigour of business plans as members don't believe some projects are appropriate, or will deliver stated targets.⁷

1.15 The National Irrigators' Council expressed concern that progress on a number of supply projects is far too slow because of Commonwealth Government delays in releasing funds to the states and the subsequent 'glacial' pace of states to finalise processes and begin implementation.⁸ In its recent annual progress report, the Murray-Darling Basin Authority noted that recent funding delays increase risks to full delivery of the more complex supply projects.⁹

Status of the Menindee supply project

1.16 The recent mass fish death events in the Menindee region of NSW have brought international attention to the current state of the Lower Darling and management practices by the MDBA and NSW Government. The region is also home to a large supply project, the 106GL Menindee Lakes project.

1.17 At the Broken Hill hearing, local witnesses expressed concern with viability, environmental impact and likely destruction of Aboriginal cultural sites from the Menindee supply project. Broken Hill Deputy Mayor Marion Browne said that the

4 Wentworth Group of Concerned Scientists: Review of Water Reform in the Murray Darling Basin Plan, <http://wentworthgroup.org/wp-content/uploads/2017/12/Wentworth-Group-Review-of-water-reform-in-MDB-Nov-2017-Review-Report.pdf>, p.53 (accessed 21 March 2019).

5 South Australia, Murray-Darling Basin Royal Commission, *Report*, 2019, pp. 56–61 & 71–75.

6 Mr Justin McClure, Australian Floodplain Association, *Committee Hansard*, 13 March 2019, p. 8.

7 Mrs Bronwyn Petrie, Chair, Conservation and Resource Management Committee, New South Wales Farmers Association, *Committee Hansard*, 13 March 2019, pp. 30–31.

8 Mr Steve Whan, National Irrigators' Council, *Committee Hansard*, 12 March 2019, p.23.

9 Murray Darling Basin Authority: Annual Progress Report - The Sustainable Diversion Limit Adjustment Mechanism, <https://www.mdba.gov.au/publications/mdba-reports/adjusting-sustainable-diversion-limits-annual-progress-report>, p.11 (accessed 21 March 2019).

NSW Government needed to take into account local knowledge and act upon feedback as the 'consultation has been more for show rather than genuine engagement'.¹⁰

1.18 Mr Derek Hardman, CEO of the Barkandji Native Title Corporation explained that despite holding native title rights over the Barka/Darling River the NSW Government won't listen:

Exactly that—they tell us, 'This is what it is,' and that's all they did. They turned up—they came to a board meeting. I and Uncle Badger went to a couple of meetings at Menindee. And they just basically told us, 'These are the options; pick one.' And it was like: 'No! We don't agree with any of them. We want this to stay as it is, and we want to preserve it, protect it and promote it as a wetland—protect the place.' Like you said, what were the community consultations? There was one in Wentworth and another one that told them the same thing. It wasn't just us; it was basically the whole community telling them. And they were saying, 'This is about saving evaporation,' and all this other crap. We know these lakes have been around for a long time. They're a part of that bigger World Heritage. To divert through it or change it and restructure it again—we don't support it and we've told them that, but I think that, regardless of what we're saying, they're going to do it their own way because they want to base that on their scientific proof. One lad from the Murray-Darling Basin actually, in a bilateral meeting, told us that the lake evaporates 50 per cent. I said: 'That's not true. That's incorrect.' He said, 'Fifty per cent of the water that goes into the lake evaporates.' Now they're going to build a pipeline, with a dam up the road; does that mean that that's not going to evaporate either? They're looking for solutions, but they're looking for the wrong solutions.¹¹

1.19 Mr Warlpa Thompson, a Director of the Barkandji Native Title Corporation further explained the importance of the region to Barkandji cultural heritage and his people's desire to talk together, not divide the country between races or groups:

Can you consult about this with us'—there are two words, 'kulpi' and 'kulpa', in our language. One's to talk at someone and one's to talk with someone, and we want the talking with.¹²

1.20 Mr Paul Roberts, Chairperson of the Menindee Water Users Group said NSW Government officials ignored his concerns the project would damage Aboriginal heritage sites, and characterised their approach as not to actually consult, but to get the result they're chasing.¹³

