

The Senate

Environment and Communications
Legislation Committee

Water Amendment (Long-term Average
Sustainable Diversion Limit Adjustment)
Bill 2012 [Provisions]

Water Amendment (Water for the Environment
Special Account) Bill 2012 [Provisions]

November 2012

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Abbreviations and acronyms

ACF	Australian Conservation Foundation
ADIC	Australian Dairy Industry Council
Adjustment Mechanism bill	Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012
ANEDO	Australian Network of Environmental Defender's Offices Inc
the Basin Plan	Murray-Darling Basin Plan
CCSA	Conservation Council of South Australia
EM	Explanatory Memorandum
GL	gigalitres
MDBA	Murray-Darling Basin Authority
NFF	National Farmers' Federation
NSWIC	New South Wales Irrigators' Council
SEWPAC	Department of Sustainability, Environment, Water, Population and Communities
SDL	sustainable diversion limit
Special Account bill	Water Amendment (Water for the Environment Special Account) Bill 2012
TWS	The Wilderness Society
VFF	Victorian Farmers Federation
Water Act	<i>Water Act 1997</i>

Chapter 1

Introduction

Conduct of the inquiry

1.1 On 20 September 2012, the Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012 (the Adjustment Mechanism bill) was introduced to the House of Representatives by the Minister for Sustainability, Environment, Water, Population and Communities, the Hon Tony Burke MP.¹

1.2 On 11 October 2012, the Senate referred the provisions of the Adjustment Mechanism bill to the Environment and Communications Legislation Committee (the committee) for inquiry and report by 19 November 2012. The provisions were referred on the recommendation of the Selection of Bills Committee. Reasons for referral included that:

The Bill will remove the power of the Minister and Parliament to oversee potentially significant changes to the Murray Darling Basin Plan...

Doubts have been expressed by various States, upstream and downstream, and stakeholder groups of all persuasions (irrigators and environmentalists) about the content of this Bill.²

1.3 On 30 October 2012, during the course of the committee's inquiry, the Adjustment Mechanism bill was amended in the House of Representatives.³ The amendments are discussed in further detail later in this report.

1.4 The Water Amendment (Water for the Environment Special Account) Bill 2012 (the Special Account bill) was introduced to the House of Representatives on 31 October 2012.⁴

1.5 The provisions of the Special Account bill were referred to the committee on 1 November 2012 for inquiry and report by 19 November 2012. The Selection of Bills Committee's reason for referral was that 'this bill commits future Parliaments to appropriate \$1.77 billion. This approach deserves scrutiny given its impact on the budget'.⁵

1 *House of Representatives Hansard*, 20 September 2012, p. 11363.

2 Senate Selection of Bills Committee, Report No. 13 of 2012, Appendices 7 and 8, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=selection_bills_ctte/reports/2012/rep1312.htm (accessed 19 October 2012).

3 *House of Representatives Hansard*, 30 October 2012, pp 96-97.

4 *House of Representatives Hansard*, 31 October 2012, p. 9.

5 Senate Selection of Bills Committee, Report No. 14 of 2012, Appendix 5, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=selection_bills_ctte/reports/2012/rep1412.htm (accessed 7 November 2012).

1.6 Given the close relationship between the two bills, the committee decided to consider these bills together.

1.7 In accordance with usual practice, the committee advertised the inquiries on its website and in *The Australian* newspaper. The committee also wrote to relevant organisations inviting submissions.

1.8 The committee received 20 submissions to its inquiry into the Adjustment Mechanism bill 2012 and 16 submissions to its inquiry into the Special Account bill 2012. These are listed at Appendix 1.

1.9 The committee held public hearings relating to the bills in Adelaide on 8 November 2012 and in Canberra on 12 November 2012 (see Appendix 2).

1.10 The committee would like to thank the organisations who made submissions to the inquiries and the representatives who gave evidence at the public hearings. In particular, the committee notes the short period of time to provide a submission on the Special Account bill and thanks those who made an effort to do so.

Note on references to submissions

1.11 Unless otherwise specified, references to submissions in Chapter 2 of this report are references to submissions to the inquiry into the provisions of the Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012. Similarly, references to submissions in Chapter 3 are references to submissions to the inquiry into the provisions of the Water Amendment (Water for the Environment Special Account) Bill 2012.

Background

1.12 The *Water Act 2007* (the Water Act) requires the Murray-Darling Basin Authority (MDBA) to prepare a Murray-Darling Basin Plan (the Basin Plan). Section 22 of the Water Act establishes the mandatory content of the Basin Plan. In particular, the Basin Plan must include a specific limit on the quantity of water that may be taken, on a sustainable basis, from the Basin as a whole, and a limit on the quantities of water that can be taken from the 'water resources, or parts of the water resources, of each catchment area'. These are known as 'sustainable diversion limits' (SDLs).⁶

1.13 Under section 23 of the Water Act, these SDLs must reflect an 'environmentally sustainable level of take'. This is defined in the Water Act to mean the level of water extraction from a water resource which, if exceeded, would compromise the resource's key environmental assets, key ecosystem functions, productive base or key environmental outcomes.⁷

1.14 The MDBA released a *Guide to the Altered Proposed Basin Plan* in October 2010. The first proposed basin plan was released in November 2011, a revised draft was released in May 2012, and the most recent draft plan was provided

6 Item 6 of section 22 of the Water Act.

7 Section 4 of the Water Act.

to the minister in August 2012.⁸ In the August 2012 plan, the MDBA estimated that the:

...long-term average sustainable diversion limit for all surface water SDL resource units to be 10,873 [gigalitres (GL)] per year. This reflects a reduction of 2,750 GL per year from the Authority's estimate of the BDL [baseline diversion limit] for all surface water SDL resource units.⁹

1.15 On 26 October 2012, the Prime Minister announced a government commitment to recover a further 450GL of environmental water, primarily through farm efficiency projects, on top of the 2750GL environmental water recovery in the proposed Basin Plan. This included an announcement to 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'.¹⁰

1.16 On 1 November 2012, the minister wrote to the MDBA providing suggestions on its proposed Basin Plan.¹¹ Some of these suggestions as they relate to the bills are discussed in Chapters 2 and 3.

1.17 The minister has stated the Basin Plan is 'on track to be finalised before the end of the year'.¹²

Calls for an adjustment mechanism

1.18 The explanatory memorandum (EM) to the Adjustment Mechanism bill states that an SDL adjustment mechanism 'has been sought by all Basin governments' as well as stakeholders.¹³

1.19 The Murray-Darling Basin Ministerial Council has requested that the MDBA work with Basin States to develop a proposal for a 'SDL Adjustment Mechanism'. The Council noted that:

8 See further MDBA, *Altered Proposed Basin Plan*, <http://www.mdba.gov.au/proposed-basin-plan> (accessed 26 October 2012).

9 Section 6.04, *Proposed Basin Plan*, August 2012, <http://download.mdba.gov.au/altered-PBP/APBP-Proposed-Basin-Plan-20120806.pdf> (accessed 26 October 2012). Note that separate SDLs are set for groundwater resources.

10 Prime Minister and Minister for the Environment, *Returning the Murray-Darling Basin to Health*, media release dated 26 October 2012, <http://www.pm.gov.au/press-office/returning-murray-darling-basin-health> (accessed 30 October 2012).

11 Department of Sustainability, Environment, Water, Population and Communities, *About the Basin Plan*, <http://www.environment.gov.au/water/basin-plan/about.html> (accessed 9 November 2012).

12 The Hon. Tony Burke, Minister for Sustainability, Environment, Water, Population and Communities, *Returning the Murray-Darling Basin to Health*, media release dated 26 October 2012, <http://www.environment.gov.au/minister/burke/2012/mr20121026.html> (accessed 30 October 2012).

13 Explanatory Memorandum, Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012 (Adjustment Mechanism bill), p. 3.

It would be essential that the Adjustment Mechanism operates on a transparent and legally sound basis using the best available science, and a methodology developed in consultation with jurisdictions.¹⁴

1.20 The House of Representatives Standing Committee on Regional Australia recommended in its July 2012 report on the proposed Murray-Darling Basin Plan that:

...the Commonwealth Government develop a mechanism to adjust sustainable diversion limits automatically in response to efficiencies gained by environmental works and measures.¹⁵

1.21 In coming to this conclusion, the House of Representatives Standing Committee observed that relying on the general mechanism for amendments to the Basin Plan in sections 45–48 of the Water Act would mean that 'any amendment to the SDLs could potentially be delayed for over six months'.¹⁶

Other recent inquiries

1.22 The Murray-Darling Basin Plan has also recently been considered by the Senate Rural and Regional Affairs and Transport References Committee during its inquiry into the management of the Murray-Darling Basin. In its second interim report, that committee did not form a specific view on the Adjustment Mechanism bill due to lack of time. However, the Rural and Regional Affairs and Transport References Committee stated:

Overall, the committee is very concerned with the lack of information about how the adjustment mechanism would work and the details in determining changes. The 2750 GL/y is a highly controversial figure but the committee is of the view that the public and Parliament need to be reassured that any changes are based on appropriate information and processes. These are yet to be detailed by the MDBA. As a result, the Parliament is again being asked to legislate on a matter with insufficient information.¹⁷

1.23 The House of Representatives Standing Committee on Regional Australia considered the Adjustment Mechanism bill in October 2012. That committee concluded by recommending that the bill be passed, stating that it was:

14 Notice by the Murray-Darling Basin Ministerial Council under section 43A(4) of the Water Act 2007, 9 July 20012, available at: http://download.mdba.gov.au/revised-BP/AttachmentA_Main.pdf (accessed 22 October 2012).

15 Recommendation 3, House of Representatives Standing Committee on Regional Australia, *Certain matters relating to the proposed Murray-Darling Basin plan*, July 2012, p. 6.

16 House of Representatives Standing Committee on Regional Australia, *Certain matters relating to the proposed Murray-Darling Basin plan*, July 2012, p. 4.

17 Senate Standing Committees on Rural and Regional Affairs and Transport, *Second Interim Report: the Basin Plan*, 3 October 2012, p. 21.

...confident that the proposed amendment strikes an appropriate balance between allowing the MDBA the capacity to act in a timely manner when making SDL adjustments and continued Parliamentary oversight.¹⁸

1.24 The Special Accounts bill has also been referred to the House of Representatives Standing Committee on Regional Australia for inquiry and report. That committee has called for submissions by 15 November 2012 and will be holding a public hearing on 20 November 2012.

Overview of the bills

Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012

1.25 The Adjustment Mechanism bill seeks to amend the Water Act to provide a mechanism to adjust the long-term average SDLs under the Basin Plan 'without invoking the formal Basin Plan amendment process'.¹⁹ To achieve this, the bill would insert proposed new sections 23A and 23B into the Water Act to set out the process and conditions for adjustments to the SDL.

Proposed process for adjustments to the SDL

1.26 Proposed subsection 23A(1) would provide that, under the Basin Plan, the MDBA may propose an adjustment to an SDL for the water resources of a particular water resource plan area or a particular part of those water resources within a set amount, and, as a result of these adjustments, an adjustment to the SDL for Basin water resources as a whole.²⁰

1.27 Proposed section 23B sets out the following process by which SDLs would be adjusted:

- the MDBA must give a notice of the proposed adjustment(s) to the minister, which must include certain information (as set out in subsections 23B(2) and (3));
- at the same, the MDBA must also prepare an amendment to the Basin Plan giving effect to the proposed adjustments (see subsection 23B(5));
- as soon as practicable after receiving the proposed amendment, the minister must consider the amendment and may either:
 - adopt the amendment in writing; or
 - give the MDBA notice that the minister has decided not to adopt the amendment (new subsection 23B(6), as amended).

18 House of Representatives Standing Committee on Regional Australia, *Advisory Report on the Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012*, October 2012, p. 5.

19 Explanatory Memorandum, Adjustment Mechanism bill, p. 2.

20 See also Explanatory Memorandum, Adjustment Mechanism bill, p. 6.

1.28 Once the minister adopted an SDL adjustment amendment, the amendment would be required to be registered on the Federal Register of Legislative Instruments (FRLI) and tabled in both houses of Parliament.²¹ Initially, the bill was put forward with a subsection 33(2A) which proposed that the amendment would be a non-disallowable legislative instrument under the *Legislative Instruments Act 2003*. However, this section was amended by the House of Representatives on 30 October 2012 to make the amendment a disallowable instrument.

