

Australian Greens' Dissenting Report

Need for certainty

1.1 The Australian Greens recognise that in an increasingly uncertain climate-changed world, the need for long-term certainties around water in the Murray Darling Basin is paramount.

1.2 The Water Amendment Bill 2015 is a sloppy piece of legislation that creates uncertainty.

1.3 It undermines the very Act it seeks to amend by overriding the Commonwealth's obligations to achieve the Sustainable Diversion Limits mandated in the Murray-Darling Basin Plan by limiting how much water it may buy back from willing sellers.

1.4 It removes flexibility to achieve the aims of the Murray-Darling Basin Plan.

1.5 In a political budget-constrained environment and into the future, the responsibility for Government to invest wisely in cost-efficient and proven effective outcomes should also be a given.

1.6 It risks substantial expenditure of public monies on projects that may further reduce the net amount of water available to groundwater or downstream water users across the Basin.

1.7 With this in mind, the Australian Greens do not support the passing of this bill.

Requirement for certainty

1.8 The health of the Murray and Darling River and their protected wetlands and environmental values require certainty of water flow. The agricultural soils and Basin communities that depend on the health of the rivers and the Basin require certainty of water flow. This is particularly so for the downstream ecosystems and communities which the *River Lakes and Coorong Action Group Inc (RLCAG)* reminds us 'bear a great deal of the risk if the Murray-Darling Basin Plan fails to restore the health of the River system and achieve the objects of the Water Act 2007'.

1.9 The water licensees who wish to sell water entitlements surplus to their requirements need the certainty of a guaranteed buyer in the Commonwealth, especially when times are tough.

1.10 The Commonwealth itself needs to be certain it has flexibility to meet its legislated and ethical obligations to achieve Sustainable Diversion Limits through the purchase of environmental water licenses from willing sellers when needed.

1.11 And the bill itself needs to provide certainty in its aims, definitions and outcomes.

1.12 This bill contains no such certainties.

Background

1.13 The 2007 Murray-Darling Basin Plan, with its supporting legislation, was written in response to what was then one of the worst droughts in Australia's written history.

1.14 It is recognised that the over-allocation of water from the Murray-Darling Basin has affected not only the ecological wellbeing of the rivers, but also the long-term sustainability of the communities that run the length of those waterways and their water catchments.

1.15 Without healthy flowing water the Murray Darling rivers and their tributaries, their irreplaceable environmental values and the communities depending on the health of the Basin's water will wither and die.

1.16 The current Murray-Darling Basin Plan is informed by a shared recognition that a nationally coordinated approach to water reform is vital to addressing the over-allocation of water out of the Murray-Darling Basin.

1.17 As noted by the *RLCAG* the Plan represents well over 20 years of planning and negotiation between many competing stakeholders' interests, and it should be 'implemented and evaluated as it was designed to achieve the agreed objectives of the Water Act 2007'.

1.18 Central to the Plan is the reduction of water extracted and diverted from the Basin to sustainable limits by 2019, stated in the 2012 Plan to be 10,873 GL pa. 2,750 GL of environmental water must be recovered each year, with the option of offsetting this volume by supply measures.

1.19 The ability for the Commonwealth to purchase water licenses to meet the mandated recovery of 2750 GL pa of environmental water is the safety-net of the whole Plan and thus a central plank to achieving the Objects of the *Water Act 2007*, and minimal health of the river systems. The Commonwealth is responsible for ensuring the Sustainable Diversion Limits are achieved. Retaining the ability to purchase environmental water if any shortfall in water recovery responsibilities occurs is essential to the Plan.

The Cap

1.20 Incredibly, this bill imposes a limit of 1500 GL on the volume of environmental water the Commonwealth may purchase to meet its obligations under the Murray-Darling Basin Plan (the Cap). As noted by a number of submissions 'by placing additional costs and restraints on the Commonwealth's ability to recover water for the environment, the Bill will severely hamper its ability to meet Water Act objects' (*Murray Lower Darling Rivers Indigenous Nations*).