10 Councillor Marine Browne, Deputy Mayor, Broken Hill City Council, *Committee Hansard*, 13 March 2019, p. 2.

11 Mr Derek Hardman, Barkandji Native Title Corporation, *Committee Hansard*, 13 March 2019, p. 48.

12 Mr Warlpa Thompson, Barkandji Native Title Corporation, *Committee Hansard*, 13 March 2019, p. 48.

13 Mr Paul Roberts, Chairperson, Menindee Water Users Group, *Committee Hansard*, 13 March 2019, p. 17.

1.21 Mr Graeme McCrabb, of Menindee, noted concern with the NSW Government's modelling on low and medium flows, explaining that with such weak inflows there isn't the water coming into the region to be saved. Mr McCrabb shared local community concerns that, in their belief, it is misleading for Menindee to be considered a cost on the environment.¹⁴

1.22 In the days after the early January mass fish kill, NSW Water Minister, Hon Niall Blair, said that the Menindee supply project must proceed and the Basin Plan hinges on its implementation.¹⁵ Mrs Katharine McBride, of Tolarno Station on the Lower Darling said the Minister's position was 'a complete negation of the environmental, social and economic impacts that this project will have. I don't see how anyone who can read or write could look at this project and understand that it won't have a significant detrimental impact on the environment'.¹⁶

Conclusion

1.23 Labor Senators note the widespread concerns around the management of the 605GL supply projects. As a result, it is prudent to remove the cap on voluntary water purchases so that if by 2024 all options are available to implement the Basin Plan in full.

1.24 Labor Senators urge Basin Governments to improve community consultation, particularly Aboriginal engagement, in implementing supply projects.

Recommendation 1

1.25 Labor Senators recommend that the Bill be passed.

Senator Anne Urquhart
Senator for Tasmania

Senator Anthony Chisholm
Senator for Queensland

14 Mr Graeme McCrabb, Committee Member, Menindee Regional Tourist Association, *Committee Hansard*, 13 March 2019, pp. 16–18.

15 Peter Hannam, 'What Happens When the 'Last Resort' on the Darling River Dries Out?', *The Sydney Morning Herald* (online), 11 January 2019, <https://www.smh.com.au/environment/conservation/what-happens-when-the-last-resort-on-the-darling-river-dries-out-20190110-p50qo3.html>, (accessed 22 March 2019).

16 Mrs Katharine McBride, *Committee Hansard*, 13 March 2019, p. 44.

Australian Greens' dissenting report

1.1 The Australian Greens opposed the *Basin Plan 2012* and the subsequent 1,500GL statutory limit on water purchases because of a deep concern that politics, not science, was determining the numbers. The final report of the South Australian Murray-Darling Basin Royal Commission has confirmed that the Environmentally Sustainable Level of Take (ESLT) and subsequent Sustainable Diversion Limit (SDL) was a 'failure of process'.

1.2 The unprecedented fish kills over the summer have shown that all is not well in the Murray-Darling Basin. While corporate irrigators continue to bank profits, river communities, Traditional Owners and ecosystems suffer.

1.3 The committee heard evidence from academics, experts, community members, Traditional Owners and pastoralists. With the exception of industry bodies who benefit from the diversion of funds into 'infrastructure investments' the evidence was overwhelmingly in support of reinstating water buy backs.

1.4 Deeply concerning is the lack of evidence of the effectiveness of 'infrastructure investments' in returning water to the river. As was the lack of robust explanation of the 'negative socio-economic consequences' for River communities. A good deal of expert evidence was presented that highlighted the flawed and superficial nature of these claims. Also concerning is the assertion that the impacts of drought should alter the Plan in favour of irrigators. The Plan was established to respond to the dire straits the Murray-Darling Basin was in during the Millennium Drought. It should not be allowed to decline further to preferentially accommodate corporate irrigators.

1.5 The Australian Greens agree with submissions to the committee that called for:

- a repeal on the ban on water buybacks;
- a repeal of the 70GL reduction subsequent to the Northern Basin Review;
- improved water accounting;
- a National Water Commissioner and water register; and
- an end to Commonwealth funding for 'infrastructure investments' for returning water to the environment or, at the very least conduct a thorough review of their efficacy.

1.6 Additionally, we call for new lawfully made determinations of the ESLTs, and SDLs for both surface water and groundwater that reflect those ESLTs, the inclusion of climate change projections in both these new determinations and all Murray-Darling Basin Authority decision making and a federal Royal Commission into the Murray Darling Basin to examine wrongdoing and get the plan back on track.

