

## Chapter 15

# Water Reform and the Federal System

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### I Introduction

Is it inevitable that the Commonwealth government will ultimately become responsible for funding and fixing state water resources management? The average citizen could be forgiven for thinking that this is the unavoidable outcome of the federal processes of water reform over the past two decades, at least in relation to the Murray–Darling Basin ('MDB'). State water resource management has failed to address adequately the problems of over-allocation and overuse of water resources leaving insufficient water for the environment, prompting increasing Commonwealth involvement in this sphere of traditional state responsibility.

Significant steps were taken in this direction by the Howard government's 2007 National Plan for Water Security, followed by the Rudd government's 2008 Water for the Future plan. Those political programs promised, respectively, \$10 billion and \$12.9 billion of Commonwealth expenditure nationally, with a substantial proportion of it to go to the MDB for water efficiency works and water entitlement buybacks. The expenditure programs were accompanied by the enactment of the *Water Act 2007* (Cth) (the 'Act'), introduced by the Howard government and amended by the Rudd government in 2008. The Act has national operation, but it focuses on mandating that the Commonwealth Water Minister make a 'Basin Plan' to set sustainable diversion limits across the entire MDB. The limits are to constrain the taking of water for consumptive use to 'an environmentally sustainable level of take' in each water resource management area and in respect of the Basin as a whole.<sup>1</sup> The challenges of implementing that mandate prompted the Leader of the Opposition Tony Abbott to propose, in early 2010, a Commonwealth constitutional change authorising a Commonwealth takeover of water management in the MDB if the Basin states did not agree to refer all their relevant water management

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<sup>1</sup> *Water Act 2007* (Cth) s 23.

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