1.21 The *Australia Conservation Foundation, Environment Victoria and Environmental Justice Australia* (ACF et al) observes that '...the cap will be in the Water Act itself. Since the Water Act takes precedence as a legal instrument over the Basin Plan, honouring the cap will take precedence over honouring the SDLs'. That is, if the Commonwealth can't meet the SDLs 'via infrastructure upgrades or efficiency measures because, for example, they get prohibitively expensive, or they simply do not deliver the amount of water required, it will not be able to use buy backs the bridge the gap'.

1.22 There is no indication in the bill as to what would happen if the Commonwealth finds itself in this position, because as further noted by *ACF et al* and by *EDOs of Australia* if the Commonwealth cannot meet its obligations to bridge 100% of the gap to meet the SDLs, the Cap would then become the 'reasonable excuse' trigger in the Basin Plan that would allow the states to exceed the SDLs.

1.23 This bill creates a framework that effectively allows governments to walk away from their commitments to the Murray-Darling Basin Plan with no remaining liability to meet the SDLs. This is unacceptable.

Confusing Definitions

1.24 The bill also creates confusion with regard to foundational definitions. What constitutes 'long term annual average quantities of water' included in the cap is lacking. There is no certainty as to whether the 1,500 GL limit is on entitlements or on long-term annual average yield of entitlements.

1.25 We refer to submissions by *EDOs of Australia, ACF et al* raising this question, and refer to *Inland Rivers Network's (IRN)* summary: 'There is no definition of what it means or how it is to be calculated, over what period of time'.

Flexibility for farmers to sell and diversify

1.26 Only willing water entitlement sellers will sell their licenses. Indeed the unbundling of water from land has created a new asset that many irrigators have chosen to sell to create new wealth.

1.27 However, this bill creates risk regarding this asset in a number of ways. It removes the current surety businesses have that a guaranteed buyer – the

Commonwealth – will be available should they wish to sell water entitlements surplus to their requirements.

1.28 *Nature Conservation Council of NSW* further notes that if a farmer has achieved required water efficiency and seeks to sell their any part of their water entitlements as a positive investment, the 'constraints on the purchase of water for the environment through the market will reduce demand and therefore market prices, reducing the potential for financially viable investments'.

1.29 It is anachronistic to the notion of open markets that this government would seek to remove the choice for farmers to sell surface water entitlements in the open water trading market. A number of submissions, including the *EDOs of Australia* and *IRN*, reminds us that a 2012 Marsden Jacob Associates survey of MDB water entitlement sellers found that 80% of irrigators concerned considered that the sale of their water had been a positive or very positive outcome and that a large number of those sellers remained in the region and continued farming.

1.30 *EDOs of Australia* note that contrary to assertions that 'banks directly forced irrigators to sell water, the survey results suggest that at irrigators made the decision to sell by themselves, in consultation with family and advisors taking into account their assets and liabilities, uncertainty about future water availability, and other factors'.

1.31 *IRN* reminds us that regions heavily dependent on the irrigation industry survive at the behest of many complex economics issues: commodity prices, exchange rates, terms of trade and increasingly uncertain weather conditions. This bill adds further uncertainty to those vagaries, and exposes water entitlement sellers to greater risk in not achieving a certain return on sale of their water assets. This in turn limits opportunities for unsustainable businesses to exit the market while retaining income from the sale of their water licenses, or for farmers to fund diversification of agricultural production as climate change shifts agricultural planning.

1.32 The opportunity for farmers to trade water to the Commonwealth should not be removed by this arbitrary and political 1,500 GL cap.

Financially irresponsible

1.33 It is widely understood by experts and peer-reviewed studies that market-based purchases of water from willing sellers is the most cost-efficient means to achieve environmental water recovery. Yet Prime Minister Abbott is quoted as stating the funding of water infrastructure programmes is a priority of his government. Further, as noted by the *Murray Lower Darling Rivers Indigenous Nations (MLDRIN)* submission, government members have been quoted as stating that the Commonwealth Environmental Water Holder purchase of environmental water should not impose a cost on taxpayers.

1.34 However it would seem that this bill, with its shift of public monies towards infrastructure investment ignores the expert economic advice.

1.35 *The Conservation Council of South Australia, MLDRIN and EDOs of Australia* reiterate that the Government's own Productivity Commission has found that recovering water via infrastructure investment is up to four times more expensive than purchase of water entitlements.