Recommendation 1

1.7 The Australian Greens recommend that the Senate pass the Water Amendment (Purchase Limit Repeal) Bill 2019.

**Senator Sarah Hanson-Young
Deputy Chair
Senator for South Australia**

Centre Alliance's dissenting report

Buy water or bye water

A sorry state

1.1 I thank the committee and secretariat for their work in dealing expeditiously with its inquiry into the Water Amendment (Purchase Limit Repeal) Bill 2019 introduced into the Senate by Senator Louise Pratt.

1.2 The bill proposes to amend the *Water Act 2007* to repeal the statutory limit of 1,500 gegalitres (GL) on Commonwealth purchases of surface water across the Murray-Darling Basin.

1.3 The bill exists in a context, and that context is most relevant to whether or not this bill should be passed into law.

1.4 An examination, even at a cursory level, reveals a river in grave trouble; there are a number of towns without drinking water or on the verge of being without river water, there is an unwelcome presence of algae blooms from one end of the river to the other, there have been three mass fish kills at Menindee, and there are river beds dying.

Context – over-allocation from 'Day Dot'

1.5 There can be no doubt that much of the trouble with the river, now and almost certainly into the future, centres around the over-allocation of water.

1.6 The Australian Academy of Science, when examining the reasons behind the mass fish kills at Menindee, stated:

The conditions leading to [the fish kill] are an interaction between a severe (but not unprecedented) drought and, more significantly, excess upstream diversions of water for irrigation.¹

1.7 It went on to highlight:

The root cause of the fish kills is that there is not enough water in the Darling system to avoid catastrophic decline of condition through dry periods.²

1 Australian Academy of Science, 'Report into mass fish kills in the Menindee Region NSW', p. 2, available at <https://www.science.org.au/supporting-science/science-policy-and-sector-analysis/reports-and-publications/fish-kills-report>.

2 Australian Academy of Science, 'Report into mass fish kills in the Menindee Region NSW', p. 2, available at <https://www.science.org.au/supporting-science/science-policy-and-sector-analysis/reports-and-publications/fish-kills-report>.

1.8 The Murray-Darling Basin Plan calls for the return of 2750 GL to the river, with an additional 450 GL of efficiency measures purported to take the total to an equivalent of 3200 GL. I will, for the moment, ignore the 450 GL (for reasons spelt out at paragraphs 1.22 through 1.24 below) and focus on the return of 2750 GL.

1.9 How was this 2750 GL number derived? Unfortunately, not by way of science as is required by the *Water Act 2007*. The SA Royal Commissioner into the Murray Darling Basin found that, instead, the determination of the environmentally sustainable level of take was derived, contrary to law, by senior management and the Board of the MDBA. He stated in his report:

Politics rather than science ultimately drove the setting of the Basin-wide SDL and the recovery figure of 2750 GL. The recovery amount had to start with a '2'.³

1.10 The MDBA ignored the science (in circumstances where it couldn't pressure the scientists to change their views, as occurred with some of the CSIRO's science). It ignored science from the Wentworth Group of Scientists and it ignored the advice of the CSIRO in respect of climate change (the CSIRO advised the MDBA in 2009 that for its climate change modelling it should give more weight to climate change data rather than relying on historical climate data from 1895–2009).

1.11 The Wentworth Group of Scientists, unencumbered by politics, found that the sustainable diversions limits should be set at least 3,800 GL. Instead, by unlawful conduct and through maladministration, a much lower sustainable diversion limit has been adopted in the plan; a limit that is harmful to the environment and the cause of the current river situation.

Context – further over-allocation through the SDLAM

1.12 The Sustainable Diversion Limits Adjustment Mechanism (SDLAM) which, despite Centre Alliance's 'no' vote in the House and the Senate, passed through the Federal Parliament on 9 May 2018 (even though most Members and Senators were totally bereft of the necessary information to make the approval that it did).

1.13 This approved a reduction in water that will be recovered from the river by 605 GL. This was permitted by the Parliament on a promise that supply and constraint infrastructure measures (to be paid for by the taxpayer) will deliver the same environmental outcomes as simply buying back the water.

1.14 Unfortunately anyone who has examined the projects has found them to be wanting. The Productivity Commissioner has found that they are both high risk and highly ambitious in nature.

3 South Australian Murray-Darling Royal Commission Report, p. 54, available at <https://www.mdbrc.sa.gov.au/>.

1.15 If they fail to deliver, as is reasonably expected to occur, only 2145 GL will be returned to the river (at the very best, somewhere between 2145 GL and 2750 GL).