Proposed conditions on adjustments to the SDL

1.29 The Adjustment Mechanism bill would impose the following conditions on adjustments to the SDL:

- the MDBA must seek and consider advice from the Basin Officials Committee before proposing an adjustment to the SDL;²²
- the MDBA must invite members of the public to make submissions on the proposed adjustment and provide a reasonable amount of time for those submissions to be made and considered;²³
- the adjustment to the total basin SDL must be no more than plus or minus 5 per cent;²⁴
- the SDL must still reflect an 'environmentally sustainable level of take'²⁵ for the Basin water resources, or part of those water resources.²⁶
- the Basin Plan must include criteria for determining whether the MDBA should propose an adjustment and the amount of adjustment.²⁷ The EM states that:

It is envisaged that criteria to be specified in the Basin Plan will include that the mechanism must operate on a no-detriment basis. The adjustments would then not be able to weaken the social, economic and environmental outcomes inherent in the Basin Plan.²⁸

1.30 The EM also states that:

It is expected that the criteria to be included in the Basin Plan will include stakeholder consultation requirements.²⁹

21 Explanatory Memorandum, Adjustment Mechanism bill, p. 8.

22 Paragraph 23A(2)(c), EM, p. 6.

23 Proposed paragraph 23A(2)(d). This paragraph was inserted in amendments in the House of Representatives on 30 October 2012.

24 Proposed subsection 23A(4), EM pp 5-6.

25 As defined in s. 4 of the Water Act.

26 Section 23, EM pp 2 and 6.

27 Proposed paragraphs 23A(2)(a) and (b).

28 Explanatory Memorandum, Adjustment Mechanism bill, p. 2.

29 Explanatory Memorandum, Adjustment Mechanism bill, p. 3.

1.31 As discussed earlier, the Adjustment Mechanism bill proposes to amend the Water Act to provide a mechanism to adjust the long-term average SDLs under the Basin Plan 'without invoking the formal Basin Plan amendment process'.³⁰ The EM states that an SDL adjustment mechanism 'has been sought by all Basin governments' as well as stakeholders.³¹

1.32 The summary of the Adjustment Mechanism bill above incorporates the amendments in the House of Representatives on 30 October 2012. However, it is worth noting that the Adjustment Mechanism bill was amended in three key ways:

- to require that the public be consulted and their submissions considered before the MDBA proposes an adjustment;
- to provide the relevant minister with a discretion as to whether or not to adopt an amendment proposed by the MDBA; and
- to ensure that an amendment to the Basin Plan to adjust the SDL is a disallowable legislative instrument.³²

Water Amendment (Water for the Environment Special Account) Bill 2012

1.33 The Special Account bill gives effect to the Prime Minister's announcement of 26 October 2012 to provide \$1.77 billion to fund projects to acquire an additional 450GL of water above the 2750GL benchmark in the Basin Plan.³³

1.34 The Special Account bill would amend the Water Act to establish the Water for the Environment Special Account pursuant to section 21 of the *Financial Management and Accountability Act 1997*. The bill would appropriate \$1.775 billion over a 10-year period from the 2014–15 financial year to the special account.³⁴

1.35 The bill specifies the nature of amounts that would be credited to the account, the purposes for which amounts would be debited from the account and would require annual performance based reporting on the achievements of the account.³⁵

1.36 The Special Account bill is designed to complement the Adjustment Mechanism bill in that it would allow funds to be dedicated to projects and programs to decrease the long-term average SDL. According to the EM, the Special Account bill would 'enable water to be recovered and constraints to be removed without negatively impacting on the wellbeing of communities in the Basin'.

30 Explanatory Memorandum, Adjustment Mechanism bill, p. 2.

31 Explanatory Memorandum, Adjustment Mechanism bill, p. 3.

32 *House of Representatives Hansard*, 30 October 2012, pp 96-97.

33 Prime Minister and Minister for the Environment, *Returning the Murray-Darling Basin to Health*, media release dated 26 October 2012, <http://www.pm.gov.au/press-office/returning-murray-darling-basin-health> (accessed 30 October 2012).

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

35 Explanatory Memorandum, Special Account bill, p. 2.

Key provisions

1.37 The Special Account bill would insert a new part 2AA into the Water Act. Proposed subsection 86AA(1) provides that the object of part 2AA would be to enhance the environmental outcomes that can be achieved by the Basin Plan by protecting and restoring the environmental assets of the Murray-Darling Basin and protecting biodiversity dependent on the Basin water resources so as to give effect to relevant international agreements. Proposed subsection 86AA(2) sets out examples of how environmental assets of the Murray-Darling Basin may be protected and restored, and includes:

- (a) increasing the flow of water through barrages to the Coorong;
- (b) increasing the average depth of water in the Lower Lakes;
- (c) reducing the average salinity levels in the Coorong and Lower Lakes;
- (d) increasing the average depth of water at the mouth of the River Murray;
- (e) flushing salt from the water resources of the Murray-Darling Basin to reduce the average salinity levels of the Basin;
- (f) allowing for environmental watering of floodplains of the River Murray System;
- (g) providing flows of water over the banks of rivers and streams to improve connections between water-dependent ecosystems in the River Murray System.

1.38 Proposed section 86AD sets out the purposes of the Water for the Environment Special Account. In summary, payments from the special account would be made if the aim was to further the object of part 2AA by:

- improving the water efficiency of the infrastructure that uses Basin water resources for irrigation;
- improving the water efficiency of any other infrastructure that stores, delivers or drains Basin water resources for the primary purpose of providing water for irrigation;
- improving or modifying infrastructure (including bridges and roads) that constrains the delivery of environmental water to the environmental assets of the Murray-Darling Basin in order to ease or remove those constraints;
- increasing the capacity in dams and storages to increase the capacity to deliver environmental water to the environmental assets of the Murray-Darling Basin;
- entering agreements to acquire an interest in land (including easements) to facilitate environmental watering of the environmental assets of the Murray-Darling Basin; and
- improving the rules, policies, practices and procedures in relation to the use and management of the Basin water resources.

1.39 Proposed paragraph 86AD(2)(b) provides that amounts standing to credit of the Account could be debited for the purpose of purchasing water access rights which

relate to Basin water resources for the purpose of furthering the object of the new part 2AA.

1.40 Proposed paragraph 86AD(2)(c) provides that amounts standing to credit of the account could be debited for the purposes of making any other payments in relation to projects whose aim is to further the object of the new part 2AA; or to address any detrimental social or economic impact on the wellbeing of any community in the Murray-Darling Basin that is associated with a project or purchase using funds from the special account.³⁶

1.41 Proposed section 86AE makes clear that water access rights acquired by the Commonwealth with amounts debited from the Water for the Environment Special Account would form part of the Commonwealth environmental water holding.³⁷ The Commonwealth Environmental Water Holder must manage the holdings in accordance with sections 105 and 106 of the Water Act.

1.42 Proposed new section 86AG inserts a table which sets out the amount to be credited to the special account each financial year.

1.43 Proposed section 86AI requires an annual report to be given to the minister each financial year and that the minister must table the annual report in Parliament.

Key issues regarding the bills

1.44 Submitters and witnesses raised a number of key issues regarding the bills, including:

- transparency and consultation, in particular relating to the availability of certain key documents;
- ministerial discretion and parliamentary oversight under the Adjustment Mechanism bill;
- whether and how the object of part 2AA of the Special Account bill might be achieved;
- the purposes for which payments could be made from the Water for the Special Account.

1.45 Some of the key issues regarding the Adjustment Mechanism bill are discussed in greater detail in Chapter 2, while those pertaining to the Special Account bill are discussed in Chapter 3.

36 Explanatory Memorandum, Special Account bill, pp 8-9.

37 As defined by section 108 of the Water Act.

Chapter 2

Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012

2.1 As mentioned in Chapter 1, submitters and witnesses raised a number of key issues regarding both the Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012 (the Adjustment Mechanism bill) and the Water Amendment (Water for the Environment Special Account) Bill 2012 (the Special Account bill).

2.2 Key issues relating to the Adjustment Mechanism bill are discussed in the following sections of this chapter. Key issues regarding the Special Account bill are discussed in Chapter 3.

Key issues regarding the bill

2.3 Many submitters were generally supportive of an adjustment mechanism and therefore the intent of the Adjustment Mechanism bill.¹ However, some concerns were raised about certain aspects of the bill, including:

- lack of opportunity for public participation in and consultation on the adjustment mechanism;
- lack of ministerial discretion as to whether to adopt an adjustment amendment to the Basin Plan; and
- whether such an amendment to the Basin Plan is a disallowable instrument.

Transparency and consultation

2.4 The Adjustment Mechanism bill seeks to require in the Basin Plan the inclusion of criteria for determining whether the MDBA should propose an adjustment to the long-term average sustainable diversion limit (SDL) and the amount of any adjustment (see paragraphs 23A(2)(a) and (b)).

2.5 However, several submitters were concerned that the details of the adjustment mechanism—such as these criteria—have not yet been made public.² For example, the NSW Irrigators' Council (NSWIC) suggested that it was 'entirely unable to provide opinion on that matter' because the Council had not yet seen the adjustment mechanism.³ The NSWIC continued, however, that it:

1 See for example ACF, *Submission 1*; NSW Irrigators' Council, *Submission 3*; Murray Valley Winegrowers', *Submission 10*; and NSW Office of Water, *Submission 15*.

2 See for example NSW Irrigators' Council (NSWIC), *Submission 3*, p. 2; National Irrigators' Council, *Submission 17*, p. 2; Australian Dairy Industry Council Inc. (ADIC), *Submission 8*, pp 1–2; and Victorian Farmers' Federation (VFF), *Submission 14*, p. 4.

3 NSWIC, *Submission 3*, p. 2.

...reserves its right to support the adjustment mechanism within the Draft Plan when we become privy to it. It may be the case that we support not only that mechanism, but the legislative change to accommodate it.⁴

2.6 The National Irrigators' Council was supportive of an adjustment mechanism but, similar to the NSWIC, was:

...concerned that Parliament would amend the Water Act to facilitate an SDL Adjustment Mechanism, when the details of the Mechanism, contained in the Basin Plan, have not been made public nor shown to stakeholders. To have confidence in the SDL Adjustment Mechanism we must understand the assumptions built into the mechanism's models, including the "Initial Conditions of Development", that may affect the extent to which works and measures lead to SDL adjustments.

For this reason it is essential that the details of the SDL Adjustment Mechanism be provided to the Parliament, stakeholders and the community before the Water Act is amended.⁵

2.7 The Australian Dairy Industry Council (ADIC) argued:

It is unacceptable that Parliament should amend the Water Act to facilitate an unknown adjustment mechanism on a "trust us" basis. The Water Minister, Tony Burke, told Parliament in his second reading speech that the amendment introduced transparency to the SDL adjustment mechanism process – this commitment should extend to providing the details of the mechanism itself so that Parliament, stakeholders and the community can make an informed judgement of the Bill's merits.⁶

2.8 Similarly, the Victorian Farmers' Federation (VFF) stated:

It is imprudent to consent to an amendment of the Act which will enshrine the SDL Adjustment Mechanism without an understanding of what will or will not be considered within any adjustment mechanism framework.⁷

2.9 The Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) informed the committee that '[t]he adjustment mechanism bill is the bill that requires the plan to set out the criteria for those adjustments'.⁸

2.10 The committee also notes that the EM states:

It is envisaged that criteria to be specified in the Basin Plan will include that the mechanism must operate on a no-detriment basis. The adjustments

4 NSWIC, *Submission 3*, p. 2.

5 National Irrigators' Council, *Submission 17*, p. 2.

6 ADIC, *Submission 8*, pp 1–2.

7 VFF, *Submission 14*, p. 4.

8 Mr Anthony Slatyer, First Assistant Secretary, Water Reform Division, Department of Sustainability, Environment, Water, Population and Communities (SEWPAC), *Proof Committee Hansard*, 12 November 2012, p. 35.

would then not be able to weaken the social, economic and environmental outcomes inherent in the Basin Plan.⁹

Ministerial discretion

2.11 The Adjustment Mechanism bill as originally drafted would have required the minister to adopt the recommendations of the MDBA with respect to adjusting the long-term average SDL. Various submitters opined that the minister—and not the MDBA—should have ultimate responsibility in this regard: that is, that the minister should have discretion whether or not to accept the MDBA's recommendations.¹⁰

2.12 Murray Irrigation argued:

...it is entirely inappropriate that an unelected authority be charged with making changes to legislation, given the Basin Plan is a legislative instrument, which may require significant budget allocations. As it currently stands, the responsible Minister has oversight of the Basin Plan and associated budgetary implications, which is how it must remain.¹¹

2.13 The NSW Office of Water shared this view and stated: 'The final responsibility for determining an SDL adjustment should be that of the Commonwealth Minister...not an independent agency'.¹²

2.14 To address the concern about ministerial discretion, the National Irrigators' Council recommended that the bill be amended so that the minister 'may' adopt the MDBA's recommendations on adjusting the SDL, rather than 'must'.¹³

Parliamentary oversight

2.15 Some submitters were concerned that proposed adjustments to the long-term average SDL would not be disallowable legislative instruments thereby circumventing the Parliament's ability to reject these adjustments.¹⁴ As a result, various submitters called for the adjustments to be disallowable instruments. For example, the National Irrigators' Council stated:

NIC does not support the abrogation of Ministerial and Parliamentary oversight and believe the Bill needs to be amended to ensure that the Murray Darling Basin MDBA does not have the ultimate power to accept or reject the proposed SDL Adjustments. This power must be retained by the

9 Explanatory Memorandum, Adjustment Mechanism bill, p. 2.

10 See for example River Lakes and Coorong Action Group, *Submission 5*, p. 2; ADIC, *Submission 8*, p. 3; Murray Irrigation, *Submission 11*, p.5; NSW Office of Water, *Submission 15*, p. 1; NFF, *Submission 16*, p. 2; and National Irrigators' Council, *Submission 17*, p. 3.

