



Murray Darling Basin Amendment Bill 2006

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Murray Darling Basin Amendment Bill 2006

Date introduced: 7 December 2006

House: House of Representatives

Portfolio: Agriculture, Fisheries and Forestry

Commencement: The date of Royal Assent, except for Schedule 1, which commences on a date to be fixed by Proclamation.

Purpose

To give legislative effect to amendments of the Murray-Darling Basin Agreement.

Background

The Murray Darling Basin

Located in the south-east of Australia, the Murray-Darling Basin covers 1 061 469 square kilometres, equivalent to 14 per cent of Australia's total area. The Basin extends over three-quarters of New South Wales, more than half of Victoria, significant portions of Queensland and South Australia, and includes the whole of the Australian Capital Territory (ACT). Well over half of the Basin is in New South Wales and almost one quarter is in Queensland. Often referred to as the nation's 'food basket', the Basin includes nearly 1.9 million hectares of irrigated crops and pastures, accounting for 75 per cent of the total area of irrigated crops and pastures in Australia (2000/01). The Basin is Australia's most important agricultural region, accounting for 34 per cent of the nation's gross value of agricultural production (2003).¹

The Murray Darling Basin Agreement

There have been various intergovernmental agreements relating to the water resources of the Murray-Darling Basin, and particularly the River Murray, dating back to 1914.

The current Murray-Darling Basin Agreement (the MDB Agreement) was signed in 1992, and given full legal status by the passing of the *Murray-Darling Basin Act 1993* by all the contracting governments. Queensland became a signatory in 1996, and the ACT formalised its participation through a Memorandum of Understanding in 1998. The MDB Agreement provides the process and substance for the integrated management of the Murray-Darling Basin. The purpose of the Agreement (clause 1) is:

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to promote and co-ordinate effective planning and management for the equitable efficient and sustainable use of the water, land and other environmental resources of the Murray-Darling Basin.²

The MBD Agreement established the Murray-Darling Basin Ministerial Council; the Murray-Darling Basin Commission (MDBC), which is the Ministerial Council's executive arm, and the Community Advisory Committee, which advises the Ministerial Council.

River Murray Water is the business unit within the MDBC which operates and manages the River Murray system. River Murray Water commenced operations on 1 January 1998. The primary services provided by River Murray Water are:

- water storage and delivery
- salinity mitigation (operation of salinity mitigation schemes)
- navigation
- recreation and tourism, and
- other, including hydro-power.³

Further information on the history of the Murray-Darling Basin Agreement is available on the MDBC internet site.⁴

The Murray Darling Basin Agreement Amending Agreement 2006

At its meeting on 14 July 2006 the Council of Australian Governments (COAG) concluded an Amending Agreement to the 1992 MDB Agreement. This Bill is to give effect to the Amending Agreement 2006. The main provisions section of this Digest provides more detail.

New water policy January 2007

On 25 January 2007 the Prime Minister announced a \$10 billion plan for national water management, including Commonwealth assuming management of water resources in the Murray-Darling Basin. This would mean the end of the 1992 Murray-Darling Basin Agreement, with the States and Territories handing control of the Murray-Darling Basin Commission and its assets to the Commonwealth. The Commonwealth is also asking the states to hand over management of the Goulburn River (Victoria) and Murrumbidgee River (NSW). In his speech announcing the new policy the Prime Minister stated:

Existing arrangements centring on the MDB Agreement and MDB Ministerial Council are unwieldy and not capable of yielding the best possible Basin-wide outcomes. One government needs to take control and be responsible for water management in the MDB to ensure key Basin-wide outcomes are realised.⁵

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The State and Territory leaders have stated that they will discuss the Commonwealth's proposals at a meeting on 9 February 2007. The NSW Premier is the only leader thus far to give his support to the Commonwealth's proposals.⁶

The MDBC had agreed to undertake a review of the 1992 Murray-Darling Basin Agreement by June 2007,⁷ however, it is uncertain whether this will proceed in view of the Commonwealth's announced policy.

Position of significant interest groups/press commentary

Significant interest groups involved in water issues such as the National Farmers' Federation, the Australian Conservation Foundation and the Wentworth Group of Concerned Scientists do not appear to have specifically commented on the Amending Agreement 2006.

ALP/Australian Democrat/Greens/Family First policy position/commitments

Management of Australia's water resources has emerged as a key political issue in the last 12 months and is likely to be a significant issue in this year's federal election. In January 2007, prior to the Prime Minister's new policy announcements, the Leader of the Opposition, Kevin Rudd, called for a national water summit to discuss water management in Australia.⁸ The State and Territory Premiers supported this call.⁹ The Australian Democrats made a similar call in the latter half of 2006.¹⁰ There has been no specific comment on the Amending Agreement 2006. However, the relevant State and Territory Governments will be required to pass mirror legislation in order for the Amending Agreement to take effect.

Financial implications

The Explanatory Memorandum states that the Bill will not have a negative financial impact for the Commonwealth, as the intention of the Bill is to provide the Commonwealth with certainty as to the yearly contributions it makes towards the management of Murray-Darling assets.

Main provisions

Schedule 1 to the Bill amends the *Murray Darling Basin Act 1993* to give legislative effect to changes to the MDB Agreement introduced by Amending Agreement 2006.

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Item 4 of Schedule 1 reproduces the Amending Agreement 2006 by including a new Schedule 3 in the *Murray Darling Basin Act 1993*. The new schedule adds some key initiatives:

- annual annuity contributions
- recovery of water business costs from State governments
- allocation of responsibility for River Murray Water structures
- financial thresholds, and
- clarification of Queensland's responsibilities.