Context – constraints unlikely to yield results

1.16 A number of constraints projects have been proposed to address the physical, operational and management constraints that prevent environmental water being delivered.

1.17 There has been little to no progress in easing or removing constraints since they were first proposed in November 2013. The SA Royal Commissioner has backed the concerns of the Productivity Commissioner who have labelled the constraints 'highly ambitious, if not unrealistic'.⁴

Context – further over-allocation through the Northern Basin Review

1.18 The Northern Basin Review which, despite Centre Alliance's 'no' vote in the House and the Senate, passed through the Federal Parliament on 9 May 2018 (it was voted down by Labor in February 2018, just before the South Australian election, but supported by Labor when it was re-committed to the Senate after the election).

1.19 This approved a reduction in water quantity that will be recovered from the Northern Basis by 70 GL. This was permitted by the Parliament on the basis of a better science calculation and the implementation of what are referred to as 'toolkit measures'.

1.20 Again the science has been wanting. Because of that, we find now that only 2085 GL will be returned to the river.

1.21 If they fail to deliver, as is reasonably expected, only 2085 GL will be returned to the river (at the very best, somewhere between 2085 GL and 2680 GL).

Context – efficiency measures doubtful

1.22 As alluded to above, the Plan includes an additional 450 GL in Efficiency Measures. I, along with many others, hope that these will be successful. But hope is a weak strategy.

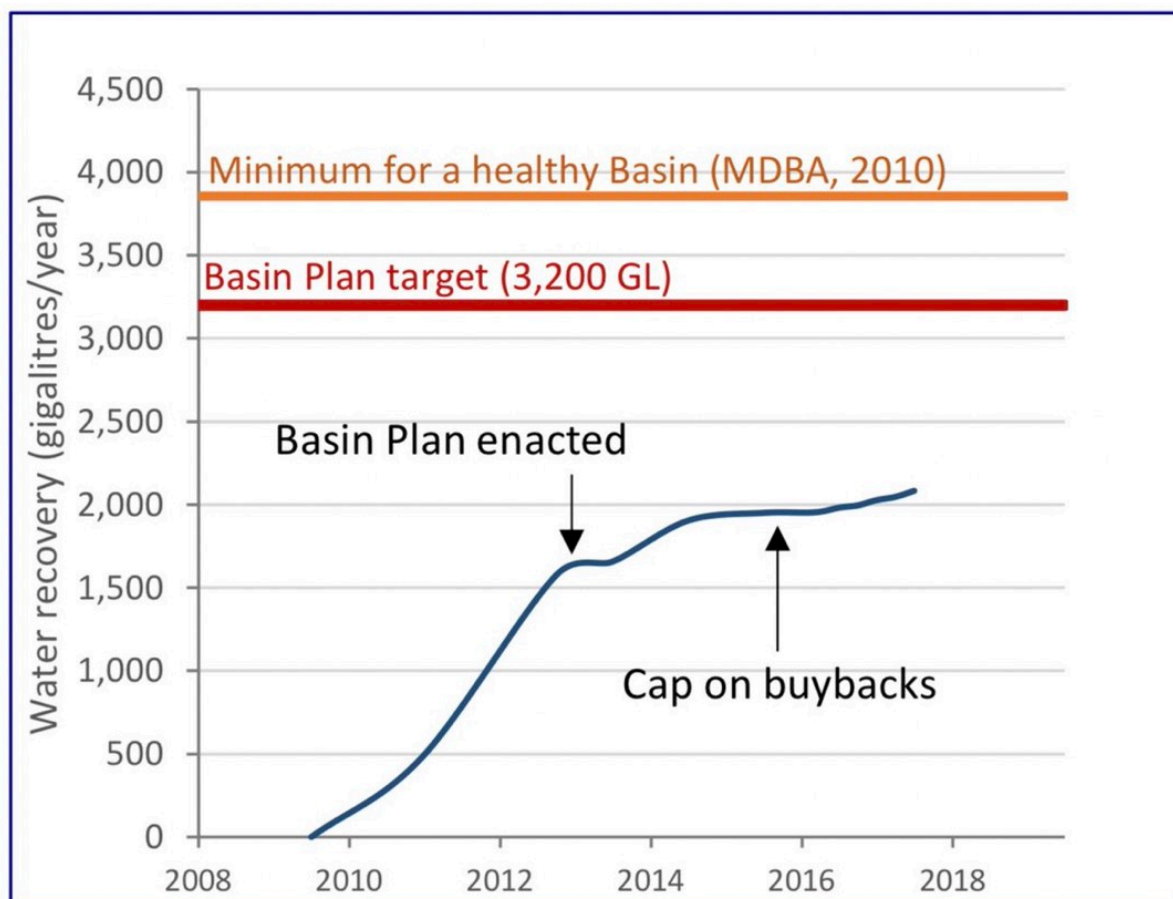
1.23 The projects must be examined from a project and engineering perspective. Over 1.7 million taxpayers' dollars and the river's health demand this.