11 Murray Irrigation, *Submission 11*, p. 5.

12 NSW Office of Water, *Submission 15*, p. 1.

13 National Irrigators' Council, *Submission 17*, p. 3.

14 See for example ACF, *Submission 1*, p. 1; NSWIC, *Submission 3*, p. 3; National Irrigators' Council, *Submission 17*, p. 3; and Australian Network of Environmental Defender's Offices Inc. (ANEDO), *Submission 9*, p. 2.

Parliament. As stated previously, stakeholders have no confidence in the MDBA to make a determination taking into account stakeholder concerns.

NIC is calling for the Parliament to have a determinative role, by allowing for the disallowance of a proposed SDL Adjustment.¹⁵

2.16 The ACF was also concerned that 'the Bill would prevent effective...Parliamentary oversight of such adjustments...the Parliament would have no power of disallowance'¹⁶ as was the Australian Network of Environmental Defender's Offices (ANEDO):

The Bill...indicates that adjustment amendments adopted by the Minister will not be subject to disallowance by Parliament. Again, this is inconsistent with [the] Water Act which indicates that the Basin Plan is a legislative instrument that will be tabled before Parliament, and subject to disallowance...The Bill should be amended to provide that proposed adjustment amendments are disallowable legislative instruments.¹⁷

Committee comment

2.17 As outlined in Chapter 1, the Adjustment Mechanism bill was amended in the House of Representatives on 30 October 2012, after submissions had been received by the committee. In particular, the Adjustment Mechanism bill was amended to:

- require that the public be consulted and their submissions considered before the MDBA proposes an adjustment to the long-term average SDL;
- provide the relevant minister with discretion as to whether or not to adopt an adjustment proposed by the MDBA; and
- ensure that an amendment to the Basin Plan to adjust the long-term average SDL is a disallowable legislative instrument.

2.18 These amendments address most of the concerns raised during the course of the inquiry regarding the Adjustment Mechanism bill. Indeed, a number of witnesses expressed their support for the amendments.¹⁸ The ACF welcomed 'the amendments passed recently by the House of Representatives'¹⁹ as did Murray Valley Irrigators:

We continue to support the passage of the bill. We believe the amendments in the lower house have strengthened it in that there is greater oversight and transparency in the system, particularly as it accrues to the minister of water being able to reject an adjustment if he believes that is appropriate, and the

15 National Irrigators' Council, *Submission 17*, p. 3.

16 ACF, *Submission 1*, p. 1.

17 ANEDO, *Submission 9*, pp 4–5.

18 See Mr Jonathan La Nauze, Healthy Rivers Campaigner, ACF, *Proof Committee Hansard*, 8 November 2012, p. 19; Mr Mark McKenzie, Chief Executive Officer, Murray Valley Irrigators, *Proof Committee Hansard*, 8 November 2012, p. 23; and Ms Stefanie Schulte, Economic Policy Analyst, NSWIC, *Proof Committee Hansard*, 12 November 2012, p. 1.

19 Mr Jonathan La Nauze, Healthy Rivers Campaigner, ACF, *Proof Committee Hansard*, 8 November 2012, p. 19.

science and the modelling does not support and adjustment to the SDL. We believe that it will go to reducing some of the political friction between parties and lobbies—environmental, irrigator and community.²⁰

2.19 On the basis that the amendments to the Adjustment Mechanism bill agreed in the House of Representatives on 30 October resolve the concerns raised during this inquiry regarding transparency and consultation, ministerial discretion and parliamentary oversight, the committee recommends that the bill be passed.

Recommendation 1

2.20 The committee recommends that the Adjustment Mechanism bill as amended in the House of Representatives on 30 October 2012 be passed.

20 Mr Mark McKenzie, Chief Executive Officer, Murray Valley Irrigators, *Proof Committee Hansard*, 8 November 2012, p. 23.

Chapter 3

Water Amendment (Water for the Environment Special Account) Bill 2012

3.1 Some submitters and witnesses expressed general support for the Water Amendment (Water for the Environment Special Account) Bill 2012 (the Special Account bill). For example, the South Australian government submitted that the Special Account bill was an 'important step in restoring the health of the Murray-Darling Basin'¹ while the River Lakes and Coorong Action Group welcomed:

...the creation of a bill that supports responsive management of the basin system and at the same time aims to provide funding for the acquisition of an additional 450 gigalitres of water.²

3.2 However, some issues regarding the Special Account bill were also raised during the course of the inquiry, including:

- transparency and consultation, in the absence of the final Murray-Darling Basin Plan and other key documents;
- whether and how the object of the new part 2AA might be achieved;³ and
- the purposes for which payments can be made from the Water for the Environment Special Account (the Special Account).⁴

3.3 These issues are discussed in turn below.

Key issues regarding the bill

Transparency and consultation

3.4 In similarity with the Adjustment Mechanism bill, some submitters and witnesses argued that it was difficult to support the Special Account bill before a range of key documents relating to the legislation have been finalised. In particular, the committee heard that the Special Account bill should not be considered in isolation from the final Murray-Darling Basin Plan, the water recovery strategy, the

1 Government of South Australia, *Submission 10*, p. 1.

2 Ms Elizabeth Tregenza, Secretary, River Lakes and Coorong Action Group, *Proof Committee Hansard*, 8 November 2012, p. 1.

3 As set out in proposed section 86AA.

4 As set out in proposed section 86AD.

environmental watering plan and any intergovernmental agreements underpinning the Basin Plan.⁵

3.5 The NSW Irrigators' Council (NSWIC) suggested that consideration of the bill be deferred 'until such time as the current Draft Basin Plan is able to be considered by the Senate, stakeholders and the public'.⁶ Ms Stefanie Schulte from the NSWIC told the committee:

In the absence of a finalised basin plan, as a legislative background for these bills it remains extremely difficult for us to evaluate in full the proposed amendments and provide detailed comments to the committee. We continue to reserve the right to endorse the bills; however, until such time as details of the final basin plan are made available along with the assumptions and features underlying the adjustment mechanism, we are unable to provide an endorsement to the committee.⁷

3.6 Similarly, the National Irrigators' Council stated that:

While the National Irrigators Council is supportive of the principle of additional funding for on-farm works, it is impossible for the NIC to provide an endorsement of the proposed Bill until we have seen the final Basin Plan, the water recovery strategy document, the Intergovernmental Agreement, the regulatory impact statement and other key documents.⁸

3.7 In response to these concerns about considering the Special Account bill in the absence of certain key documents, the Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) acknowledged that the bill:

...is a facilitative bill. It is part of a broader suite of policy instruments including the respective basin plan, including the SDL adjustment mechanism bill and, ultimately, also including implementation agreements which are proposed between the basin jurisdictions and the Commonwealth government. So it is, if you like, one part of the jigsaw puzzle. It does not stand by itself or self-actuate by itself without all of those other mechanisms interacting in an integrated way.⁹

5 See, for example, NSWIC, *Submission 13*, p. 1; National Irrigators' Council, *Submission 15*, p. 2; Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, p. 24; VFF, *Submission 6*, p. 1; Mr Richard Anderson, Chair Water Council, VFF, *Proof Committee Hansard*, 8 November 2012, p. 29; Mr Matt Linnegar, Chief Executive Officer, National Farmers' Federation (NFF), *Proof Committee Hansard*, 12 November 2012, p. 9.

6 NSWIC, *Submission 13*, p. 3; see also National Irrigators' Council, *Submission 15*, p. 2;

7 Ms Stefanie Schulte, Economic Policy Analyst, NSWIC, *Proof Committee Hansard*, 12 November 2012, p. 1.

8 *Submission 15*, p. 4; see also Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Proof Committee Hansard*, 12 November 2012, p. 5.

9 *Proof Committee Hansard*, 12 November 2012, p. 31.

Object of part 2AA

3.8 Proposed subsection 86AA(3) of the Special Account bill provides that the object of the part 2AA of the Water Act would be achieved by:

- (a) easing or removing constraints on the capacity to deliver environmental water to the environmental assets of the Murray-Darling Basin; and
- (b) increasing the volume of the Basin water resources that is available for environmental use by up to 450 gigalitres (GL).

3.9 Many organisations raised issues relating to whether and how the object of proposed part 2AA might be achieved, and in particular:

- the list of examples in proposed subsection 86AA(2);
- the potential impacts of removing constraints as outlined in 86AA(3)(a);
- the use of the words 'up to' in paragraph 86AA(3)(b); and
- whether the bill would achieve the object of increasing the volume of Basin water resources available for environmental use by up to 450GL.

3.10 These issues are discussed in the following sections.

List of examples in proposed subsection 86AA(2)

3.11 As outlined in Chapter 1, proposed subsection 86AA(2) sets out a list of examples of how environmental water assets in the Murray-Darling Basin may be protected or restored. Several submitters queried this list;¹⁰ some suggested these examples would be more appropriately contained in the Basin Plan rather than in the legislation.¹¹

3.12 Environment Victoria supported the list of examples but noted that it appeared 'to be limited to the Murray system'. Environment Victoria suggested the clause be amended to include the northern basin.¹²

3.13 The River Lakes and Coorong Action Group welcomed recognition of the:

...importance of the key environmental benefits of reducing levels of salinity in the Coorong, Lake Alexandrina and Lake Albert; maintaining the Murray mouth; the critical need to flush accumulated salts from the whole system; increasing barrage flows to the Coorong to support critical fish migrations; and environmental watering of flood plains throughout the whole basin.¹³

10 See also VFF, *Submission 6*, p. 3; CSIRO, *Submission 3*, p. 2; and Murray Irrigation, *Submission 5*, pp 7-8.

11 Murray Irrigation, *Submission 5*, p. 7; Mr Richard Anderson, Chair Water Council, VFF, *Proof Committee Hansard*, 8 November 2012, p. 32.

12 Environment Victoria, *Submission 7*, p. 1; see also Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Proof Committee Hansard*, 12 November 2012, p. 3.

13 Ms Elizabeth Tregenza, Secretary, River Lakes and Coorong Action Group, *Proof Committee Hansard*, 8 November 2012, p. 1.

3.14 Similarly, The Wilderness Society (TWS) observed in relation to proposed subsection 86AA(2):

It is no fluke to me that the area that is highlighted there is the estuary of the river. The health of the river's estuary is pretty much a sign of the health of an entire river system. If we focus on the estuary and the health of this area we can generally say that, if we have a healthy estuary, we have a relatively healthy river.¹⁴

Constraint removal

3.15 In relation to the removal of constraints, the explanatory memorandum states that:

The Murray Darling Basin Authority (the Authority) has identified a suite of constraints throughout the Basin which could be addressed to maximise the environmental benefits from implementation of the Basin Plan.

