

## Chapter 4

# Infrastructure Investment, Environmental Works and Measures, and Constraints Management and Removal

### Introduction

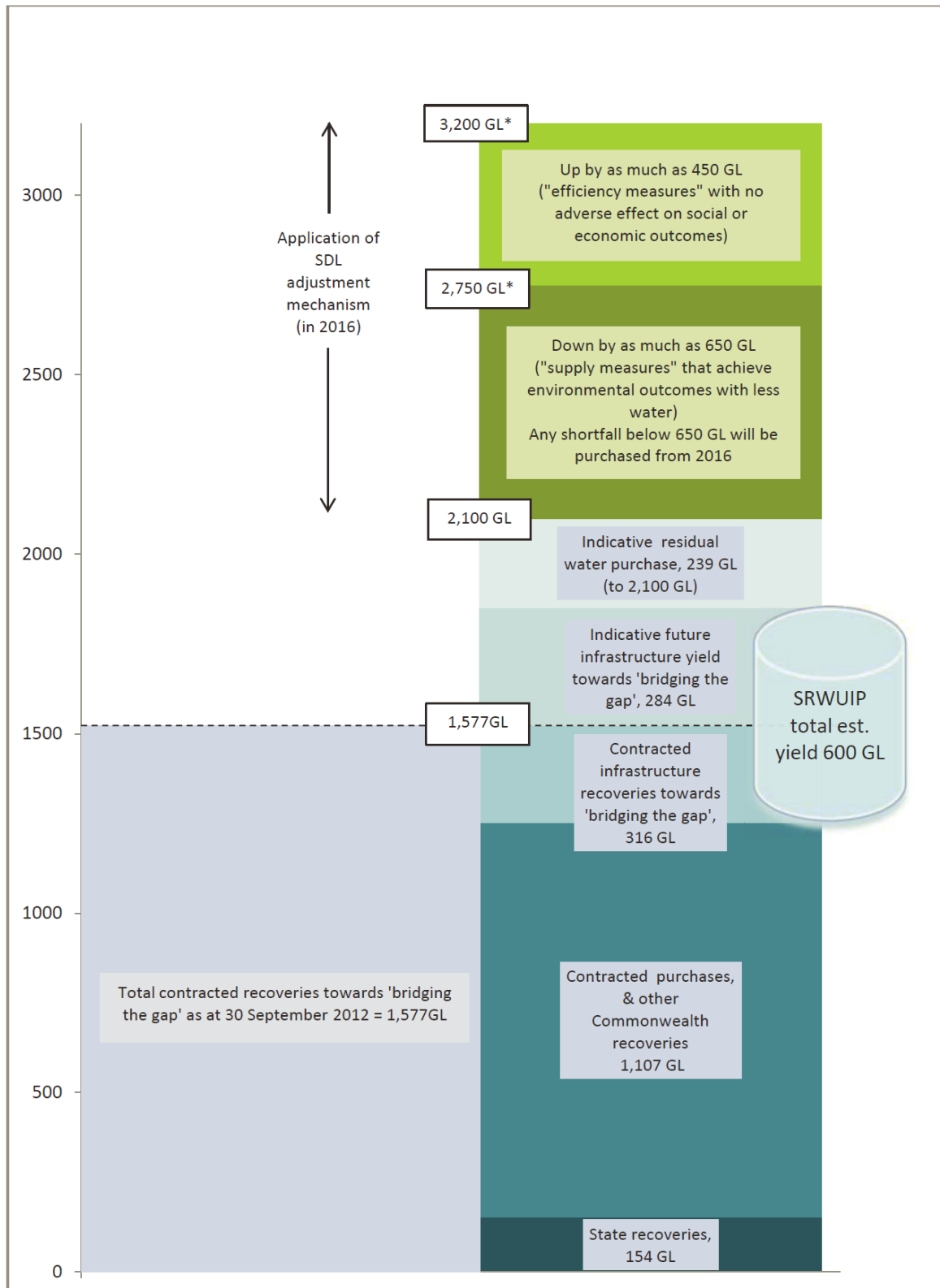
4.1 This chapter examines the use of infrastructure investment and environmental works and measures as part of the government's strategy to return water to the Basin system.

4.2 In particular, it focuses on recent evidence received about the contribution of up to 650 GL/y of the 2750 GL/y reduction in take to be achieved through environmental works and measures. In doing so, the chapter presents evidence about the uncertainty created by this strategy at the present time, but also the general preference for environmental works and measures of some Basin stakeholders over further government buybacks of water entitlements.

