

Chapter 2

Water Policy in Australia

2.1 Under the Constitution the states have prime responsibility for managing water resources. However as agriculture and industrial development spread, the states were forced to negotiate over shared resources and the Commonwealth became increasingly involved. The first major agreement on water, the River Murray Waters Agreement, was signed by NSW, Victoria, South Australia and the Commonwealth in 1915. That evolved into the 1992 Murray-Darling Basin Agreement (Queensland joined in 1996 and the Australian Capital Territory in 1998).

2.2 The 1980s saw a growing awareness of environmental problems such as salinity and river health. The need for national solutions was recognised. The Council of Australian Governments (COAG) became the key policy forum on natural resource issues, including management of water. In 1992 COAG adopted the National Strategy for Ecologically Sustainable Development which established general principles of sustainable natural resource development and management on a national basis.

COAG's Water Reform Framework, 1994

2.3 In 1994 COAG announced a Water Reform Framework which set out the key strategies to achieve efficient and sustainable urban and rural water use. The principles included pricing for full cost recovery, separation of water access rights from land title, trading of water rights to allow water to move to more efficient uses, and the need for specific provision of water for the environment.

2.4 In 1995 COAG adopted a wide-ranging package of microeconomic reforms under the title 'National Competition Policy'. A National Competition Council (NCC) was created, responsible for tracking and reporting on the implementation of agreed reforms, including the Water Reform Framework, by the states and territories. If the NCC assesses that states and territories have made acceptable progress in implementing the agreed reforms, they become eligible for special payments under the National Competition Policy.¹

The Murray-Darling Basin Agreement and the cap

2.5 The 1992 Murray Darling Basin Agreement established the Murray Darling Basin Ministerial Council and the Murray Darling Basin Commission to promote cooperative management of the basin. In 1995 the Ministerial Council agreed to cap

1 Under the National Water Initiative, from 2005 a new National Water Commission will have responsibility for future assessments of water-related reform commitments by States and Territories under the National Competition Policy— see the Intergovernmental Agreement on a National Water Initiative, 25 June 2004, p. 2.

diversions from the basin's rivers at 1994 levels to protect the environment. There were special conditions for South Australia, and a cap for Queensland was left for future decision.

2.6 It is a matter of concern that a cap for Queensland has still not been decided, and in the interim irrigation developments in the Queensland part of the basin have increased greatly. The Committee recommends that a cap for Queensland be decided by the beginning of 2005.

Recommendation 1

2.7 A cap for water extractions in the Queensland part of the Murray-Darling Basin should be decided by the beginning of 2005.

Related initiatives during the 1990s

2.8 The National Water Quality Management Strategy was introduced in 1992 and included in the COAG Water Reform agenda in 1994. It is a joint initiative of the Commonwealth and the States/Territories, and consists of 21 guideline documents for managing key elements of the water cycle.

2.9 The Commonwealth in 1997 established the Natural Heritage Trust, a funding program for environmental works. In 2002 COAG agreed to a National Action Plan on Salinity and Water Quality, with joint Commonwealth and State funding of \$1.4 billion over seven years. The National Action Plan and the Natural Heritage Trust are delivered jointly at regional level. They are supervised by the Natural Resource Management Ministerial Council.

2.10 The National Land and Water Resources Audit is a program funded by the Natural Heritage Trust to progress collection of primary information about Australia's natural resource management. It ran initially from 1997 to 2002, and has been extended to 2007.

The Living Murray Initiative and the 'First Step' water recovery project

2.11 An independent review in 2001 found that imposition of the Murray-Darling cap had been an essential first step and recommended further research to determine the sustainable level of diversion. That prompted the Murray Darling Basin Ministerial Council to establish the *Living Murray* Initiative, which involves a thorough re-assessment of the condition of the River Murray.

2.12 Following a number of expert reports the Ministerial Council concluded that additional environmental flows were required to ensure a sustainable river system. It convened a Scientific Reference Panel to undertake a cost/benefit analysis of the impact of three 'reference points' of additional water — 350, 750 and 1,500 GL. The Panel's interim report of October 2003 found:

- A further 350GL environmental allocation, however operationalised, will provide little 'whole of river' benefit.

- If fully optimised from an operational perspective, a further 750 GL may provide some ‘whole of river’ ecological benefits.
- A further 1,500GL can provide considerable ‘whole of river’ and local ecological habitat benefits.²

2.13 On the strength of this COAG in August 2003 committed \$500 million to address over-allocation of water in the Murray-Darling Basin (the Commonwealth contributing \$200 million, Victoria and New South Wales \$115 million each, South Australia \$65 million and the ACT \$5 m).³ It was estimated this would translate into about 500 gigalitres of additional environmental flows. It was seen as a very positive ‘first step’ in the rehabilitation of the River Murray system.⁴

2.14 On 25 June 2004 the Commonwealth and the Murray-Darling Basin states (except Queensland), agreed the ‘Intergovernmental Agreement on Addressing Water Overallocation and Achieving Environmental Objectives in the Murray-Darling Basin’. This has detailed protocols for spending the \$500 million. Measures which could be funded include investment in water-saving infrastructure and purchase of water on the market. Recovered water will be used for environmental improvements in the Murray River channel and six key ecological sites—the Barmah-Millewa Forest, Gunbower and Koondrook-Perricoota Forests, Hattah Lakes, Chowilla floodplain (including Lindsay-Wallpolla), the Murray Mouth, Coorong and Lower Lakes.