The Bill 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 project 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.¹⁵

3.16 However, concern was expressed during the inquiry that the removal of constraints could impact adversely on communities in the Murray-Darling Basin, for example, through flooding of infrastructure and assets.¹⁶

3.17 The National Irrigators' Council submitted that:

There are concerns that the potential third party impacts caused by removing or relaxing physical and regulatory constraints are not well understood and have not been adequately addressed in the Bill. Third party impacts include but are not limited to the flooding of private property, homes and infrastructure.¹⁷

3.18 Mr Mark McKenzie from the Murray Valley Winegrowers told the committee that:

14 Mr Peter Owen, South Australia Campaign Manager, TWS, *Proof Committee Hansard*, 8 November 2012, p. 11.

15 Explanatory Memorandum, Special Account bill, p. 4.

16 See for example Goulburn Valley Water Action Group, *Submission 2*, p. 1; National Irrigators' Council, *Submission 15*, p. 4; VFF, *Submission 6*, p. 4; NSWIC, *Submission 13*, p. 2; see also Mr Richard Anderson, Chair Water Council, VFF, *Proof Committee Hansard*, 8 November 2012, p. 32; Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, pp 25 and 28.

17 National Irrigators' Council, *Submission 15*, p. 4; see also Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Proof Committee Hansard*, 12 November 2012.

...we have communities that were built on flood plains over the last 150 years. Whether we like it or not, they are there, and the cost of mitigating collateral damage to them through generating floods down the system is going to be very significant.¹⁸

3.19 The National Farmers' Federation (NFF) also cautioned:

...if relaxation of constraints can lead to a better environmental outcome without the social and economic harm, I think people would say that that is a positive way to look at it. But...they require careful examination as to the potential risks which go with relaxation of constraints as well as the potential benefits.¹⁹

3.20 Other witnesses, however, did not share this concern. The Australian Conservation Foundation (ACF) pointed out that:

...when the Murray-Darling Basin Authority released their relaxed constraints model...they explicitly relaxed the constraints only to the point that kept flood levels below the minor flood warnings in all of the river reaches they tested. So the constraints that this modelling has assumed to remove would not result in any triggering of even minor flood warning levels, according the basin authority.²⁰

3.21 Similarly, Ms Rachel Walmsley of ANEDO observed that:

I do not think it would be the authority's intent that the release of environmental water would be massive flood events. It would be a controlled, periodic release at certain times.²¹

3.22 In response to this issue, the MDBA told the committee:

The authority, in developing its proposals to increase environmental watering, will be making sure that that it works with stakeholders to look at where those potential issues are and, if needed, it will put in place restrictions so that that sort of thing does not happen.²²

3.23 The MDBA further noted that:

... there are rules in place to manage those events and make sure that inadvertent flooding of private property does not happen.²³

18 Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, p. 28.

19 Mr Matt Linnegar, Chief Executive Officer, NFF, *Proof Committee Hansard*, 12 November 2012, p. 12.

20 Mr Jonathan La Nauze, Health Rivers Campaigner, ACF, *Proof Committee Hansard*, 8 November 2012, p. 19.

21 Ms Rachel Walmsley, Policy and Law Reform Director, ANEDO, *Proof Committee Hansard*, 12 November 2012, p. 20.

22 Mr Russell James, Executive Director, Policy and Planning Division, Murray-Darling Basin Authority, *Proof Committee Hansard*, 12 November 2012, p. 39.

23 *Proof Committee Hansard*, 12 November 2012, pp 39-40.

3.24 The committee also notes that the explanatory memorandum states:

Constraints projects will only be implemented after community consultation, negotiation and detailed proposal design.²⁴

Use of the words 'up to' in paragraph 86AA(3)(b)

3.25 Proposed paragraph 86AA(3)(b) of the Special Account bill states that the object of this part would be achieved by 'increasing the volume of the Basin water resources that is available for environmental use by *up to* 450 gegalitres'.²⁵

3.26 The South Australian government submitted that the bill is:

...important to ensure that the funding committed by the Commonwealth Government to recover the additional 450GL and address constraints to environmental water delivery is protected by legislation.²⁶

3.27 The use of the words 'up to' in this paragraph caused some concern during the course of the inquiry. Several organisations felt that the use of this wording meant that the Special Account bill does not require or guarantee that an additional 450GL will be returned to the river system.²⁷ For this reason, it was suggested that proposed subsection 86AA(3) should be strengthened.²⁸ For example, ANEDO suggested that this paragraph be amended to state that the object of part 2AA is achieved by 'increasing the volume of Basin water resources that is available for environmental use by a *minimum* of 450 gegalitres'.²⁹

3.28 When questioned about the use of the words 'up to', SEWPAC told the committee:

The reason is that the bill makes a commitment to money. It provides a special appropriation and a fund to provide a framework with a given amount of money to recover water. The actual water recovery obviously depends on the vagaries of the future, including future prices and so forth. It

24 Explanatory Memorandum, Special Account bill, p. 4. See also evidence from the Department, *Proof Committee Hansard*, 12 November 2012, p. 40.

25 Emphasis added.

26 Government of South Australia, *Submission 11*, p. 2.

27 See for example ANEDO, *Submission 9*, p. 8; CCSA and TWS, *Submission 11*, p. 9; ACF, *Submission 12*, p. 1; Mr Tim Kelly, Chief Executive Officer, CCSA, *Proof Committee Hansard*, 8 November 2012, p. 9; Mr Rob Fowler, President, CCSA, *Proof Committee Hansard*, 8 November 2012, p. 10 and p. 12; Mr Jonathan La Nauze, Healthy Rivers Campaigner, ACF, *Proof Committee Hansard*, 8 November 2012, pp 18 and 20; Mr Peter Cosier, Convenor, Wentworth Group of Concerned Scientists, 12 November 2012, p. 29.

28 See for example Environment Victoria, *Submission 7*, p. 1; ANEDO, *Submission 8*, p. 6; ACF, *Submission 12*, p. 2; CCSA and TWS, *Submission 11*, p. 9; Mr Rob Fowler, President, CCSA, *Proof Committee Hansard*, 8 November 2012, pp 10 and 13.

29 ANEDO, *Submission 8*, p. 6.

is a commitment to money which we expect to progressively translate to water over time as the projects are committed and come into actuality.³⁰

Increasing the volume of water for environmental use

3.29 During the course of the inquiry, there was some debate about whether the Special Account bill would actually achieve an increase in the volume of Basin water available for environmental use by up to 450GL, as set out in proposed paragraph 86AA(3)(b).

3.30 For example, the ACF was sceptical as to whether an extra 450GL could be recovered through water-saving infrastructure.³¹ In contrast, the Victorian Farmers' Federation (VFF) thought it was possible to find 450GL through environmental works and measures.³²

3.31 In terms of finding the extra water, the department informed the committee about feasibility studies examining ways to find water from efficiency works and measures (that is, achieving equivalent environmental outcomes by using less water). The department explained:

There are feasibility studies underway that the Commonwealth is funding, in each of the jurisdictions, looking at candidate prospective projects of all different sorts around the basin that have the potential to be offset projects, essentially, to reduce the need for environmental water. But there is quite a substantial process being developed for how the full suite of proposals of that sort would come forward and go through an assessment process and the ones which meet the terms of the adjustment mechanism to see this through to reality.³³

3.32 In this context, there was also conjecture as to whether an extra 450GL was enough and whether a total reduction in extractions of 3200GL was sufficient.³⁴ The South Australian government submitted that:

Science analysis based on modelling by the Murray-Darling Basin Authority shows that the return of 3200GL is required to achieve a healthy river system.³⁵

30 Mr David Parker, Deputy Secretary, Water Group, SEWPaC, *Proof Committee Hansard*, 12 November 2012, p. 33.

31 Mr Jonathan La Nauze, Healthy Rivers Campaigner, ACF, *Proof Committee Hansard*, 8 November 2012, p. 18.

32 Mr Richard Anderson, Chair Water Council, VFF, *Proof Committee Hansard*, 8 November 2012, p. 33.

33 Ms Mary Hardwood, First Assistant Secretary, Water Efficiency Division, SEWPaC, *Proof Committee Hansard*, 12 November 2012, p. 39.

34 See for example, CCSA and TWS, *Submission 11*, pp 3-4; River Lakes and Coorong Action Group, *Submission 14*, pp 2-3; Ms Elizabeth Tregenza, Secretary, River Lakes and Coorong Action Group, *Proof Committee Hansard*, 8 November 2012, p. 2 and p. 5; ANEDO, *Submission 8*, pp 2 and 5.

35 Government of South Australia, *Submission 10*, p. 1.

3.33 It was acknowledged that the Special Account bill and a recovery target of 3200GL was an improvement on the original plan of 2750GL.³⁶ For example, the River Lakes and Coorong Action Group opined:

The extra 450 gigalitres offers some small comfort, and maybe the plan will be a basis on which we can move forward...every incremental amount of water that can be returned to the river—when we have a pretty clear indication from the best available science that we are not going to get enough water—is going to be a positive.³⁷

3.34 However, several organisations argued that 3200GL was still not sufficient.³⁸ At the same time, the committee heard evidence that there was a great deal of scientific uncertainty around the exact volume of water required for a healthy river system.³⁹ In light of these scientific uncertainties, several organisations argued there was a need for an ongoing system of review and monitoring, including public consultation.⁴⁰

3.35 Others cautioned about focussing on the volume of water and suggested that the emphasis should be on the actual outcomes. The River Lakes and Coorong Action Group claimed:

...it should be more about measuring the health of the river system as a whole and less about focusing on numbers which may in fact not mean anything in reality.⁴¹

3.36 The VFF held a similar view:

36 See for example Ms Elizabeth Tregenza, Secretary, River Lakes and Coorong Action Group, *Proof Committee Hansard*, 8 November 2012, p. 3; Mr Tim Kelly, Chief Executive Officer, CCSA, *Proof Committee Hansard*, 8 November 2012, p. 15; Mr Jonathan La Nauze, Healthy Rivers Campaigner, ACF, *Proof Committee Hansard*, 8 November 2012, p. 20.

37 Ms Elizabeth Tregenza, Secretary, River Lakes and Coorong Action Group, *Proof Committee Hansard*, 8 November 2012, p. 7; see also p. 2.

38 See for example, Mr Peter Cosier, Convenor, Wentworth Group of Concerned Scientists, *Proof Committee Hansard*, 12 November 2012, pp 23-24; Mr Tim Kelly, Chief Executive Officer, CCSA, *Proof Committee Hansard*, 8 November 2012, p. 9; Mr Peter Owen, South Australian Campaign Manager, TWS, *Proof Committee Hansard*, 8 November 2012, p. 10; Ms Rachel Walmsley, Policy and Law Reform Director, ANEDO, *Proof Committee Hansard*, 12 November 2012, p. 16

39 See for example Professor Diane Bell, Representative, CCSA, *Proof Committee Hansard*, 8 November 2012, pp 13 and 14; Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, p. 25; Mr Peter Owen, South Australia Campaign Manager, TWS, *Proof Committee Hansard*, 8 November 2012, p. 13.

40 River Lakes and Coorong Action Group, *Submission 14*, p. 4; see also Ms Elizabeth Tregenza, *Proof Committee Hansard*, 8 November 2012, pp 3 and 6; Mr Peter Owen, South Australian Campaign Manager, TWS, *Proof Committee Hansard*, 8 November 2012, p. 15; Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Proof Committee Hansard*, 12 November 2012, p. 4.

41 Ms Elizabeth Tregenza, Secretary, River Lakes and Coorong Action Group, *Proof Committee Hansard*, 8 November 2012, p. 3.

Everyone talks about a volume—2,750 or 3,200. I do not think that this is about a volume. It has never been about a volume. This should be about environmental outcomes. It is not about the volume of water; it is about getting the environmental outcomes.⁴²

3.37 In this regard, the committee notes that in his second reading speech the minister listed various outcomes intended to result from the Special Account bill:

- salinity in the Coorong and Lower Lakes being further reduced so that it does not exceed levels which are lethal to insects, fish and plants that form important parts of the food chain;
- water levels in the Lower Lakes being kept above 0.4 metres for 95 per cent of the time, helping to maintain flows to the Coorong, to prevent acidification, and to prevent acid drainage and riverbank collapse below Lock 1;
- the maximum average daily salinity in the Coorong south lagoon being less than 100 grams per litre for 98 per cent of years and less than 120 grams per litre at all times in the model period;
- the maximum average daily salinity in the Coorong north lagoon being less than 50 grams per litre for 98 per cent of years;
- maintaining the Murray Mouth at greater depths, reducing the risk of dredging being needed to keep the mouth open;
- two million tonnes of salt being exported from the basin each year as a long-term average;
- barrage flows to the Coorong being increased, supporting more years where critical fish migrations can occur for estuarine fish,
- opportunities to actively water an additional 35,000 hectares of flood plain in South Australia, New South Wales and Victoria, improving the health of forests and fish and bird habitat, improving the connection to the river, and replenishing groundwater; and
- enhanced in-stream outcomes and improved connections with low-level flood plain and habitats adjacent to rivers in the Southern Basin, which can be achieved.⁴³

3.38 The committee also notes that some witnesses called for these outcomes to be specified in the Special Account bill itself.⁴⁴

42 Mr Richard Anderson, Chair Water Council, VFF, *Proof Committee Hansard*, 8 November 2012, p. 29; see also Mr Matt Linnegar, Chief Executive Officer, NFF, *Proof Committee Hansard*, 12 November 2012, pp 10 and 15; Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Proof Committee Hansard*, 12 November 2012, p. 7.