4.3 In addition, the chapter examines the government's announcement to return 450 GL/y to the Basin through new on-farm efficiency works, in addition to the 2750 GL/y reduction in take. The chapter does this by providing a brief outline of the recent amendments to the *Water Act 2007* (Water Act) which gave effect to the return of additional water. The chapter then notes the potential consequences of this policy and how it will be managed into the future under the constraints management strategy.

4.4 Figure 4.1, reproduced from the Department of Sustainability, Environment, Water, Population and Communities' (SEWPaC) *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, shows how these two features (the 650 GL/y and the 450 GL/y) of the Basin Plan form part of the government's overall plan to return water to the Basin.

**Figure 4.1—Environmental Water Recovery and SDL Adjustment Mechanism<sup>1</sup>**



\* The amount of held environmental water will reflect the outcome of the operation of the SDL adjustment mechanism.

1 Reproduced from SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, p. 23.

## Environmental Works and Measures

4.5 SEWPaC describes environmental works and measures as:

...examples of 'supply measures' that can help deliver water more efficiently and effectively to meet environmental objectives. Some of these projects have the potential to provide SDL offsets by achieving equivalent environmental outcomes using less water.<sup>2</sup>

4.6 Previous environmental works and measures programs have been funded by Basin governments, including the works delivering and managing environmental water to five Living Murray 'icon sites' under the Living Murray program.

4.7 Currently, there is a \$10 million Commonwealth funded program to:

...assist Basin states and communities to investigate new environmental works and measures projects. The types of projects being investigated include the removal of impediments to environmental flows, building regulators to deliver environmental water more efficiently to wetlands, and purchasing flood easements.<sup>3</sup>

4.8 A key implication of the adjustment mechanism in the final Basin Plan is for environmental works and measures to provide for up to 650 GL/y of the final 2750 GL/y reduction in take.<sup>4</sup> Any potential shortfall in reaching the 650 GL/y with works and measures will be met by water purchases from 2016.<sup>5</sup>

4.9 The MDBA further explained what the 2016 deadline means in practice in the following exchange:

**Senator NASH:** Do the savings have to have been completed by 2016, or what is the arrangement?

**Dr Dickson:** No. Those projects have to be completed and deliver the savings up until 2024.

**Senator NASH:** As long as they are identified by 2016? Is that what we are talking about?

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2 SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, p. 15. For a definition of supply measures see chapter two, paragraph 2.13 of this report.

3 SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, pp 15–17.

4 The MDBA agreed that 'the [final] Basin Plan should further clarify that the 5 per cent limit on operating the [adjustment] mechanism represents the 'net' SDL adjustment. That is, the mechanism can provide up to a 650 GL offset from supply measures provided there is a corresponding increase in the SDL reduction amount resulting from efficiency measures to maintain the 5 per cent net limit.' See: MDBA, *Basin Plan: Authority's views on the Minister's suggestions on the altered proposed Basin Plan*, November 2012, p. 2.

5 SEWPaC, *Environmental Water Recovery Strategy for the Murray-Darling Basin: Draft for Consultation*, November 2012, p. 23.

**Dr Dickson:** They are identified, there is investment against them and they have agreed that they are going to deliver those savings. They need to be well and truly in prospect, but they do not need to have been built and delivered at that time.<sup>6</sup>

4.10 Environmental works and measures were criticised by some stakeholders because, under the adjustment mechanism, environmental works and measures may return water to irrigators rather than the environment. Mr La Nauze of the Australian Conservation Foundation stated that this was not an appropriate way of spending public money under the Basin Plan:

Firstly, the proposed SDL adjustment mechanism needs reworking. The parliament should be aware that, as it is currently drafted, this mechanism will result in the Commonwealth spending hundreds of millions if not billions of dollars returning water to irrigators instead of to the environment. It turns the water reform process on its head. New investments in certain categories of water-saving measures—the [MDBA] calls them 'supply measures'—will be used to increase the amount of water available for consumptive use rather than for the environment. This includes the reconfiguration of water storages such as the Menindee Lakes and investment in environmental works and measures. So even where the environmental outcome is manifestly inadequate, as it would be under the current 2,750-gigalitre plan, public money would be spent increasing water for irrigation instead of making more water available for the environment.<sup>7</sup>

4.11 Another witness, Mr Ted Hatty, Chairman, Southern Riverina Irrigators, argued that environmental works and measures would lose effect if there was a return to drought:

...with reference to the river's health in the last few years, ...we have to recognise that the river was in the midst of the worst drought in 100 years. That is something that seems to be lost on a lot of folks in the city. The fact is that we also had programs such as The Living Murray which were agreed to prior to the drought but were never actually given an opportunity to run. So there is a whole host of works and measures that are currently on the table and that were already agreed to prior to all of this Basin Plan. Prior to the drought they were ready to go, but it stopped raining. River health is always going to be an issue if it stops raining.<sup>8</sup>

4.12 The NSW Irrigators' Council argued that the process for proceeding with environmental works and measures projects actually provides a disincentive for the completion of such projects. As Mr Andrew Gregson explained:

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6 Dr Rhondda Dickson, Chief Executive, Murray-Darling Basin Authority, *Committee Hansard*, 23 November 2012, p. 37.

7 Mr Jonathan La Nauze, Healthy Rivers Campaigner, Australian Conservation Foundation, *Committee Hansard*, 10 September 2012, p. 20.

8 Mr Ted Hatty, Chairman, Southern Riverina Irrigators, *Committee Hansard*, 23 November 2012, p. 9.

When it comes down to it, the basis of the 650 [GL/y for environmental works and measures] is this: if it is not obtained through environmental works and measures then it will be obtained through buyback. Minister Burke argues that the resolve to get it done lies in the hands of the states. What we would ask is that that 650 be subject to apportionment in the same way that every other purchase is subject to apportionment. Unfortunately, Minister Burke and the [MDBA] have not seen fit to implement that in the plan.

What happens as we understand it is that the proposals come from the states to the ministerial council. The ministerial council, which is all of the states' ministers, must agree on each and every project. In the event that there is not unanimous agreement then that project will not proceed and potentially the 650 will not be met. Because of that unanimity requirement there is an effective veto handed to every state. Not only does that mean that there is no incentive for them to bring projects to the table but also there is no incentive for them to accept projects from other states. It is our opinion, therefore, that achieving the full 650 is, at best, difficult. As a result, that is why, again, we are calling for a cap on buybacks. At the very least, that 650 should be apportioned to give every state an incentive to be involved. If I could be parochial for just one moment...if that 650 were apportioned there would be an incentive for South Australia to look at environmental works and measures in respect of the Lower Lakes and Coorong, and we think that that is absolutely vital as part of this process.<sup>9</sup>

4.13 A SEWPaC official was asked about whether the potential 650 GL/y return of take from environmental works and measures would be apportioned between the Basin states:

...starting from the 2,750, there is apportionment of the downstream component to provide, in a sense, a starting point, and that is done now under the planning processes. The apportionment of, to coin a phrase, the benefit of whatever the 650 has got will depend—there are some locational dimensions to this—on what the projects are and where they are. We do not know precisely what the projects are and where they are. There is a process going on right now with some prefeasibility studies and so forth being done, but the decisions on what those projects will actually be will occur in 2016. The locational apportionment of the benefit of those projects will depend upon the decisions which are taken at that point in time.<sup>10</sup>

4.14 Further to this point the MDBA added:

**Dr Dickson:** The default arrangements for the apportionment is if states do not get to agreement, they are done on the baseline diversion limits—the apportionment of the 2009 baseline. There is a default if states do not get to

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9 Mr Andrew Gregson, Chief Executive Officer, New South Wales Irrigators' Council, *Committee Hansard*, 23 November 2012, p. 17.

10 Mr David Parker, Deputy Secretary, Water Group, Department of Sustainability, Environment, Water, Population and Communities, *Committee Hansard*, 23 November 2012, p. 35.

agreement, but there is enough time in there for states to come to an agreement.

**Senator NASH:** Does that calculation take into account any savings through the works and measures from a particular state?

**Dr Dickson:** As Mr Parker said, you cannot be absolutely definitive on that, because those works and measures could come from different tributaries or different parts, and one state may put the lion's share of an investment in and there may be some need for them to get agreement with another state on how they are going to share those benefits. It is up to the state governments to work out how best they want to have this managed.<sup>11</sup>

4.15 The MDBA and SEWPaC were also asked about what options were available if the environmental works and measures programs had not met its target by 2024:

**Mr Parker:** By 2024 we expect to have bridged the gap one way or another.

**Senator NASH:** But what is the other way? That is what I want an answer to.

**Mr Parker:** As I said earlier in response to your question, if the project is not completed substantially in accordance with specifications and so there is a shortfall in the recovery, then there would be a gap which needs to be recovered by other means.