Comment

2.15 The Committee notes some recent arguments that the Murray-Darling is not really as stressed as is widely thought, and the ‘First Step’ \$500 million expenditure is not necessary.⁵

2.16 The Committee does not accept this. The Committee supports the First Step project. The Committee rejects suggestions that more scientific evidence is needed before action is justified. The weight of scientific evidence clearly indicates that the Murray Darling is stressed, and corrective action needs to be taken now.

2.17 In particular, the Committee notes worrying evidence that even on present - capped - policy settings, flow will probably continue to decline. For example, Prof. Young suggested that with some plausible assumptions about likely trends, total loss

2 *Ecological Assessment of Environmental Flow Reference Points for the River Murray System*, interim report by Scientific Reference Panel for MDBC, October 2003, p.12.

3 Council of Australian Governments Communiqué, 29 August 2003.

4 Murray-Darling Basin Ministerial Council Communiqué, 14 November 2003.

5 House of Representatives Standing Committee on Agriculture, Fisheries and Forestry, *Inquiry into Future Water Supplies for Australia’s Rural Industries and Communities - interim report*, March 2004. Dr J. Marohasy, *Myth and the Murray*, Institute of Public Affairs, December 2003.

could be 2000 gigalitres per year, additional to existing extractions, in 20 years. The main elements of this are:

- If average water use efficiency increases by 10 per cent, this could reduce river flow by 723 gigalitres per year by reducing return flows and drainage to groundwater;
- Projected plantation forestry developments, by intercepting water before it reaches a watercourse, could reduce flow by 600 gigalitres per year.⁶

2.18 In light of these figures the aim to recover 500 gigalitres for the environment seems too little rather than too much. The ‘First Step’ really is just the first step.

The National Water Initiative, 2003

2.19 From 1994 to 2002 there was progress on some items of the water reform agenda, but much remained to be done. Prof. Cullen commented:

The economic benefits have been substantially achieved but the environmental benefits have not been achieved.... the three big challenges in front of us are to reallocate water to efficient high-value irrigation, to continue growing the wealth-creating agricultural industries that we have and to stop using water in the low-value industries. The market was supposed to have achieved that, and it has started to achieve it, but it has made remarkably modest steps in reality...

[Charging the full cost] is one of the commitments that the states made in 1994 when they signed the COAG agreement, and it is still not done.

The idea of taking the environmental requirements out of that market and specifying them as environmental needs is also a very clear statement from 1994, but it has been remarkably difficult for the state jurisdictions to do it.⁷

2.20 To re-energise water reform, in August 2003 COAG agreed to a National Water Initiative. Its key objectives are to:

- improve the security of water access entitlements, including by clear assignment of risks of reductions in future water availability, and by returning over-allocated systems to sustainable allocation levels;
- ensure ecosystem health by implementing regimes to protect environmental assets at a whole of basin, aquifer or catchment scale;
- ensure water is put to best use by encouraging the expansion of water markets, involving clear rules for trading, robust water accounting and pricing based on full cost recovery; and

6 M.D. Young & J.C. McColl, ‘Robust Reform: the case for a new water entitlement system for Australia’, *The Australian Economic Review*, Vol. 36, No. 2, pp. 226-227.

7 Prof. P. Cullen, *Committee Hansard* 11 December 2002, p.4, 8, 20.

- encourage water conservation in Australia's cities, including better use of stormwater and recycled water.⁸

2.21 Details of implementation are in the 'Intergovernmental Agreement on a National Water Initiative', which COAG (except Western Australia and Tasmania) agreed on 25 June 2004.

Intergovernmental Agreement on a National Water Initiative, 2004

2.22 The key elements of the 2004 Intergovernmental Agreement are:

- water access entitlements to generally be defined as perpetual access to a share of the water resource that is available for consumption;
- statutory recognition for water that is provided to ensure environmental outcomes are met;
- overallocated water systems to be returned to sustainable levels of use (with substantial progress by 2010);
- a formula that assigns the risk of future reductions in water availability between water users and governments;
- more efficient administrative arrangements to facilitate water trade in connected systems;
- removal of institutional barriers to trade in water;
- new land use activities expected to intercept significant volumes of water to hold a water access entitlement;
- continued implementation of full-cost recovery pricing for water in both urban and rural sectors;
- national standards for water accounting, reporting and metering; and
- actions to better manage the demand for water in urban areas.⁹

2.23 Key provisions of the agreement relevant to the following discussion are summarised below.

Water access entitlements

2.24 Consumptive use of water will require a water access entitlement, separate from land, to be described as a perpetual or open-ended share of the consumptive pool of a specified water resource, as determined by the relevant water plan (s28). Entitlements will be tradeable like real property and will be recorded in public register (s31). They may be cancelled only where the responsibilities and obligations of the holder have clearly been breached (s32(ii)).