43 The Hon. Mr Tony Burke, Minister for Sustainability, Environment, Water, Population and Communities, Second Reading Speech, Water Amendment (Water for the Environment Special Account) Bill 2012, *House of Representatives Hansard*, 31 October 2012, p. 9.

Purpose of the Water for the Environment Special Account

3.39 In relation to the purpose of the Special Account, as set out in proposed section 86AD, the key issues raised during the course of the inquiry related to the use of funds from the Special Account to:

- increase the capacity of dams and storage;⁴⁵
- purchase water access rights ("buybacks");⁴⁶ and
- address social and economic impacts.⁴⁷

3.40 These are discussed below.

Increasing the capacity of dams and storage

3.41 Proposed paragraph 86AD(2)(a)(iv) of the Special Account bill would enable payments to be made for projects which further the objects of the part by:

...increasing the capacity of dams and storages to deliver environmental water to the environmental assets of the Murray-Darling Basin.

3.42 Several organisations opposed this clause.⁴⁸ For example, the ACF submitted that:

This provision should be restricted to projects which increase the outlet capacity of existing dams and storages where this is required in order to effectively water environmental assets.⁴⁹

3.43 However, the committee notes that proposed subsection 86AD(4) provides a limit on paragraph 86(2)(a) and that any such payments must be in relation to a project whose aim is to further the objects of part 2AA as set out in 86AA(1); that is:

...to enhance the environmental outcomes that can be achieved by the Basin Plan, as in force from time to time, by:

- (a) protecting and restoring the environmental assets of the Murray-Darling Basin; and
 - (b) protecting biodiversity dependent on the Basin water resources;
- so as to give effect to relevant international agreements.

44 See for example Mr Peter Owen, South Australia Campaign Manager, TWS, *Proof Committee Hansard*, 8 November 2012, p. 11 and Mr Rob Fowler, President, CCSA, *Proof Committee Hansard*, 8 November 2012, p. 14.

45 See proposed paragraph 86AD(2)(b).

46 See proposed paragraph 86AD(2)(a)(iv).

47 See proposed paragraph 86AD(2)(c)(ii).

48 See ACF, *Submission 12*, p. 3; ANEDO, *Submission 8*, pp 7-8; Environment Victoria, *Submission 7*, p. 1; Ms Rachel Walmsley, Policy and Law Reform Director, ANEDO, *Proof Committee Hansard*, 12 November 2012, p. 21.

49 ACF, *Submission 12*, p. 3.

Buybacks under proposed paragraph 86AD(2)(b)

3.44 Proposed paragraph 86AD(2)(b) of the Special Account bill would provide that funds from the Special Account may be used to purchase water access rights in relation to Basin water resources ("buybacks").

3.45 Several organisations opposed the idea of further buybacks.⁵⁰ Many of these suggested that this clause be removed or deleted, or at the very least, limited in some way. For example, the National Irrigators' Council argued that buybacks should be a "last resort". Mr Tom Chesson, Chief Executive Officer of the National Irrigators' Council, told the committee that the bill should be amended to 'limit the amount of buybacks' and in particular to:

...stipulate how much water could be purchased out through large-scale tenders and buyback.⁵¹

3.46 Similarly, Murray Irrigation felt that paragraph 86AD(2)(b) should be removed, stating:

Murray Irrigation does not support further Commonwealth buyback of water entitlements believing that any transfer of entitlement must be directly related to an efficiency, infrastructure or reconfiguration project.⁵²

3.47 Mr Matt Linnegar, Chief Executive Officer of the NFF, told the committee that a limit should be placed on any future buybacks 'in light of the social and economic consequences that would follow'.⁵³

3.48 These organisations expressed a preference for funds in the Special Account to be spent on upgrading infrastructure and other efficiency measures.⁵⁴ For example, the Murray Valley Winegrowers told the committee there needed to be more strategic thinking :

...we would much prefer to have a look at investing the money in capital works, environmental works and measures, that can save money without

50 See for example, NFF, *Submission 9*, p. 1; NSWIC, *Submission 13*, pp 2-3; National Irrigators' Council, *Submission 15*, pp 2-3; ADIC, *Submission 4*, p. 2; VFF, *Submission 6*, p. 3.

51 Mr Thomas Chesson, Chief Executive Officer, National Irrigators Council, *Proof Committee Hansard*, 12 November 2012, p. 3.

52 Murray Irrigation, *Submission 5*, p. 8.

53 Mr Matt Linnegar, Chief Executive Officer, National Farmers' Federation, *Proof Committee Hansard*, 12 November 2012, p. 11.

54 See for example, NSWIC, *Submission 13*, pp 2-3; National Irrigators' Council, *Submission 15*, p. 2; Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, p. 23; Mr Matt Linnegar, Chief Executive Officer, NFF, *Proof Committee Hansard*, 12 November 2012, p. 12; Mr Richard Stott, Chairman, NSWIC, *Proof Committee Hansard*, 12 November 2012, p. 5.

eroding that economic base for our industries—and that is why the focus is on infrastructure, not buyback.⁵⁵

3.49 The NFF was of:

...the very strong view that such water recovery cannot and should not come from increasing water acquisition. This can only be to the detriment to the social and economic outcomes in the Basin.⁵⁶

3.50 As a result, the NFF argued that the clause should be amended to:

...link the acquisition of any water entitlements to delivering an outcome only against the recovery of water entitlements from off river water infrastructure and efficiency projects.⁵⁷

3.51 In contrast, others felt buybacks to be the most efficient and cost-effective way of recovering water.⁵⁸ For example, ANEDO claimed:

...research indicates that buying water access rights is the most cost-effective means of returning water to the environment.⁵⁹

3.52 In response to questions about buybacks, the department stated:

Essentially this clause is there because there is a consensus among basin jurisdictions...that in addition to the actual infrastructure investment on-farm, which traditionally has involved the spending of the cost of the infrastructure in return for half of the water recovery, these projects under this program would do that; there would be an investment in infrastructure in return for half of the water saving but it would have an associated linked purchase at the farm level for the remainder of the water saving. So it is not just an infrastructure program; it is a linked purchase program that is effectively tied at the farm gate...This would mean that the farmer would get the return on the infrastructure and additional water saving, which would then be sold at market price. That has the effect of bringing the average recovery cost below the numbers that you talked about before...It is not imagined in that particular provision of the bill that there would be a standard water buyback associated with that 450 gigalitres.⁶⁰

55 Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, p. 24 and see also p. 26; see also Mr Richard Anderson, Chair Water Council, VFF, *Proof Committee Hansard*, 8 November 2012, p. 30.

56 NFF, *Submission 9*, p. 1.

57 NFF, *Submission 9*, p. 2.

58 See for example, ACF, *Submission 12*, p. 1; Mr Alistair Wood, *Submission 16*, p. 1; River Lakes And Coorong Action Group, *Submission 14*, p. 3; Mr Jonathan La Nauze, Healthy Rivers Campaigner, ACF, *Proof Committee Hansard*, 8 November 2012, p. 20.

59 ANEDO, *Submission 8*, p. 6; see also Ms Rachel Walmsley, Policy and Law Reform Director, ANEDO, *Proof Committee Hansard*, 12 November 2012, p. 20.

60 Mr David Parker, Deputy Secretary, Water Group, SEWPaC, *Proof Committee Hansard*, 12 November 2012, p. 34.

3.53 In response to questioning as to whether 450GL could be found through buybacks, the department advised the committee that subsection 86AD(4) limited paragraph 86AD(2)(b) in that:

The project or purchase has to be related to an adjustment. That adjustment has to take place under the SDL adjustment mechanism and that only permits water to be recovered in a socioeconomically neutral way.⁶¹

Social and economic impacts

3.54 The issue of balancing environmental with social and economic impacts was raised in relation to the Special Account bill, both in the context of buybacks and constraints removal.⁶²

3.55 Several suggestions were made as to how social and economic issues should be dealt with. For example, ADIC recommended that the Special Account bill be amended to include a provision requiring all programs to be subjected to a socio-economic impact assessment as part of the approvals process.⁶³

3.56 The National Irrigators' Council recommended that proposed subsection 86AD(4) be amended to provide that the over-riding objective should be to recover water in a way which does not have adverse social and economic impacts for local communities.⁶⁴

3.57 Ms Stefanie Schulte, Economic Policy Analyst for the NSWIC, told the committee that:

If the intention of the bills is to achieve greater environmental outcomes subject to social and economic neutrality, as is suggested in both of the explanatory memorandums, then the bill should in our opinion reflect this explicitly.⁶⁵

3.58 With respect to addressing adverse social or economic impacts, the committee notes that paragraph 86AD(2)(c)(ii) of the Special Account bill would enable funds from the Special Account to be spent to make payments:

61 Mr David Parker, Deputy Secretary, Water Group, SEWPaC, *Proof Committee Hansard*, 12 November 2012, p. 36 and see also p. 38.

62 See for example NSWIC, *Submission 13*, pp 1-2; also Mr Mark McKenzie, Chief Executive Officer, Murray Valley Winegrowers, *Proof Committee Hansard*, 8 November 2012, p. 25; ANEDO, *Submission 8*, pp 6-7; ADIC, *Submission 4*, p. 2; Murray Irrigation, *Submission 5*, p. 6; VFF, *Submission 6*, p. 2; Mr Matt Linnegar, Chief Executive Officer, NFF, *Proof Committee Hansard*, 12 November 2012, pp 9 and 13; Ms Rachel Walmsley, Policy and Law Reform Director, ANEDO, *Proof Committee Hansard*, 12 November 2012, p. 17.

63 ADIC, *Submission 4*, p. 3.

64 National Irrigators' Council, *Submission 15*, p. 4; see also Mr Tom Chesson, Chief Executive Officer, National Irrigators' Council, *Proof Committee Hansard*, 12 November 2012, p. 2.

65 Ms Stefanie Schulte, Economic Policy Analyst, NSWIC, *Proof Committee Hansard*, 8 November 2012, p. 2.

...to address any detrimental social or economic impact on the wellbeing of any community in the Murray-Darling Basin that is associated with a project or purchase referred to in paragraph (a) or (b) or subparagraph (c)(i) so as to offset any such impact...

3.59 However, some organisations felt that proposed paragraph 86AD(2)(c)(ii) was too broad, and were concerned that the minister might use most or all of the money in the Special Account bill to address social and economic issues.⁶⁶

3.60 For example, Environment Victoria submitted that paragraph 86AD(2)(c)(ii) was:

...open ended and could result in the majority of the funds in the Special Account being used for a range of purposes other than the acquisition of water for the environment.⁶⁷

3.61 Indeed, ANEDO claimed that this paragraph:

...does not further these objects insofar as it is entirely concerned with socio-economic, as opposed to environmental, outcomes. Rather, it is likely to undermine the Objects of Part 2AA by directing funding away from projects or purchases that would otherwise increase delivery of environmental water to Basin assets.⁶⁸

3.62 In response to concerns about social and economic impacts, and the extent to which funds from the Special Account might be used to address these, the department informed the committee that:

Paragraph 86AD(2)(c)...is the paragraph which references these payments to furthering the objectives of the part, and the part in turn references the adjustment mechanism provisions of the plan. There is an interconnection such that the special account funds can only be expended if it is to achieve the outcomes of the adjustment provisions of the plan. The adjustment mechanism bill is the bill that requires the plan to set out the criteria for those adjustments.⁶⁹

3.63 The committee also notes that the explanatory memorandum states:

The Government is committed to building on the Basin Plan to achieve environmental outcomes beyond those delivered by a 2,750GL reduction while maintaining or improving economic and social outcomes.⁷⁰

3.64 And:

The Bill establishes the Account to set aside these funds to enable water to be recovered and constraints to be removed without negatively impacting

66 CCSA and TWS, *Submission 11*, p. 9-10; ANEDO, *Submission 9*, p. 8; ACF, *Submission 12*, p. 2; Mr Rob Fowler, President, CCSA, *Proof Committee Hansard*, 8 November 2012, p. 10.