**Senator NASH:** That is exactly what I am after. What are the other means?

**Mr Parker:** As I said, purchase or investment. It will depend on where they are, what the type of project is and so forth.

**Senator NASH:** So there is potentially further buyback if they do not meet the targets.

...

**Dr Dickson:** Yes, but that is why there is the point at 2016 and why we need a long period in developing the projects in that period so that we can be very confident in the savings identified and very confident there is investment and those projects will be built. That is why it needs that proper assessment, so it can minimise risk by forces that no-one could be aware of that might make a project no longer able to be conducted. Those are the sorts of things that you have to manage for, but most of the effort is in making sure that we have good projects at that time and that they are well and truly agreed on and bedded down to minimise that risk.<sup>12</sup>

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11 Dr Rhondda Dickson, Chief Executive, Murray-Darling Basin Authority, *Committee Hansard*, 23 November 2012, p. 38.

12 Mr David Parker, Deputy Secretary, Water Group, Department of Sustainability, Environment, Water, Population and Communities, and Dr Rhondda Dickson, Chief Executive, Murray-Darling Basin Authority, *Committee Hansard*, 23 November 2012, p. 39.

4.16 The National Irrigators' Council stated that the process risked being overly complicated which in turn could impact on reaching the desired outcomes of the environmental works and measures strategy:

What we are concerned about with the 650 is not that it is not there; it is not that we do not believe that we can get the same outcomes that you would have got if you had bought that water or got it back through on-farm investments or whatever; it is that governments—certainly not this one—in the past had a marvellous way of overcomplicating what should not be that complicated. At the moment, we do seem to be heading down that path. As Andrew [Gregson, CEO, NSWIC] said, there are some issues within the process itself of various states perhaps being able to veto it, but even getting those projects to the ministers and then getting them through the MDBA's modelling—there are plenty of hand grenades that can be built into that that do not need to be there, and that is what we are a little bit worried about. If it becomes too complicated, everyone chucks their hands in the air at a government level and says, 'Just buy back.'<sup>13</sup>

4.17 Finally, the Wentworth Group noted that there was no particular scientific preference for any of the three forms of water recovery, however, it also expressed the need for policies to identify the cost effectiveness of such water recovery programs, including environmental works and measures:

From a scientific perspective no [it doesn't make any difference how the water is recovered]. In 2007, we put a statement out which looked at the environmental needs, the economic opportunities for achieving those and the social impacts and how to address those issues. ... In simple terms, there are a range of alternatives for delivering water. Buyback is one alternative, on-farm infrastructure improvements is another and public infrastructure works is a third—there are a range of them. Our view was that once you have established the needs of the river system, based on the science, you then use whatever tools are available and you work with local communities to identify the most cost-effective way, both in economic and socioeconomic terms, to deliver those environmental outcomes.<sup>14</sup>

#### *Committee view*

4.18 The committee supports the use of environmental works and measures to contribute towards the reduction in take. The committee considers such measures to be an essential part of an appropriate water recovery strategy.

4.19 However, from the evidence received, the committee is concerned that the current provisions relating to environmental works and measures for the reductions of 650 GL/y of water results in some uncertainty for Basin stakeholders. In particular, the committee is concerned that the extent to which buybacks may be required to meet a shortfall from environmental works and measures (should one occur) will not be

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13 Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Committee Hansard*, 23 November 2012, p. 18.

14 Mr Peter Cosier, Convenor and Member, Wentworth Group of Concerned Scientists, *Committee Hansard*, 23 November 2012, p. 28

known until 2016 and potentially much later. The committee is also concerned that should a shortfall occur, the decisions about the apportionment of such a shortfall among the Basin states have been delayed and that this creates further uncertainty.

4.20 Finally, while supporting the program for environmental works and measures, the committee is mindful that the return of water to the Basin should be both cost-effective and mindful of the socio-economic impacts on Basin communities.