1.24 The Productivity Commissioner has examined these projects and found that their design is contested, key assumptions that ground them have changed and there is material risk that the costs of the program will be significantly larger than anticipated.

4 South Australian Murray-Darling Royal Commission Report, p. 350, available at <https://www.mdbrc.sa.gov.au/>.

Context – the river is likely to be duded

1.25 The issues with allocation have been laid out. The issues with recovering water for the river have been laid out. At every decision stage, the river has been robbed.



Source: Wentworth Group, *Review of Water Reform in the Murray-Darling Basin*

1.26 Only the most optimistic, or those that will benefit from the status quo, would believe or purport that the Plan will ever deliver that which it is supposed to deliver.

1.27 A plan is a means to an end, not the end in itself. A change in strategy is required and Senator Pratt's bill commences the process.

Most cost effective method of water recovery

1.28 Evidence presented to the committee, in the form of Government data, shows that the cost of past river 'infrastructure projects' has come in at 2.7 times more per megalitre (returned to the river) than simply buying back water entitlements.

1.29 A recent study by Professor Grafton and Professor Williams has indicated that the real number could be 25 times more per megalitre, after accounting for return flows.

Purported negative socio-economic effects

1.30 Opponents of the Bill suggested that the 1,500 GL statutory limit on water buybacks was introduced because it was 'acknowledged by both sides of politics' that the 'loss of water [through buybacks] and the resulting reduction in food/fibre causes social and economic destruction in rural communities.'

1.31 But further evidence provided to the committee suggested that the negative socio-economic outcome is highly overstated.

Even better socio-economic effects

1.32 Indeed, studies have shown that more jobs and a better socio-economic outcome would occur if the Government simply bought back the water and then directly injected the price difference back into the community.

1.33 To illustrate what was being suggested an example is provided.

The Government's own data from the last decade shows that a megalitre of water purchased from a willing seller came in at \$2019, while to achieve the same outcome for the river using infrastructure investment costs \$5453 per megalitre. Purchasing 100GL of water returns through a buyback would have cost the taxpayer \$20 million dollars. Obtaining the same water recovery outcome using river infrastructure projects would have cost the taxpayer an extra \$34 million dollars.

While the Government's position is that it is worth it because the farmer benefits and it counters negative socio-economic impacts a buyback would have on the community, a study by Wittwer and Griffith shows that spending the extra money (the \$34 million in the paragraph above) directly on health and education and basic services produces 3-4 times more jobs that the same level of expenditure on irrigation infrastructure investment.

1.34 In a bombshell moment, both the Department of Agriculture and Water Resources and the Murray-Darling Basin Authority conceded they had never examined this approach. This is almost unbelievable and most irresponsible; the Government has a low risk option that creates more jobs and it's not taking it. Indeed, it hasn't even investigated it. That represents a gaping 'waterhole' in the Government's due diligence and policy.

1.35 And it is worse when one considers the risks highlighted above in the programs moving forward. Previous infrastructure related projects were considered to be the 'low hanging fruit'. Suitable returns on investment will continue to get harder.