8 Council of Australian Governments Communiqué, 29 August 2003.

9 Council of Australian Governments Communiqué, 25 June 2004

Water planning

2.25 Water planning by states and territories will provide for secure ecological outcomes and resource security outcomes (s37). The relevant state or territory will determine whether a plan is prepared, what area it should cover, the level of detail required, and its duration or frequency of review (s38).

2.26 Allocation of water to a water access entitlement will be made consistent with a water plan (s29).

2.27 Environmental water as defined in a water plan should be given statutory recognition and have at least the same degree of security as water access entitlements for consumptive use, and should be fully accounted for (s35).

2.28 Arrangements to address situations of overallocation or overuse should be in place by 2005 and substantial progress should be made in adjusting use by 2010 (s41-44).

2.29 Actions to recover water for the environment should consider all available options, including investing in more efficient water infrastructure and buying water. Selection of measures should be primarily on the basis of cost-effectiveness, and with a view to managing socio-economic impacts (s79(ii)).

Assigning risk for changes in allocation

2.30 Users will bear the risk of reduced allocations resulting from seasonal or long term changes in climate or natural events such as fire or drought. Users will bear the risk of reductions required by 'bona fide improvements in the knowledge of water systems' capacity to sustain particular extraction levels', up to 2014. Thereafter, users will bear the risk of up to 3% reduction in allocations per 10 years; government will bear the risk beyond that. Government will bear the risk of reductions required by changes in government policy (for example, new environmental objectives). These rules apply to recovering water additional to that needed to address known overallocation or overuse (s46ff).

Water-intercepting landuse changes

2.31 Landuses which have the potential to intercept significant volumes of surface water and groundwater should be identified. After 2011 any new interception activities which exceed agreed threshold levels, in water systems that are fully allocated or approaching full allocation, will require a water access entitlement (s55-57).

Water markets and trading

2.32 The parties will establish by 2007 compatible institutional and regulatory arrangements that facilitate intra and interstate trade (principles for trading rules are given in Schedule G of the agreement). There should be immediate removal of

barriers to temporary trade. There should be immediate removal of barriers to permanent trade out of irrigation areas up to an annual threshold limit of four percent of the total water entitlement of that area, subject to a review by 2009 with a move to full and open trade by 2014. There are special provisions concerning irrigation areas in the southern Murray-Darling Basin (s60ff, schedule G).

2.33 There should be measures to facilitate rationalisation of inefficient infrastructure or unsustainable irrigation supply schemes, including consideration of the need for any structural adjustment assistance (s60(vi), s97).

Water pricing

2.34 Pricing should be based on full cost recovery for water services (s65). Any necessary subsidies should be publicly reported (s66(v)).

Water accounts

2.35 By 2006 there should be water resource accounts that can be aggregated to produce a national water balance (s82). By 2008 there should be accounts that integrate surface water and groundwater systems (s83). Nationally consistent guidelines for metering water use should be developed by 2005 and applied by 2007 (s89).

2.36 By the end of 2006 there should be nationally compatible water accounting systems (which include accounting for environmental water). By the end of 2007 there should be a system of nationally compatible metering and measuring standards.

National Water Commission

2.37 A National Water Commission will be established provide advice to COAG on water issues and help with the implementation of the agreement (s10, schedule C).

General comment on the Intergovernmental Agreement

2.38 The Intergovernmental Agreement is essentially a restatement of the political commitment to water reform. Some important contentious points are resolved in the Agreement, for example:

- the principle that entitlements will be defined as a perpetual share of the consumptive pool;
- the principles concerning the allocation of risk between government and users.

2.39 However other important elements still depend on the details of implementation. Progress on difficult elements will depend on continuing political motivation. For example:

- standardising categories of entitlement so they can be traded interstate;
- harmonising water pricing and principles of allocation interstate;

- designing rules for trading which reflect hydrological realities and ecological needs without unduly restricting trade (how big trading zones should be; details of exchange rates or retail tagging of water; rules for water use licences);
- deciding what water-intercepting landuses should be controlled, and how;
- harmonising water planning interstate, including timing of reviews;
- improving scientific knowledge about environmental requirements; and
- means of recovering overallocated water; how this will be funded; design of structural adjustment assistance.

2.40 Continuing progress will depend on having clear milestones and timing points. The Intergovernmental Agreement has quite detailed goals in this regard. The National Water Commission's role of monitoring progress will be important, as would its regular and transparent reporting of the status of Australia's water resources.