## **Recommendation 8**

**4.21 The committee recommends the MDBA conduct further research into how effective the works and measures programs are for delivering environmental outcomes and the cost effectiveness of such projects in comparison to other forms of water recovery. This research should also include the socio-economic impacts to irrigation communities of increased levels of 'buyback'.**

## **Recommendation 9**

**4.22 The committee recommends that the MDBA and SEWPaC provide ongoing public updates to Basin stakeholders on progress in securing water savings from environmental works and measures.**

## **An additional 450 GL**

4.23 On 26 October 2012, the government announced that it would:

...provide \$1.77 billion over ten years from 2014 to relax key operating constraints and allow an additional 450GL of environmental water to be obtained through projects to ensure there is no social and economic downside for communities.<sup>15</sup>

4.24 The 450 GL/y is in addition to the 2750 GL/y reduction in take that is targeted in the Basin Plan. The announcement came in response to the MDBA's release of the 3200 GL/y relaxed constraints modelling scenario (see chapter two).<sup>16</sup> The relationship of the 450 GL/y to the other aspects of environmental water recovery is illustrated in Figure 4.1 above.

4.25 To achieve this expanded target, the government committed to investing 'primarily in on-farm efficiency works that generate water savings for the environment

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15 Prime Minister, the Hon. Julia Gillard MP and Minister for Sustainability, Environment, Water, Population and Communities, the Hon. Tony Burke MP, Press Release, 'Returning the Murray-Darling Basin To Health, 26 October 2012, [www.pm.gov.au/press-office/returning-murray-darling-basin-health](http://www.pm.gov.au/press-office/returning-murray-darling-basin-health).

16 Prime Minister, the Hon. Julia Gillard MP and Minister for Sustainability, Environment, Water, Population and Communities, the Hon. Tony Burke MP, Press Release, 'Returning the Murray-Darling Basin To Health, 26 October 2012.



and other projects as agreed by states', to 'ensure there is no social and economic downside for communities.'<sup>17</sup>

4.26 On 19 November 2012, the Senate Environment and Communications Legislation committee presented its report into the Water Amendment (Water for the Environment Special Account) Bill 2012 (the Special Account Bill). The Special Account Bill received assent (with amendments) on 15 February 2013. Its aim was to amend the Water Act to give effect to the Prime Minister's announcement of 26 October 2012.<sup>18</sup>

4.27 There are several key aspects of the Special Account Bill that were relevant to the committee's inquiry such as the additional return of an additional 450GL, the removal of physical constraints, and enhanced environmental benefits. Specifically, the Special Account Bill:

...provides funding for the acquisition of an additional 450GL of water and the removal of physical constraints. The Bill identifies key enhanced environmental benefits which could be achieved. Further reducing levels of salinity in the Coorong and Lower Lakes so that improved water quality contributes to the health of insects, fish and plants that form important parts of the food chain. Increasing the water levels in the Lower Lakes to provide additional flows to the Coorong and to prevent acidification, acid drainage and river bank collapse below Lock 1. Ensuring the [Mouth] of the Murray is open without the need for dredging. Discharging 2 million tonnes of salt per year from the Murray-Darling Basin as a long term average. Increasing flows through the Murray Mouth barrages and supporting fish migrations. In conjunction with removing or easing constraints providing opportunities for environmental watering of floodplains of the Murray-Darling Basin to improve the health of forests and fish and bird habitat, improve connections to the river system, and replenish groundwater. Increase the flow of rivers and streams and provide water to low and middle level floodplains that are adjacent to rivers and streams.<sup>19</sup>

4.28 Importantly, the Special Account Bill also sets out that the government anticipates it will:

...acquire the additional water primarily through investment in on-farm irrigation efficiency projects and also through off-farm efficiency projects, the purchase of water access entitlements (but not through open tender rounds available to all entitlement holders in a water resource plan area)

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17 Prime Minister, the Hon. Julia Gillard MP and Minister for Sustainability, Environment, Water, Population and Communities, the Hon. Tony Burke MP, Press Release, 'Returning the Murray-Darling Basin To Health, 26 October 2012.

18 Senate Environment and Communications Legislation Committee, Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012 [Provisions] and the Water Amendment (Water for the Environment Special Account) Bill 2012 [Provisions], November 2012, p. 7.

19 Revised Explanatory Memorandum, Water Amendment (Water for the Environment Special Account) Bill 2012, p. 3.

and other agreed mechanism *where the social and economic outcomes can be maintained or improved*. This would achieve enhanced environmental outcomes by increasing the volume of water available for environmental use, without adversely impacting on the productive capacity of the Basin.<sup>20</sup>

4.29 The Special Account Bill also dealt with the issue of constraints removal and provides funding:

...to allow the constraints removal to facilitate delivery of the additional environmental water recovery and achieve improved environmental outcomes from those water holdings. This could be done through a range of projects including acquisition of flood easements, provision of access works (for example, bridges, culverts), changed watering regimes and increased outlet capacity on major dams and storages.<sup>21</sup>

4.30 The committee did not consider the specific details of the Special Account Bill as it was a matter before the Environment and Communications Legislation Committee. However, the committee did discuss some related issues during its public hearing on 23 November 2012. In addition, the committee considers that some of the general issues raised in the Environment and Communications committee report to be of direct relevance to this committee's inquiry. The key views of stakeholders before this inquiry are discussed in turn.