67 Environment Victoria, *Submission 7*, p. 3.

68 ANEDO, *Submission 8*, p. 7; see also ACF, *Submission 12*, p. 1.

69 *Proof Committee Hansard*, 12 November 2012, p. 35.

70 Explanatory Memorandum, Special Account bill, p. 2.

on the wellbeing of communities in the Basin. That water will be recovered in a way that meets the requirements of the Basin Plan that there are no negative social or economic impacts on Basin communities.⁷¹

3.65 Further, the committee notes that the minister, in his second reading speech, drew attention to the proposed Basin plan which stipulates that additional water would only be acquired in ways that did not have 'negative social and economic consequences such as infrastructure'.⁷²

Committee comment

3.66 The committee welcomes the government's commitment, and the associated funding, to achieve environmental benefits in the Murray-Darling Basin: the Special Account bill would provide the Commonwealth with a secure funding stream to be used to recover up to an additional 450GL of water for environmental use in the Basin.

3.67 The committee recognises, however, that the Murray-Darling Basin Plan and other related documents are yet to be finalised and made publically available: it is therefore difficult for stakeholders to fully consider the implications of the Special Account bill. The committee looks forward to finalisation of the Basin Plan by the end of 2012 and the certainty its release will bring to stakeholders.

3.68 With regard to recovering an additional 450GL of water, the committee shares the concerns of submitters who suggested that the words 'up to' should be removed from paragraph 86AA(3)(b) of the Special Account bill. The committee therefore recommends that 'up to' is removed from the bill.

Recommendation 2

3.69 The committee recommends that the words 'up to' are removed from paragraph 86AA(3)(b) of the Special Account bill.

3.70 The committee also acknowledges the mistrust on behalf of some stakeholders that the intended outcomes of the Special Account bill, as outlined by the minister in his second reading speech (see paragraph 3.37), will come to fruition. To address the issue, the committee recommends that the Special Account bill is amended to include the intended outcomes outlined by the minister.

Recommendation 3

3.71 The committee recommends that the Special Account bill is amended to include the intended outcomes listed by the minister in his second reading speech.

3.72 Irrespective, the committee believes the Special Account bill provides an important platform from which to work towards restoring the health of the Murray-Darling Basin. The committee therefore recommends that the Special Account bill be passed.

71 Explanatory Memorandum, Special Account bill, p. 2.

72 The Hon Tony Burke MP, Minister for Sustainability, Environment, Water, Population and Communities, *House of Representatives Hansard*, 31 October 2012, p. 12740.

Recommendation 4

3.73 Subject to the preceding recommendations, the committee recommends that the Special Account bill be passed.

**Senator Doug Cameron
Chair**

Additional comments from Coalition senators

The Coalition is committed to Murray-Darling Basin reform, indeed it was under the Coalition that this reform was started with the passing of the Water Act in 2007. We support the need to return more water to the environment, however, believe it should be done so in a way that balances this objective with the need to provide for robust rural communities and for the Basin to remain Australia's food bowl.

The triple bottom line consideration of social, economic and environmental factors is essential to deliver reform in a way that minimises the cost to communities of reduced water availability and ensures we improve the efficiency of both river systems and irrigation communities.

The triple bottom line approach was a core part of the Howard Government's water reform strategy, however, sadly, since 2007 this approach has not been followed and we have seen an ad-hoc approach to buybacks and systemic underspending on water saving infrastructure projects.

In excess of \$500 million of the funds set aside by the Howard Government for water saving infrastructure projects has been spent on administrative functions, and even advertising campaigns. Further funds have been spent in infrastructure projects that do not save any water. By treating this funding pool as a general purpose pool of funds, Labor has undermined our ability to ensure reform is delivered at least cost to communities in the Basin.

Progress to date shows the disparity in outcomes under the buyback program compared to the infrastructure program. In excess of 1031GL has been secured through buybacks yet just 284GL has been secured or is under contract through the infrastructure program.

The non-strategic approach to this reform is compounded by the endless delays and uncertainty inflicted upon communities by the Government's inability to meet deadlines and deliver on commitments. More than \$100 million has been spent by the Murray-Darling Basin Authority on developing the Basin Plan, which does not include the extensive engagement by communities and stakeholders in endless discussions over the five years this process has been underway, much of which they feel has been of little impact on the outcomes or proposals.

Murray Valley Winegrowers Inc Chief Executive, Mr McKenzie, highlighted the ad hoc process being applied, the effect this uncertainty is having on their ability to assess the Basin Plan and the impact it will have on their community:

We do not have the capacity to fully assess the plan at this point for a couple of reasons. One is that we do not have a water recovery strategy and we do not have an environmental watering plan in final form. They are still works in progress... From our perspective, we have always held that it would be better to do the work first rather than push on with a target which, with respect, is a political target, not a

target to deliver a plan which the whole community in the basin can sign off on. That said, we are fatigued and we need certainty.¹

These two Bills, especially the rushed way in which they have been introduced into and debated within the parliament with limited prior consultation on their content, have compounded concerns about the management of this reform process from a number of groups and stakeholders, such as the Australian Dairy Industry Council Inc:

The dairy industry is uncomfortable with the Water Act being amended to give effect to a Basin Plan and IGA that no one has yet seen, on a ‘trust us’ basis that the Plan and IGA will contain the appropriate safeguards.²

The Coalition believes that angst in river communities should be reduced by not just providing certainty to communities about how much water is to be recovered but also giving certainty that it will be recovered by delivering on promises to prioritise water saving infrastructure investments and environmental works and measures, while limiting remaining buybacks wherever possible.

Further, the Coalition believes that where safeguards are being promised by the government, such as the further recovery of water being subject to a ‘no socio-economic disadvantage test’, they should be enshrined in legislation. Communities have lost trust with the government and much of the process surrounding Murray-Darling reform. They should not be asked to simply take on trust commitments to safeguard their future when such commitments could easily be enshrined into the Bills under consideration.

Water Amendment (Long Term Average Sustainable Diversion Limit Adjustment) Bill 2012 [Provisions]

The Coalition supports the principle of the adjustment mechanism and welcomes its adoption as a sign of constructive engagement in the Basin plan process by all of the Basin States.

However, the Coalition held deep concerns when this Bill was introduced as it sought to remove ministerial and parliamentary oversight of potentially significant changes to Sustainable Diversion Limits across the Basin.

The MDBA outlined the magnitude of the changes possible which under the Bill as originally proposed it would have responsibility for:

In the current draft of the Basin Plan, the net effect of any proposed SDL adjustments cannot exceed plus or minus 5 per cent of the proposed surface

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<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Fcommsen%2Fb08783e6-bd80-4ec5-bb48-f689f4435e91%2F0004;query=Id%3A%22committees%2Fcommsen%2Fb08783e6-bd80-4ec5-bb48-f689f4435e91%2F0000%22>

² <https://senate.aph.gov.au/submissions/committees/viewdocument.aspx?id=b8d5a548-8ea7-4274-957b-3cfa55d832e9>

water SDL for the Basin of 10,873 GL/Year, which equates to approximately 540 GL.³

The Coalition notes that there are plans and expectations that the adjustment mechanism will be applied in both directions. The *Water Amendment (Water for the Environment Special Account) Bill 2012* provides for the recovery of more water for the environment under the adjustment mechanism, while the Victorian Farmers' Federation highlighted the potential to use the adjustment mechanism to achieve the same environmental outcomes under the 2750GL base figure in the Basin Plan with less actual held entitlement:

... there are about 650 gigs of works and measures, so we could get away with 2100 gigs of actual held entitlement to give 2,750 of environmental outcomes. I think this is an example of it not being about the amount of entitlement being held; it is about the environmental outcomes that can be achieved with a smaller volume of actual held entitlements.⁴

The potential for such significant changes without any oversight caused concerns amongst both irrigators and environmentalists. The National Farmers' Federation stated that:

...it is the view of many agricultural stakeholders that the MDBA is incapable of listening and hearing community concerns and incorporating these into subsequent iterations. Consequently, the NFF supports that the Minister or the MDB Ministerial Council retains oversight powers over the SDL adjustment mechanism.⁵

The River, Lakes and Coorong Action Group expressed concerns arising for different reasons:

The implementation of a Murray Darling Basin Plan is a new process with many unknown factors, not all predictable. It is desirable that there should be the utmost transparency and reflection at all stages of implementation. The ongoing oversight of the Minister is also necessary to protect the Murray Darling Basin Authority from undue influence from any one sector.⁶

The Coalition is pleased that the Government has listened to concerns raised by both us and various stakeholder groups and agreed to amend this Bill to restore Ministerial and Parliamentary oversight. The Coalition appreciates the cooperative approach taken by the Government in providing such amendments.

³ <https://senate.aph.gov.au/submissions/committees/viewdocument.aspx?id=6bd0bfba-1902-46e8-b9a1-f8519102ede0>

⁴ http://parlinfo.aph.gov.au/parlInfo/download/committees/commsen/b08783e6-bd80-4ec5-bb48-f689f4435e91/toc_pdf/Environment%20and%20Communications%20Legislation%20Committee_2012_11_08_1525.pdf;fileType=application%2Fpdf#search=%22committees/commsen/b08783e6-bd80-4ec5-bb48-f689f4435e91/0000%22

⁵ <https://senate.aph.gov.au/submissions/committees/viewdocument.aspx?id=6b171774-4b57-4f72-aec8-7ecc3d411c33>

⁶ <https://senate.aph.gov.au/submissions/committees/viewdocument.aspx?id=1a64f290-c0eb-4d02-8f74-f84c6b15710d>

Water Amendment (Water for the Environment Special Account) Bill 2012

The Coalition is concerned that this Bill appears to have been hastily put together, poorly thought out, or both. This Bill was announced with much fanfare by the Prime Minister seeking to gain as much political capital as possible in South Australia.

However, time and scrutiny have proven what is so often the case with the Prime Minister's announcements – words and reality are miles apart. The Australian Conservation Foundation states that:

Despite statements by the Prime Minister and the Water Minister that the Special Account will provide for the recovery of 450 GL of environmental water and the achievement of the environmental outcomes associated with a total recovery of 3,200 GL, the Bill fails to guarantee the recovery of any specific volume of environmental water.⁷

Meanwhile, many irrigators are concerned that the Bill allows for further buybacks despite contrary promises made at the time of the Bill's announcement:

The Federal Minister responsible for the Basin Plan has made it clear that there are 'downsides for local communities' from buybacks and has clearly stated that this Bill is designed to ensure that any water recovered from Basin communities above 2750 GL/y be refined to on-farm infrastructure, yet clause 86AD 2(b) makes it very clear that large scale water buybacks are still very much on the agenda.

While there is much concern of the content of this Bill, it is also puzzling why this Bill has been introduced prior to the finalisation of the Basin Plan. Coalition Senators cannot see any reason, other than politics, why a Bill that aims to recover water over and above that recovered by the Basin Plan has been introduced ahead of the Basin Plan. Murray Valley Winegrowers Inc. viewed this situation as:

In broad terms, we would describe the process as cart before the horse, as we have worked through. It has been extremely difficult, I have to say, in defence of the MDBA, to play catch-up all the way through this process in some ways. The process has been galloping ahead of them constantly.

Many stakeholder groups expressed deep concerns that the Bill fails to provide the guarantees of social and economic outcomes the Prime Minister made when announcing the so-called 3200GL target. The National Irrigators Council believes:

Despite the Government's stated intentions 'that the additional 450GL of environmental water to be obtained through projects funded by this Bill to ensure there is no social and economic downside for communities' there is nothing in the Bill which specifically guarantees the 'upward movement' will not cause social and economic downsides for communities.

⁷ <https://senate.aph.gov.au/submissions/comitees/viewdocument.aspx?id=baaa290d-0382-4b93-a8c7-625aa0713f77>

The Bill should be amended so that it specifically states that all projects funded under the provisions of this Bill are subjected to a ‘no detriment’ economic and social impact test before being approved.⁸

The Victorian Farmers’ Federation further states that:

To ‘enhance environmental outcomes’ by the method suggested in the Bill (86AA (1)), there will undoubtedly be a socio-economic impact. This must be addressed within the framework of the Bill. It is simply unacceptable to relegate this to a few dot points where the literal use of the money is outlined at 86AD, Purposes of the Water for the Environment Special Account. This leaves the VFF with the view that government is of the belief that simply providing money towards socio-economic issues which arise will solve them. This is simply not the case.