Annuity contributions

Item 13 in Schedule 3 replaces existing clause 67 in the MBD Agreement.

Under existing clause 67, the MDBC was required to prepare annual estimates of the known and anticipated expenditure for the next financial year, and forward estimates for two years after that. The estimates included an amount to be contributed by each Contracting Government. Supplementary estimates were also prepared. Each Contracting Government was required to pay its share of the annual and supplementary estimates (clause 68).

The new clause 67 provides the Commission, subject to Ministerial Council approval, with the power to charge an annual annuity contribution to all governments under the Agreement, with regard to investigations, construction and administration costs, and major or cyclic maintenance costs.

The annuity contributions will be calculated based on estimated future capital and maintenance costs of the Commission's water business for the next 30 years (new subclause 67(3)). In his second reading speech Mr Hardgrave stated:

These annuity contributions will reduce fluctuations which might otherwise occur in governments' annual contributions and also give a better reflection of the long run costs of providing water business services.¹¹

Any unspent moneys from each year's contribution may be used to reduce the amount payable by contracting Governments in the subsequent financial year (item 18 of Schedule 3). Proceeds from the sale of any surplus assets are to be credited against future annuity payments, or distributed amongst Contracting Governments, having regard to the contribution made by each Contracting Government to the acquisition of those assets (item 19 of Schedule 3).

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Recovery of water business costs

Item 12 of Schedule 3 sets out the new clause 66 in regard to Apportionment of Costs. Under new clause 66, the Ministerial Council may determine which proportion of the services provided by the Commission's water business is attributable to each State or Territory Government, and seek cost recovery accordingly (subclauses 66(2) and (3)). According to the Explanatory Memorandum,

These amendments will enshrine COAG principles relating to the costs of water services...and eliminate cross subsidies between the States for water business costs.¹²

Under new subclause 66(4), the Commonwealth Government will contribute one-quarter of the costs of all investigations, construction and administration costs, after first deducting any contribution to those costs made by any State or Territory. The State Contracting Governments together will contribute the remaining three-quarters costs. The proportion of cost-recovery charged to the States and Territories must be reviewed at least every five years (paragraph 66(2)(b)).

Responsibility for River Murray structures

Item 25 of Schedule 3 inserts a new part to Schedule C of the MDB Agreement, which outlines State/Territory responsibility for a number of River Murray structures such as drainage diversion schemes, salt interception schemes and groundwater interception schemes.

Investment options

Item 21 in Schedule 3 replaces the existing clause 80 of the MDB Agreement to allow the Commission to invest money received in accordance with guidelines established by the Ministerial Council. This expands the investment options available to the Commission, which were previously limited to investment in fixed bank accounts.

Financial thresholds

Under the MDB Agreement, any expenditure on works which was estimated to cost more than \$2 million was required to have Ministerial Council approval. This financial threshold has not been raised since 1992. Item 4 in Schedule 3 amends existing clauses 50 - 54 to add the words 'or such other amount determined by the Ministerial Council from time to time' to enable increases in the \$2 million threshold, as necessary.

Queensland's responsibilities

Item 26 in Schedule 3 clarifies Queensland's responsibilities under the Agreement. Queensland entered the Agreement in 1996 on the basis that it would only contribute

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towards works and measures in which it is directly involved. These amendments remove ambiguities in the MDB Agreement which could be interpreted as widening Queensland's liabilities.

Concluding comments

Management of the Murray-Darling Basin will continue to attract a high level of interest, particularly in the light of the Commonwealth's proposed take-over of the Murray-Darling Basin Commission, announced on 25 January 2007.

The Amending Agreement 2006 to the 1992 MDB Agreement will not formally come into force until it is approved by the Parliaments of NSW, Victoria, Queensland, South Australia and the ACT. At the end of January 2007, corresponding legislation was not yet before the NSW, Queensland or ACT parliaments; was introduced to the South Australian Parliament in December 2006; and was at second reading stage in the Victorian Parliament.

If implemented, the Commonwealth's proposed take-over of the Murray-Darling Basin water resource matters will render the MDB Agreement, including the amendments contained in this Bill, obsolete.

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Attachment A

Other Commonwealth-related water initiatives relevant to the Murray-Darling Basin

National Water Initiative

The National Water Initiative was agreed to and signed at the 25 June 2004 meeting of COAG. At this meeting, COAG noted the imperative of increasing the productivity and efficiency of water use and the health of river and groundwater systems in Australia.

The National Water Initiative Agreement was signed by the Commonwealth and all States and Territories, with the exception of Western Australia and Tasmania which declined to sign at the time. A copy of the NWI Agreement as signed by First Ministers is available on the COAG website.¹³

Part of the National Water Initiative was the establishment of the \$2 billion Australian Government Water Fund. The Fund comprises three programs - Water Smart Australia; Raising National Water Standards, and Australian Water Fund Communities, aimed at improving infrastructure, knowledge and management, and better practice in the stewardship of water resources.

The National Water Commission was established in 2004 to drive the National Water Initiative. The Commission was established within the Prime Minister's portfolio, but will move to the new Environment and Water portfolio established on 23 January 2007.¹⁴ The National Water Commission administers two of the three major programs funded by the Australian Government Water Fund. For further background see Bills Digest no. 72, 2004-05.¹⁵

The Living Murray

In 2002 the MDB Ministerial Council agreed to the Living Murray First Step program, a joint funded initiative to return up to 500GL of permanent 'new water' to the River Murray as an environmental flow. The Living Murray program falls outside the Murray-Darling Basin Agreement, and is contained in the Living Murray Intergovernmental Agreement. Further information on the Living Murray program can be found at the MDBC internet site.¹⁶

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Endnotes

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