4.31 The Murray Group of Concerned Communities, for example, considered that the effects of the Bill were potentially premature given the uncertainty about how other aspects of the Basin Plan may operate:

...We feel that the 450 bill is premature. We have not yet achieved the basin plan. We have not yet seen how the adjustment mechanism will work in practice. We have not yet seen how getting 2,750 in the first instance will work in practice. We do not see the need to scramble for further water recovery before you can be sure that you can achieve outcomes and delivery this.<sup>22</sup>

4.32 The National Irrigators' Council (NIC) expressed dissatisfaction with the plan to return additional water through the Special Account Bill. As NIC CEO, Mr Tom Chesson, told the committee:

We get frustrated because both the Prime Minister and the minister went down to Goolwa [in October 2012] and announced the 450-gigalitres and the upward movement. They both made the point very strongly that the reason that they wanted to invest in irrigation was because there were downsides for our communities. They have not explained what those downsides are, but we have got organisations that have done microlevel

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20 Revised Explanatory Memorandum, Water Amendment (Water for the Environment Special Account) Bill 2012, p. 4. Emphasis added.

21 Revised Explanatory Memorandum, Water Amendment (Water for the Environment Special Account) Bill 2012, p. 4.

22 Mr Bruce Simpson, Chairman, and Ms Perin Davey, Executive Officer, Murray Group of Concerned Communities, *Committee Hansard*, 23 November 2012, p. 12.

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work on what it costs in terms of what these reforms will cost communities, and it is not pretty. If there are downsides, if the government believes that there are not more large-scale water tender buybacks, then why are we even having this discussion?

Surely, it should just be put into the legislation. Two bills have gone through—one has gone through the Senate and another one is currently in the Senate. We could amend the Water Act tomorrow—or next week—to make sure that there are no downsides for communities in this, and then I think you will see communities and irrigators come on board. They will be much more comfortable, because what we are being asked to do is to trust governments, not just today—I have no issue with the sentiments and the intention of government today—but this process is probably going to be five, six or seven elections long. What is discussed behind closed doors or what is discussed in these committees today is not necessarily going to be government in 2016, 2017, 2018. They are not necessarily going to go back and read this committee's report and understand exactly what the intention was.

I just implore this committee: don't damage our communities further by simply taking water out of them and simply buying back. There is a win-win, and we should follow that path.<sup>23</sup>

### **Constraints Management Strategy**

4.33 In addition to the some of the specific concerns relating to the Special Account Bill, it was the associated issues of the return of the additional 450 GL/y and the need to relax constraints in the Basin system to manage the additional flow that was most contested. The alternative views of irrigators' representatives and environmental groups are reflective of this.

4.34 The NIC expressed serious concern with how the Constraints Management Strategy would be implemented. In outlining this concern, the NIC's Mr Tom Chesson noted the significant impacts that removing constraints could have on certain communities and rural properties:

...We are concerned that the constraints management strategy which is now to take place over the next 12 months could become just a tick-a-box exercise because there is so much pressure on the government to allow the 450 gigs of upward movement—that is that [\$]1.8 billion that was announced the other day. The Murray-Darling Basin Authority has made it very clear in the modelling that was used as the basis for that upward movement that, if the constraints that are relaxed in that model are not actually implemented, there is no real environmental benefit of just putting another 450 gigs and sloshing it down the river.

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23 Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Committee Hansard*, 23 November 2012, pp 13–14.

It says the only way you will hit those extra environmental targets is if you relax those constraints. The Victorian government, for example, has done a lot of work on hydrological modelling for flood risks. I know the Insurance Council has done a lot of work as well.

On 9 October 2010 and again on 10 October 2010, the water minister in Victoria told the Victorian parliament that with 40,000 megalitres, the constraint that was relaxed at McCoy's Bridge, you would have 100 buildings flooded, you would have 250 kilometres of roads go under, over 8,000 hectares of dryland and about 1,000 hectares of irrigated country. That is just with that one constraint relaxed. They would argue that it is not a minor flood; it is a serious flood. You heard before from Ian Lobban and the Murray group—Louise Burge and others—that if you then have a rainfall event, you can have a serious issue on your hands.