The Australian Conservation Foundation also acknowledged the need to assess the wide range of social and economic impacts alongside environmental impacts and to do so based on robust evidence:

...decisions should be made on the basis of credible and robust social, economic and environmental cost-benefit criteria which incorporates the interests of all affected stakeholders, not just large consumptive water users. This includes business, recreational, environmental, indigenous, local government and community interests.⁹

The concerns of irrigation communities about the potential impacts of further water recovery have been exacerbated by the non-strategic approach to water recovery to date, which was highlighted earlier in these comments. The effects of excess non-strategic buyback and limited delivery of water saving infrastructure projects threaten the viability of some irrigation schemes and communities, as highlighted by Murray Valley Winegrowers:

We believe we are at a tipping point ... the water authorities – Lower Murray Water in Victoria and Western Murray Water on the New South Wales side – are at a point where their capacity to deliver reasonably economically priced water which is not going to push those irrigators out of business through water charges is at a tipping point.¹⁰

Considering the commitments made by the Government to protect communities against socio-economic detriment the Coalition believes amendments reflecting these commitments are warranted to ensure water recovery occurs via means that deliver socio-economic equivalence or better.

The Coalition have noted statements indicating such guarantees *may* be embedded in the Plan, such as this request made by Minister Burke to the MDBA:

⁸ <https://senate.aph.gov.au/submissions/comittees/viewdocument.aspx?id=164df72e-b655-438e-b110-7c71dca48eda>

⁹ <https://senate.aph.gov.au/submissions/comittees/viewdocument.aspx?id=3162c0fe-cf95-4249-a198-77f74dc21d28>

¹⁰

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22committees/comm sen/b08783e6-bd80-4ec5-bb48-f689f4435e91/0000%22>

The Basin Plan should include criteria for determining adjustments to surface water SDLs due to ‘efficiency measures’ so that water recovery projects giving rise to an adjustment which reduces the SDL (i.e. for improved environmental outcomes) do not worsen social and economic impacts compared with 2750 impacts. This should be evidenced by the participation of farmers in programs providing investment in water efficiency and recovery projects on their farms, or, in the case of alternative arrangements proposed by a State, assessment by that State that the project(s) they propose will achieve neutral or improved socio-economic outcomes.¹¹

Minister Burke’s second reading speech for this Bill also highlights his belief that a ‘no socio-economic disadvantage’ test applies in practice to these reforms, if not in this actual Bill:

Importantly, the plan being proposed by the Murray-Darling Basin Authority stipulates that additional water beyond the benchmark should only be acquired through methods that deliver additional water for the environment without negative social and economic consequences such as infrastructure.¹²

However, the Coalition believes that as we have not seen the final Plan it would be prudent to embed these commitments, or something similar, in this legislation to remove all doubt about the actual delivery of the Government’s commitment to avoid socio-economic detriment. This point was also made by the National Irrigators Council:

...if it is a triple-bottom line approach then put it into the Act and make that very clear in the Act. Let us not pretend that a legislative instrument is the Act. It is not. It is subordinate to that. So put it in the Act.¹³

The Coalition also notes that implicit in the commitments being made by the minister is a reliance on infrastructure measures to recover the additional water rather than further buybacks. However, numerous submitters such as the National Farmers Federation and Murray Valley Winegrowers expressed concerns that this Bill in paragraph 86AD(2)(b) still appears to allow for further buybacks, in contrast to the Ministers assurances.

In response to questioning about this paragraph the Department sought to reassure those concerned by explaining the inclusion of paragraph 86AD(2)(b) as follows:

¹¹ Letter from Minister Burke to the Hon Craig Knowles of November 1 2012.

¹²

[http://parlinfo/parlInfo/search/display/display.w3p;query=BillId_Phrase%3Ar4925%20Title%3A%22second%20reading%22%20Content%3A%22I%20move%22%7C%22and%20move%22%20Content%3A%22be%20now%20read%20a%20second%20time%22%20\(Dataset%3Ahansardr%20%7C%20Dataset%3Ahansards\);rec=0](http://parlinfo/parlInfo/search/display/display.w3p;query=BillId_Phrase%3Ar4925%20Title%3A%22second%20reading%22%20Content%3A%22I%20move%22%7C%22and%20move%22%20Content%3A%22be%20now%20read%20a%20second%20time%22%20(Dataset%3Ahansardr%20%7C%20Dataset%3Ahansards);rec=0)

¹³ http://parlinfo.aph.gov.au/parlInfo/download/committees/commsen/fb44fcc2-8e47-4d27-8c73-34d41190e456/toc_pdf/Environment%20and%20Communications%20Legislation%20Committee_2012_11_12_1527.pdf;fileType=application%2Fpdf#search=%22committees/commsen/fb44fcc2-8e47-4d27-8c73-34d41190e456/0000%22

Essentially this clause is there because there is a consensus among basin jurisdictions...that in addition to the actual infrastructure investment on-farm, which traditionally has involved the spending of the cost of the infrastructure in return for half of the water recovery, these projects under this program would do that; there would be an investment in infrastructure in return for half of the water saving but it would have an associated linked purchase at the farm level for the remainder of the water saving...This would mean that the farmer would get the return on the infrastructure and additional water saving, which would then be sold at market price...It is not imagined in that particular provision of the bill that there would be a standard water buyback associated with that 450 gigalitres.¹⁴

Once again, as with the ‘no socio-economic detriment’ test, Coalition Senators believe the legislation should be amended to reflect the assurances being given by the Government that general buybacks will not occur under the funding appropriated in this Bill.

Environmental groups expressed a different concern that the promises of the Prime Minister’s announcement do not match the reality of the legislation. Many groups feel this legislation represents a betrayal of the commitment given by the Prime Minister to achieve a 3200GL reduction, including Environment Victoria who stated:

The Bill does not commit to recovering 450 GL of environmental water for the Murray as announced by Prime Minister Gillard, instead it aims to increase ‘the volume of the Basin water resources that is available for environmental use by up to 450 gigalitres’ (86AA (3)(b)). This is a central flaw in the Bill. The clause requires amendment to read ‘by at least 450 gigalitres’ to make good on the Prime Minister’s commitment.¹⁵

The Conservation Council of SA and the Wilderness Society similarly thought that:

[The Bill] does not afford sufficient priority or guarantees with respect to the 450 GL additional water resource promised by the Prime Minister.¹⁶

This evidence clearly shows that the Prime Minister has been caught out embellishing the fact to suit her political ends and again demonstrates that the Prime Minister places securing media headlines ahead of presenting the facts of the matter in an even handed manner.

The Coalition nonetheless understands the arguments made by the Department of Sustainability, Environment, Water, Population and Communities’ that the capacity of the Bill is limited by the constraints within the SDL adjustment mechanism and other factors:

¹⁴

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22committees/comm sen/fb44fcc2-8e47-4d27-8c73-34d41190e456/0000%22>

¹⁵ <https://senate.aph.gov.au/submissions/comittees/viewdocument.aspx?id=3a386b1c-b39a-4d51-9a89-373b00a29404>

¹⁶ <https://senate.aph.gov.au/submissions/comittees/viewdocument.aspx?id=ced8a389-0cf1-48bd-9463-27eba61508a0>

Essentially, for that slice of water above the 2,750 the bill creates the legal framework, including the special appropriations, so that there is clarity and certainty around the appropriation of those monies because it is not until a substantially later point in time that the SDL adjustment mechanism kicks in and triggers other consequences... It provides a special appropriation and a fund to provide a framework with a given amount of money to recover water. The actual water recovery obviously depends on the vagaries of the future, including future prices and so forth. It is a commitment to money which we expect to progressively translate to water over time as the projects are committed and come into actuality.

Coalition Senators oppose the last minute amendment proposed by Government Senators in the majority report to delete the words "up to" from paragraph 86AA(3)(b). Given the structure of this legislation, which appropriates a fixed amount of funds, and the advice provided by the department to the committee, the proposed amendment is clearly unworkable, unachievable and unacceptable.

The Coalition notes the unusual step taken in this Bill to appropriate funds so far in advance. We are particularly concerned by what appears to be a lack of work done to justify the amounts being appropriated and their adequacy to meet the stated objectives of this Bill.

The Coalition is especially concerned about the costs associated with addressing the constraints within the system that would require removal under a 3200GL scenario. How a figure of \$200m for constraints removal was identified is unclear, as are the ramifications if this funding pool is insufficient to remove all constraints necessary or what compensation may be forthcoming to those potentially affected by such constraints removal.

The practical implications of constraints removal are real and come with various costs, as demonstrated by the example of McCoys Bridge given by the Victorian Farmers' Federation:

If you go to the Goulburn Broken Catchment Management Authority and look at their Lower Goulburn floodplain risk assessment, it is a nonsense to say that you can put 40,000 megalitres a day passed McCoys Bridge without causing serious flooding of not only public property but also private property.¹⁷

Senator McKenzie expanded further, stating:

If you look at the Goulburn Broken Catchment Management Authority's environmental flow hydraulic study, it says that if you had that much water at McCoys Bridge, you would flood 100 buildings, you would flood 250

¹⁷ http://parlinfo.aph.gov.au/parlInfo/download/committees/commsen/b08783e6-bd80-4ec5-bb48-f689f4435e91/toc_pdf/Environment%20and%20Communications%20Legislation%20Committ ee_2012_11_08_1525.pdf;fileType=application%2Fpdf#search=%22committees/commsen/b08783e6-bd80-4ec5-bb48-f689f4435e91/0000%22

kilometres of road, you would flood 8000 hectares of dryland agriculture and you would flood 1000 hectares of irrigated agriculture.¹⁸

The coalition senators are also concerned that the ambiguity of legal liability of flooding events and the affect that flooding events could have on both public, private and environmental assets.

Many groups are concerned about the consequences for this Barmah Forest, where the largest eucalypt red gum forest in the world cannot physically cope with the volumes of water being proposed and will suffer tremendous damage. These concerns have been inadequately addressed. These concerns have been inadequately addressed. Mr McKenzie of the Murray Valley Wine Growers articulated this at the hearing, saying in relation Barmah Forest that ‘it will drown’.¹⁹

The Wilderness Society and South Australian Conservation Council noted that:

Flooding of flood plains can bring positive benefits as well as problems for farmers and irrigators. The costs, benefits and risks need to be assessed²⁰

ANEDO and Environment Victoria expressed concerns that CEWH’s liability was unclear, stating:

They could be held liable under the private flooding provisions of the *Water Act 1989* (Vic),⁴ or under the common law of nuisance or negligence, for causing water to flow onto private property in a way that causes personal injury, property damage or economic loss.²¹

The National Farmers Federation and The MDBA also acknowledged the difficulties of addressing constraints, as well as the potential benefits, all of which point to the complexities in knowing whether the funding provided for their relaxation is adequate:

...if relaxation of constraints can lead to a better environmental outcome without social and economic harm, I think people would say that that is a positive way to look at it. But we should not think we can just click our fingers and that all constraints would be gone and there would be no further third-party impacts from doing that. I think that is why we are saying that

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<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22committees/comm sen/b08783e6-bd80-4ec5-bb48-f689f4435e91/0000%22>

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<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22committees/comm sen/b08783e6-bd80-4ec5-bb48-f689f4435e91/0000%22>

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<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22committees/comm sen/b08783e6-bd80-4ec5-bb48-f689f4435e91/0000%22>

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http://environmentvictoria.org.au/newsite/sites/default/files/useruploads/EDO%20and%20EV_Submission_Audit%20of%20CEWH.pdf

they require careful examination as to the potential risks which go with the relaxation of constraints as well as the potential benefits.²²

One of the objectives of returning water to the environment is to reinstate some of the natural flooding events that used to happen. There is development now on some of the floodplain areas, so there is a risk, if there are floods in the future, that private property would be affected ... There is a fundamental tension between the issue of increasing water on the floodplain and the incidence of private property, and it is an issue that the authority and particular river operators are very aware of.²³

It is clear that far more work will need to be done to determine the actual cost and implications of removing constraints than has been undertaken to date, which will clearly impact on the effectiveness of this legislation to recover the environmental water it targets under the terms required by the adjustment mechanism.