No justification over buybacks

1.36 The SA Murray-Darling Basin Royal Commissioner was scathing of the supply and efficiency measures, suggesting there was no justification for them over buybacks. He listed in his report:

- buyback is a far cheaper means of recovering water from the environment than efficiency measure infrastructure upgrades — at least 2.5 times less expensive for each megalitre of water recovered;
- money received from buyback was almost invariably spent in local communities
- a reduction in debt (and interest payments) also resulted in those who sold entitlements spending more money in local communities, and
- buybacks were a more reliable means of recovering water, largely because of the uncertain issue of 'return flows' and because they did not encourage behaviour of irrigators associated with greater risk and hence greater vulnerability (both of these issues are discussed below).⁵

1.37 Meanwhile the committee report notes:

- The committee supports the Australian Government's prioritisation of infrastructure over buybacks and accepts the evidence that such projects have comparatively lower negative socio-economic impacts on rural communities.
- The committee is of the view that removing the 1,500 GL statutory limit will lead to uncertainty for rural and regional communities, and negative socio-economic consequences. This is unacceptable, especially noting the considerable pressures facing rural and regional communities as a result of drought conditions which have had devastating consequences.

1.38 There is a real risk the taxpayer could spend billions on the 'supply and constraints' measures and get very little for it in the way of river outcomes. The same is true for the efficiency measures.

1.39 Water buybacks are a low cost and low risk method for recovering water needed to give effect to the plan, even though the current plan is flawed because it prescribes an over-allocation of water. Water buybacks (from willing sellers) must be an available mechanism in the government's toolbox of water recovery methods.

5 South Australian Murray-Darling Royal Commission Report, p. 392, available at <https://www.mdbrc.sa.gov.au/>.

Recommendation 1

1.40 Centre Alliance recommends that the Senate pass the Water Amendment (Purchase Limit Repeal) Bill 2019.

Recommendation 2

1.41 Centre Alliance recommends that the Australian Government, as a matter of urgency, examine the socio-economic benefits of a 'buyback plus a direct local spend' approach.

**Senator Rex Patrick
Centre Alliance
Senator for South Australia**

Senator Tim Storer's dissenting report

1.1 I welcome the introduction of the Water Amendment (Purchase Limit Repeal) Bill 2019.

1.2 I am reminded of the words of former Prime Minister the Hon John Howard, who stated in 2007 that 'As water becomes more scarce and subject to greater demands, it is imperative that we can accurately measure and monitor the resource and its use. This applies equally at the national and Basin scales, as well as for individual farms'.

1.3 Unfortunately, as water has become scarcer and subject to greater demands, we have not accurately measured and monitored the resource and its use.

1.4 Irrigators have become primary beneficiaries of a Plan originally designed to increase flows to the environment. That has created a climate of mistrust and caused serious environmental consequences, such as the recent fish kills in Menindee Lakes.

1.5 But irrigators won't benefit much longer if the river dries up. Those fish kills will only be the start of much larger and regular catastrophic events if action is not taken. There will be no economic future for Australian irrigators without long-term environmental sustainability of the Murray-Darling.

1.6 We must reorient the Plan to fairly balance environmental sustainability of the system with short-term economic concerns of individual irrigators.

1.7 The bill is a timely response to a growing chorus of calls for action to be taken to return more water to the environment or suffer still greater consequences, both environmental and social. For example, it is encouraging that the bill takes the recent SA Royal Commission seriously. By repealing the 1500 GL cap, the bill effectively deals with Recommendation 8 of the Royal Commission.

1.8 Buybacks have proven to be the most successful mechanism to return water to the system to ensure its long-term survival. There is overwhelming evidence that water buybacks are cheaper, more reliable and effective than other measures of water recovery.

1.9 That is why I am particularly disappointed that, since 2013, water buybacks have stalled, and investment has been directed instead towards less effective means of water recovery such as efficiency measures. The Productivity Commission, ACCC and peer-reviewed scientific reports show that we should not be confident that the Plan is, or even will be, on track to return sufficient water to the environment under current arrangements.

1.10 It makes no sense to spend further billions just on efficiency measures when we know that they will probably not deliver the water we hoped they would on their

own. Mistrust in the management of the Plan is exacerbated by dogmatically sticking with efficiency measures at the expense of buybacks, against the evidence.

1.11 Holding up the weaknesses of efficiency measures against the certainty of buybacks, we should conclude that increased buybacks offer a better way forward to restore public confidence in our management of the system.

1.12 A series of small, voluntary tenders—where willing sellers participate in buybacks—have proven the most successful both environmentally and economically and should be returned to. I believe that a 50-50 split between infrastructure and buybacks would be consistent with the Water Act 2007. That would bolster water security and give us more confidence that the Plan is on track.