I think it needs to be understood that constraints are not a simple thing and that, if you flood someone's home, there is a very big difference between a rainfall event doing it and your own government doing it. You need to understand that the [Commonwealth Environmental Water Holder] is hiding behind the state governments, who are the river operators. If the states flood someone's home, from what I understand, legally...the states are liable. We are concerned that if the constraints are not managed properly, it could all go pear-shaped in a horrible way for a lot of people.<sup>24</sup>

4.35 Mrs Jan Beer also told the committee that the impact on the Goulburn river region could be significant and potentially result in moderate flooding. Mrs Beer also argued that non-natural flooding events provided for under the additional release of water could have significant impacts on farmers.<sup>25</sup>

4.36 These concerns were combined with evidence that predicting flows and flooding was extremely difficult in the area. According to Mrs Beer, this could also have significant consequences:

I am therefore very concerned how unpredictable tributary flows, combined with totally insufficient real time data and the time lag factor for streamflows combined with large environmental releases from Eildon Weir, will impact on floodplain landowners and the many towns along the river system such as Yea, Seymour, Shepparton.<sup>26</sup>

4.37 Mr Andrew Gregson of the New South Wales Irrigators' Council also noted the complexity of the Basin system and expressed reservations about how the removal of constraints could be managed:

One thing I am absolutely certain of is that there is not sufficient understanding of what those constraints are or what the implications are of

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24 Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Committee Hansard*, 23 November 2012, p. 16.

25 Mrs Jan Beer, Private Capacity, *Committee Hansard*, 23 November 2012, pp 1–2 and Mrs Jan Beer, *Submission 381*, pp 2–3.

26 Mrs Jan Beer, *Submission 381*, p. 4.

removing them. 'Constraints' makes it sound unrealistically simple. We are talking about an extremely complex system without a comprehensive understanding of how, where and why water moves through it. One of the constraints they are looking at is the capacity to release more water faster from the Menindee Lakes system. That sounds pretty simple until you realise that that water then has got to go somewhere. One of the volumes that we have seen quoted as to what they want to release would be such that the Lower Darling River channel could not carry it. It would spill into the anabranch and effectively be lost. So I think we have got to be extremely careful of oversimplifying exactly what the system constraints are and what the impacts will be of changing or moving one thing. This system is like a balloon: if you poke it in one area, you are going to have an implication somewhere else.<sup>27</sup>

4.38 Mr Gregson also stated that it 'is fair to say that the time frame made available to consider this constraints removal strategy is going to prove vastly insufficient to understand what the implications will be.'<sup>28</sup>

4.39 The MDBA responded to concerns raised about the unintended consequences of the relaxing of constraints to achieve a total of 3200 GL/y return of take by stating that it will work through the issues in consultation with local farmers and through the development of the constraints management strategy. As Dr Rhondda Dickson, Chief Executive, MDBA told the committee:

In terms of what has been done already, there is a lot of experience in the Murray-Darling Basin Authority on this issue through many years working on the river operations with local landholders through the system. So there is a lot of knowledge there about the implications of changes to river flows. So we have background information there, but the key piece of work that the authority is going to be doing over the next 12 months—we are already getting ready to do that—is the sort of analysis that you are talking about, where there would be a lot of detailed work done on the implications of what the priorities for the constraints are first, and then the implications of changing one, having a look at what those implications are for changes to the flow regimes on private properties and what the risks might be, and looking at where the most effective relaxation might occur. There has been quite a lot of work done already this year with basin states identifying all the constraints. We have done quite a few studies on that.

So base work is being done, but there will be a very active and intense program in the first year of getting a strategy together. That is the constraints management strategy which is in the plan and which we are required to do in very close consultation with states. We will be talking also with landholders on what we should be looking at then. But, once there is an initial strategy identified after a year—the program of how you would

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27 Mr Andrew Gregson, Chief Executive Officer, New South Wales Irrigators' Council, *Committee Hansard*, 23 November 2012, p. 16.