1.36 The Government's own Commission of Audit has also issued an unambiguous warning about financially irresponsible policy in this regard:

The Commission considers that the Government should focus on maximising public benefits and achieving value for money in its water recovery, not on providing industry assistance. This means moving away from infrastructure funding, which is significantly more expensive and which provides substantial private benefits to landholders.

1.37 *MLDRN* elucidates: '[The government] will endorse unnecessary public spending on expensive infrastructure subsidies ... [to] provide direct benefits to select individuals and businesses. To acquire equivalent volumes of water (managed for the public good), taxpayers now have to subsidize expensive infrastructure upgrades which creates a private benefit for a limited group'.

1.38 *EDOs of Australia* explains further that 'this means that the Federal Government's recent decision to reduce funding for the purchase of water entitlements by \$22.7 million over two years could cost the taxpayer up to \$88 million in any infrastructure projects required to recover the equivalent volume of water'.

1.39 The *RLCAG* submission succinctly explains that the bill leaves the government's only alternative to buying water to achieve the SDLs 'will be to acquire water through infrastructure subsidies ... and this does not make economic sense'.

Extension of Water for Environment Special Account funding

1.40 The Greens support increased flexibility in water-efficiency measures that are proven to achieve the outcomes for which they're funded, that are cost-efficient, and that will achieve the aims of more environmental water remaining in the Basin system.

1.41 There is little doubt that irrigators need to be more efficient, however the extension of funding from the Water for Environment Special Account to fund off-farm infrastructure raised a number of concerns that the Greens believe remained unanswered.

1.42 In the first instance we refer to the points already made above regarding the most cost-efficient means of returning environmental water to the Basin. The Greens continue to be concerned about the increasing reliance on recovery of environmental water through infrastructure projects and ask the question as to how much of the targeted 450GL of water per year is returned to the Basin in real water.

1.43 We share the following concerns raised by submitters to this inquiry.

1.44 The *ACF et al* and *Nature Conservation Council of NSW* submissions note that future programs funded by the Special Account will require irrigators to surrender all water saving to the Commonwealth. However the rising value of water is likely to see irrigators fund their own efficiency projects as it becomes more cost-effective to do so. Those submissions note:

- Real evidence is lacking in the cost-efficiency or effectiveness of such projects to provide the return of 450GL into the system.
- With the imposition of the Cap, what happens if these efficiency projects do not in fact deliver enough water to the environment within the current budget?
- The *Nature Conservation Council of New South Wales* notes that 'Government subsidies for water efficiency have operated in one form or another for the past twenty years and there is no "low hanging fruit" left. Many previous funding programs 'ended up funding ancillary farm management activities rather than core water savings'.
- Water efficiency investments that are not exclusively focused on reducing evaporation (including any involving reduced infiltration, run-off or return flows) will simply reduce the volume of water subsequently available to groundwater or down-stream water uses and have no effect on the net supply of water across the Basin. Off-farm infrastructure projects have the potential to divert even more water being taken out of the system by irrigation businesses.

1.45 The Greens also share the concerns of the *MLDRIN* and *RLCAG* submissions that the significant construction, excavation and earth-moving activities carried out in irrigation infrastructure upgrades and developments directly disturbs Aboriginal cultural heritage and cultural landscapes, with disturbance of burial sites already recorded – particularly in the central Murray region. The referral to state responsibilities in ameliorating such risks is insufficient.

1.46 The Murray-Darling Basin is already suffering deep decline. Further development, extractions, diversions and drying of the system – with the effects of climate change yet to come – will spell the death knell of this major river system. Its ecosystems and biodiversity, including internationally listed Ramsar wetlands are already at major risk.

1.47 With the death of the rivers comes the long decline of the communities and businesses that rely on its water.

1.48 This bill does nothing to promote or guarantee the return of actual water to the system. It promises to in fact subvert that aim and creates a framework for governments to walk away from their commitments to meet the SDLs.

1.49 The further diversion of public monies into infrastructure projects that do not benefit the natural system or the public good raises questions of the bill's intention in an upcoming election year.

Recommendation

The Australian Greens recommend the bill be not passed.

Senator Lee Rhiannon
Senator for New South Wales