1.13 My position was reinforced in the Adelaide public hearing on 12 March 2019. During that session, and through the submissions, I heard that it is simply not true that all irrigators oppose buybacks. Professor Wheeler, for example, gave evidence of surveys of irrigators, which show that there are a range of views, both for and against, which highlights that buybacks have unfairly been the scapegoat of other policy failures.¹

1.14 The dramatic difference between buybacks and efficiency measures was highlighted by Grafton & Williams' peer-reviewed publication, submitted to the Committee, which shows that irrigation efficiency measures could be up to '25 times more expensive than purchasing water entitlements from willing sellers'.²

1.15 Those savings, or opportunity costs from shifting away from efficiency and towards buybacks, could then be spent on essential community services, creating jobs and growth for our regional and rural communities.

1.16 For example, the Committee was informed of peer-reviewed scientific evidence of Wittwer & Griffith, which showed that 'spending on health and education and basic services produced 3–4 times more jobs than the same level of expenditure on irrigation infrastructure investments.' Those are incredible, but reliable, figures and should give legislators pause.³

1.17 Another submission of note was the SA Murray Irrigators, representing 1000 SA members. They gave evidence that 'some targeted buyback areas...would have minimal social and economic impact'. They said that 'if buybacks are adequately

1 Professor Sarah Wheeler, *Proof Committee Hansard*, 12 March 2019, pp. 17–18.

2 Professor Sarah Wheeler and others, *Submission 35*, Attachment 1, p. 8.

3 Professor Sarah Wheeler and others, *Submission 5*, p. 5. Citing Wittwer, G., Griffith, M., 'Modelling drought and recovery in the southern MDB, *Aust. J. Agric. Resource. Econ*, 55, pp. 342–359.

funded, targeted and coupled with local and socially beneficial offsets', then there is a 'sector of water entitlement holders...who would participate in buyback.'⁴

1.18 Clearly, then, buybacks that have the wellbeing of communities in mind should be viewed as a positive alternative to efficiency measures. The bill takes a small but significant step in the right direction, providing the means to redress the current imbalance between environmental sustainability and short-term economic gain.

1.19 However, the bill does not necessarily mean that additional buybacks will occur, only that the option for buybacks is available should it be required. This brings out a key point of difference between my position and the position of the ALP. My view is that buybacks should be reintroduced immediately, whereas the ALP view is that buybacks should only be reintroduced if the supply projects don't deliver.

1.20 All things being equal, we won't know whether the supply projects have delivered in full or not until after the 2024 reconciliation. By that time it is likely that further billions will have been spent for little reward and the system could be in even worse shape than it is today.

1.21 Reforms to the Murray Darling Basin Plan should be pragmatic. They must take context into account, making careful and methodical improvements without putting the Plan itself at risk. I believe the bill achieves that aim. Even though I have the stronger view that action must be taken in the short-term and not left until it is too late in 2024, the bill should nevertheless be supported.

Recommendation 1

1.22 I recommend that the Senate pass the bill.

Senator Tim Storer
Senator for South Australia

Appendix 1

Submissions, additional information, tabled documents and answers to questions on notice

Submissions

- 1 WWF-Australia
- 2 National Parks Association of NSW
- 3 National Farmers' Federation
- 4 Murray-Darling Basin Authority
- 5 Conservation Council SA
- 6 NSW Irrigators' Council
- 7 Victorian Farmers Federation
- 8 NSW Farmers Association
- 9 Murray Lower Darling Rivers Indigenous Nations
- 10 Environment Victoria
- 11 Australian Floodplain Association
- 12 Mr Robert McBride and Mrs Katharine McBride, Tolarno,
Peppora and Wyoming Stations
- 13 The Goulburn Valley Environment Group Inc.
- 14 Balonne Shire Council
- 15 Inland Rivers Network
- 16 Central West Environment Council
- 17 Ricegrowers' Association of Australia
- 18 Murray Irrigation
- 19 Friends of the Earth
- 20 Mungindi Cotton Growers and Water Users Association
- 21 Ryde - Hunter's Hill Flora and Fauna Preservation Society
- 22 Healthy Rivers Dubbo
- 23 Riverland Environment Group
- 24 EDOs of Australia
- 25 MurrayWatch (Friends of the River Inc.)
- 26 Border Rivers Food & Fibre
- 27 South Australian Murray Irrigators