28 Mr Andrew Gregson, Chief Executive Officer, New South Wales Irrigators' Council, *Committee Hansard*, 23 November 2012, p. 16.

proceed once the ministerial council and the basin governments agree on a strategy—there is a long program of working closely with landholders, in a way that has been done in the previous exercises, with looking at changes to constraints.<sup>29</sup>

4.40 The committee notes that the consultation process has already commenced. Furthermore, the committee notes that Mrs Jan Beer, a stakeholder that appeared at a public hearing on 23 November 2012 who was concerned about the consultation process has subsequently been contacted by the MDBA to discuss issues and arrange further meetings.<sup>30</sup>

4.41 Mr Jonathan La Nauze from the Australian Conservation Foundation (ACF) expressed support for the constraints management strategy but sought some changes to how it was treated under the Basin Plan:

I think the constraints management strategy is absolutely essential. I am not as worried about the delay [of the constraint strategy being released 12 months after parliament is expected to sign off on the plan]; what I am worried about is the way that it is written into the plan—it does not actually drive the systematic assessment of those constraints, an assessment of the feasibility of overcoming them and then actually ensuring that they will be overcome where that is physically possible. It leaves that option open but it does not drive it. But I think some simple wording changes to the constraints management strategy in the plan would enable that, as well as realigning the adjustment mechanism to work in the way that I said. So it actually requires the overcoming of constraints and achieving a better environmental outcome before you start to return any water for consumptive use.<sup>31</sup>

4.42 Environment Victoria urged that the MDBA work through the possible water infrastructure achievements that could assist in the removal of system constraints which it noted was a major reason for establishing the 2750 GL/y reduction in take. As Environment Victoria's Ms Juliet Le Feuvre told the committee:

...The MDBA has stated that system constraints are very important limiting factors in setting SDLs and that they hinder the availability of environmental water, particularly to the upper levels of the [subplain]. Constraints have been cited as a key reason for selecting the 2,750 giganlitre figure. If that is the case, and the MDBA has to be prepared to do something about them, it should conduct a systematic assessment of the feasibility, costs and benefits of redesigning river management operations and infrastructure to deliver ecological outcomes, followed by a prioritisation of works and measures. Once an impediment to the delivery

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29 Dr Rhondda Dickson, Chief Executive, Murray-Darling Basin Authority, *Committee Hansard*, 23 November 2012, p. 41.

30 *Committee Hansard*, 23 November 2012, pp 4,41, and 42 and correspondence between the MDBA and the committee, 11 December 2012.

31 Mr Jonathan La Nauze, Healthy Rivers Campaigner, Australian Conservation Foundation, *Committee Hansard*, 10 September 2012, p.23.

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of environmental water has been removed, the MDBA should review the ability to achieve improved environmental objectives and adjust the SDL accordingly.<sup>32</sup>

### *Committee view*

4.43 The committee supports the improved environmental outcomes for the Basin system that will be achieved by returning an additional 450 GL/y primarily through on-farm infrastructure investment.

4.44 However, the committee recognises that the additional return of 450 GL/y of water to the Basin system which also involves constraints removal is a contentious issue and the feasibility is yet to be proven.

4.45 The committee is concerned about the significant impact the additional return of water for environmental purposes and the removal of system constraints may have on many landholders and rural communities in certain parts of the Basin system. It is clear from the evidence received that the proposals for constraints removal may cause significant flooding and damage to rural properties and also have adverse impacts on a number of farmers and related businesses. The committee is also concerned that there may be unintended socio-economic consequences of the policy as it currently stands. The committee notes from recent press reports that this is an ongoing concern for a number of rural and regional communities (see Appendix 4).

4.46 Finally, the committee acknowledges the concerns raised about the lack of consultation that has occurred in the lead up to the relevant changes being introduced into the Basin Plan. At the same time, the committee notes the future consultation that was outlined by SEWPaC and the MDBA on this issue. The committee also commends the commitment and the consultation undertaken by relevant government officials regarding a specific request from a stakeholder and committee members arising from the committee's public hearing 23 November 2012.

### **Recommendation 10**

**4.47 The committee recommends that greater detail on the socio-economic costs and benefits of any proposed constraints removal be presented to affected communities and the public in general. Such information should be publicly updated in a timely manner when changes occur or new information is obtained by the MDBA and SEWPaC.**

### **Recommendation 11**

**4.48 The committee recommends that further consultation regarding constraints management and the additional 450 GL/y should remain a high priority for the MDBA and SEWPaC. To ensure consultation is adequately undertaken, the committee recommends that the MDBA and SEWPaC develop and publish a strategy that identifies and provides solutions for previous**

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32 Ms Juliet Le Feuvre, Healthy Rivers Campaigner, Environment Victoria, *Committee Hansard*, 24 April 2012, p. 25.

**shortcomings (see chapter seven) in the government's consultation process for developing the Basin Plan.**