28	Mr Anthony Pease
29	Name Withheld
30	Berri Barmera Council
31	National Irrigators' Council
32	Cotton Australia
33	Department of Agriculture and Water Resources
34	Mr William McClumpha
35	Professors Sarah Wheeler, Professor Quentin Grafton, Professor Jeff Connor and Professor John Quiggin
36	Law Council of Australia
37	Dr Anne Jensen
38	Mr Brian Stevens
39	Ms Sarah Moles
40	Ms Jane Judd
41	Ms Peta Thornton
42	River Lakes and Coorong Action Group
43	Professor Glyn Wittwer
44	Reardon Operations
45	Ms Nicole McKay

Additional information

- Dr John Williams – additional documents provided following public hearing, Adelaide, 12 March 2019
- NSW Farmers' Association – additional information provided following public hearing, Broken Hill, 13 March 2019

Tabled documents

- Professor Sarah Wheeler – Wheeler et al, Submission to the Murray-Darling Basin's Royal Commission, 2018 (public hearing, Adelaide, 12 March 2019)
- Professor Sarah Wheeler – Blackwell et al, Final review report for the independent review of the Southern Basin Community Modelling Approach, 2018 (public hearing, Adelaide, 12 March 2019)
- Professor Sarah Wheeler – Grafton and Wheeler, Economics of Water Recovery in the Murray-Darling Basin, Australia, 2018 (public hearing, Adelaide, 12 March 2019)

- Professor Sarah Wheeler – Wheeler et al, Water torture: Unravelling the psychological distress of irrigators in Australia, 2018 (public hearing, Adelaide, 12 March 2019)
- Professor Sarah Wheeler – Loch et al, Irrigator preferences for water recovery budget expenditure in the Murray-Darling Basin, Australia, 2014 (public hearing, Adelaide, 12 March 2019)
- Professor Sarah Wheeler – Wittwer and Dixon, Effective use of public funding in the Murray-Darling Basin: A comparison of buybacks and infrastructure upgrades, 2013 (public hearing, Adelaide, 12 March 2019)

Answers to questions on notice

- Department of Agriculture and Water Resources – Answers to questions taken on notice, public hearing, Adelaide, 12 March 2019 (received 20 March 2019)
- Murray-Darling Basin Authority – Answers to questions taken on notice, public hearing, Adelaide, 12 March 2019 (received 20 March 2019)

Appendix 2

Public hearings

Tuesday, 12 March 2019 – Adelaide

Professor Quentin Grafton – Private capacity – via teleconference

Professor John Williams – Private capacity – via teleconference

Professor Sarah Wheeler, Centre for Global Food and Resources, University of Adelaide

Professor Jeff Connor, School of Commerce, University of South Australia

National Irrigators' Council – via teleconference

Mr Steve Whan, Chief Executive Officer

New South Wales Irrigators' Council – via teleconference

Mr Luke Simpkins, Chief Executive Officer

National Farmers' Federation – via teleconference

Mr Warwick Ragg, General Manager, Natural Resource Management

Mr Les Gordon, Chair, Water Task Force

Conservation Council of SA

Mr Craig Wilkins, Chief Executive Officer

MurrayWatch

Ms Carol Bailey

Murray-Darling Basin Authority

Mr Colin Mues, Head of Science and Knowledge

Mr Phil Townsend, Special Advisor, Science and Knowledge – via teleconference

Department of Agriculture and Water Resources

Mr Paul Morris, First Assistant Secretary, Water Division

Ms Mary Colreavy, Assistant Secretary, Water Recovery Branch, Water Division

South Australian Murray Irrigators – via teleconference

Ms Caren Martin, Chairperson

Wednesday, 13 March 2019 – Broken Hill

Broken Hill City Council

Councillor Marion Browne, Deputy Mayor

Australian Floodplain Association – via teleconference

Ms Julie McClure, Secretary

Mr Justin McClure, Committee Member

Menindee Tourist Association

Mr Graeme McCrabb, Member

Menindee Water Users Group

Mr Paul Roberts, Chairperson

Mr Howard Jones – Private capacity – via teleconference

Mr Alan Whyte – Private capacity – via teleconference

New South Wales Farmers' Federation – via teleconference

Ms Bronwyn Petrie, Chair, Conservation and Resource Management Committee

Mr Robert Hardie, Policy Director, Environment, Cropping and Horticulture

Ms Courtney Dillon, Policy Advisor, Environment

Ms Katharine McBride – Private capacity

Barkandji Native Title Corporation

Mr Derek Hardman, Chief Executive Officer

Warlpa Thompson