Coalition Senators hope the Government will address the numerous concerns outlined herein before a vote on this Bill is taken and especially expects that such a vote should not proceed until the final Basin Plan, Water Recovery Strategy and Intergovernmental agreement are released.

Coalition Senators also recommend that, for the sake of clarity and to avoid all doubt, this Bill be amended to explicitly enshrine a 'no detriment socio-economic test' and prohibit use of the funds appropriated under this Bill for general or open buybacks, as per the commitments given by the Minister on these matters.

Senator Simon Birmingham

Senator Bridget McKenzie

Senator Anne Ruston

²² http://parlinfo.aph.gov.au/parlInfo/download/committees/commsen/fb44fcc2-8e47-4d27-8c73-34d41190e456/toc_pdf/Environment%20and%20Communications%20Legislation%20Committee_2012_11_12_1527.pdf;fileType=application%2Fpdf#search=%22committees/commsen/fb44fcc2-8e47-4d27-8c73-34d41190e456/0000%22

²³ http://parlinfo.aph.gov.au/parlInfo/download/committees/commsen/fb44fcc2-8e47-4d27-8c73-34d41190e456/toc_pdf/Environment%20and%20Communications%20Legislation%20Committee_2012_11_12_1527.pdf;fileType=application%2Fpdf#search=%22committees/commsen/fb44fcc2-8e47-4d27-8c73-34d41190e456/0000%22

Additional comments by Senator Nick Xenophon

Water Amendment (Water for the Environment Special Account) Bill 2012

The Prime Minister's announcement of 26 October 2012 that an additional 450 gegalitres (GL) of water is to be returned to the Basin during the period 2014-2024 can potentially bring about significant improvements in the health of the River Murray. However, this potential is limited due to a number of constraints and ambiguities in the Water Amendment (Water for the Environment Special Account) Bill 2012 (the 'Special Account Bill').

No guarantee 450GL will be delivered

According to the current wording of the Special Account Bill, enhanced environmental outcomes will be achieved by "increasing the volume of the Basin water resources that is available for the environmental use by up to 450 gegalitres" (emphasis added).¹

Mr Rob Fowler, President of the Conservation Council of South Australia, expressed the inadequacy of this wording:

The 450 gegalitre object is not framed in a way in the bill which provides any assurance or guarantee that it will in fact be delivered. It is not even framed as an object of the bill; it is simply framed as one means of achieving the broader objects of the bill.²

Recommendation 1

Clause 86AA(3)(b) of the Water Amendment (Water for the Environment Special Account) Bill 2012 be amended so as to ensure 450 gegalitres is a minimum amount rather than a maximum amount to be returned to the environment.

Purposes of the Water for the Environment Special Account

Clause 88AD of the Special Account Bill sets out the purposes of the Water for the Environment Special Account and lists the different types of activities eligible to receive payments from the \$1.77 billion fund. These activities include improving the water efficiency of irrigation infrastructure (including roads and bridges), increasing dam capacity, acquiring interests in land and purchasing water rights.

1 Clause 86AA(3)(b).

2 Mr Rob Fowler, *Proof Committee Hansard*, 8 November 2012, p. 10.

Professor John Williams, Dean of Adelaide Law School and vice-president of the Australian Association of Constitutional Law, summarised the issues with clause 88AD in his recent article in *The Advertiser*:

These are obvious activities that would be required to deliver the additional water for the Murray. However, the Bill does not prioritise these activities. The temptation to focus on infrastructure rather than reducing the over-allocation of the river may prove irresistible. Further, the link between the expenditure of the funds and measurable outcomes for the health of the River is poorly made.³

These concerns were shared by Mr Tim Kelly, Chief Executive Officer of the Conservation Council of South Australia:

The additional 450 gigalitres of water from a special account may never be achieved, even if up to \$1.77 billion is spent on additional infrastructure. There is no absolute requirement in the special account bill for these funds to be spent to achieve the additional water.⁴

As a result I propose an amendment to clause 88AD requiring that priority be given to projects with maximum guaranteed water returns to the system within the shortest timeframe, taking into account social and economic factors, as well as early adopters of water efficiency measures.

Recommendation 2

Clause 88AD of the Water Amendment (Water for the Environment Special Account) Bill 2012 be amended to ensure that funding priority is given to projects with maximum guaranteed water returns to the system within the shortest timeframe, taking into account social and economic factors, as well as early adopters of water efficiency measures.

It is again worth noting the consistently glib attitude taken by both the Federal Government and the MDBA when it comes to recognising irrigators for past efficiencies and investigating the comparative efficiencies of different irrigation regions. I again refer to evidence given by the MDBA's Chief Executive, Dr Rhondda Dickson, during Senate Estimates in May of this year:

Senator XENOPHON: No, but you can establish how efficient an area is and when it became efficient, can't you? That is a matter of fact, isn't it?

3 Professor John Williams, "River Murray agreement to waterproof SA may turn out to be a castle built on sand", *Adelaide Advertiser*, 12 November 2012.

4 Mr Tim Kelly, CEO of the Conservation Council of South Australia, *Committee Hansard*, 12 November 2012, p. 9.

Dr Dickson: You could presumably do that. But I guess, as to how you might rank efficiencies, that is not really our job. It is more to look at what is a sustainable level of extraction rather than who is the most efficient.⁵

This issue has not been addressed in these Bills.

Recommendation 3

Urgent modelling is undertaken to establish the comparative efficiencies of irrigation communities in the Murray-Darling Basin to ensure fair treatment of irrigators.

It is also imperative that local knowledge is taken into account through consultation with irrigator groups throughout any regulatory reforms of the Murray. For example, Mr Mark de Lacy McKenzie, Chief Executive of Murray Valley Wine Growers Inc told the Senate Rural and Regional Affairs and Transport Committee recently:

There is a classic example downstream on the South Australian border here which is the Lindsay Island issue you have probably heard about. We have a huge wetland on Lindsay Island which can be, with check banks and regulators, effectively irrigated. Rather than an overbank flow at 1,200 gegalitres to achieve that naturally it can be done with 95 gegalitres. We have circumstances like that all through the basin.⁶

Furthermore, given the current inability of many South Australian irrigators to access funding provided through the Federal Government's \$5.8 billion Sustainable Rural Water Use and Infrastructure Program due to irrigators' already high levels of efficiency, it is imperative that funding is made available for research and development via the Water for the Environment Special Account.

Recommendation 4

Clause 86AD(2)(a) of the Water Amendment (Water for the Environment Special Account) Bill 2012 be amended to include projects in Research and Development or projects using emerging technologies and to acknowledge and reward early adopters of water efficiency measures.

While the Special Account Bill requires annual reports to be presented to Parliament, there is no requirement that the administration of the fund is audited. The need for proper oversight of Federal Government funding was demonstrated in June 2012 when the Australian National Audit Office (ANAO) reported that all applications from funding rounds one and two of the Private Irrigation Infrastructure Operators Program in New South Wales "*did not contain sufficient detail to facilitate a thorough*

5 Dr Rhondda Dickson, Murray-Darling Basin Authority, *Committee Hansard*, Environment and Communications Legislation Committee, 23May 2012, p. 102.

6 Senate Standing Committee on Rural and Regional Affairs and Transport, Inquiry into the management of the Murray-Darling Basin System, *Committee Hansard*, 3 April 2012.

assessment, particularly in relation to addressing the economic/social criteria, environmental criteria and the projects' cost-benefit analyses".⁷

Therefore it is imperative all funds paid out of the Water for the Environment Special Account are subject to robust and regular audits so as not to replicate the inappropriate granting of Federal Government funds that has previously taken place.

Recommendation 5

The Water Amendment (Water for the Environment Special Account) Bill 2012 be amended to require the ANAO conduct an audit of the Special Account after the first year of operation, the third year of operation, and every three years after that, with specific attention to:

- **The financial performance of the account;**
- **The projects funded under the account, and the robustness of the funding process;**
- **The performance of these projects in relation to the outcomes under 86AA;**
- **Any related matters.**

Water Amendment (Long Term Average Sustainable Diversion Limit Adjustment) Bill 2012

I am broadly supportive of the Water Amendment (Long Term Average Sustainable Diversion Limit Adjustment) Bill 2012, however the Committee heard evidence raising concerns over the legality of this Bill.

The Conservation Council of South Australia, together with the Wilderness Society, argued that under the current Bill social and economic considerations will be elevated to equal status with environmental considerations:⁸

Underlying this observation is a legal debate of a quite fundamental nature concerning the relationship between environmental, social and economic considerations in relation to the proposed Basin Plan. The government, through its statements in the explanatory memorandum, is perpetuating a highly contentious legal viewpoint that all three aspects may be considered simultaneously when producing the Basin Plan, and now in relation to an adjustment to the SDLs spelled out therein.⁹

Their submission continues:

7 Australian National Audit Office, *Administration of the Private Irrigation Infrastructure Operators Program in New South Wales*, June 2012, p. 22.

8 Conservation Council of South Australia and the Wilderness Society, *Submission 20*, p. 6.

9 *Ibid*, p. 7.

There is strong legal advice to the contrary... which suggests that socio-economic considerations may only be taken into account after the long-term average sustainable diversion limit has been determined by reference to the environmental sustainability needs of the MDB.¹⁰

Similarly, it is possible litigation will commence based on the proposition that the best available science has not been used when setting SDLs and that as a result, the environmental objectives of the Basin Plan will not be achieved.

This concern should be meaningfully addressed by the Federal Government before the Bill passes the Senate.

Further comments

Inquiry into the Management of the Murray-Darling Basin

It is worth noting that the abovementioned inquiry has not yet reported, nor is it due to report until February 6, 2013.

Furthermore, the concerns raised in the Committee's interim report have not yet been responded to by the Government or addressed meaningfully in any way.

Given this, it is worth questioning why the Government is seeking to push this legislation through Parliament before the end of 2012.

While there is no question that a long-term plan for the Murray-Darling Basin is of critical importance, the Government must also meaningfully address past and present failures in the management of the Murray-Darling Basin system as discussed throughout the abovementioned inquiry.

This includes responding to concerns raised about the lack of flexibility and equity in the criteria of established infrastructure funds, which have consistently disadvantaged early adopters of water efficiency measures in regions such as the Riverland in South Australia.

Amendments must be made to this legislation to ensure that early adopters of water efficiency measures are not disproportionately disadvantaged by water recovery targets as prescribed under the Basin Plan.

Senator Nick Xenophon

10 Ibid.

Appendix 1

Submissions, tabled documents and answers to questions taken on notice

Submissions – Water Amendment (Long Term Average Sustainable Diversion Limit Adjustment) Bill 2012

- 1** Australian Conservation Foundation
- 2** Goulburn Valley Water Action Group
- 3** New South Wales Irrigators Council
- 4** Environment Victoria
- 5** River Lakes and Coorong Action Group
- 6** National Water Commission
- 7** CSIRO
- 8** Australian Dairy Industry Council Inc
- 9** Australian Network of Environmental Defender's Offices
- 10** Murray Valley Winegrowers Inc
- 11** Murray Irrigation
- 12** Murray-Darling Basin Authority
- 13** Murray River Group of Councils
- 14** Victorian Farmers Federation
- 15** NSW Office of Water
- 16** National Farmers' Federation
- 17** National Irrigators' Council
- 18** Minister for Water, Government of Victoria
- 19** Minister for Water and the River Murray, Government of South Australia
- 20** Conservation Council of South Australia and The Wilderness Society

Submissions – Water Amendment (Water for the Environment Special Account) Bill 2012

- 1 Murray Irrigators farming support group
- 2 Goulburn Valley Water Action Group
- 3 CSIRO
- 4 Australian Dairy Industry Council Inc
- 5 Murray Irrigation
- 6 Victorian Farmers' Federation
- 7 Environment Victoria
- 8 Australian Network of Environmental Defender's Offices
- 9 National Farmers' Federation
- 10 Minister for Water and The River Murray, Government of South Australia
- 11 Conservation Council of South Australia and The Wilderness Society
- 12 Australian Conservation Foundation
- 13 NSW Irrigators' Council
- 14 River Lakes and Coorong Action Group Inc
- 15 National Irrigators' Council
- 16 Mr Alastair Wood

Tabled documents

Comparing environmental outcomes of 2,800GL and 3,200GL 'relaxed constraints' SDL scenarios, tabled by Mr Jonathan La Nauze, Australian Conservation Foundation, public hearing, Adelaide, 8 November 2012.

Answers to questions taken on notice

Victorian Farmers Federation - Answers to questions taken on notice (from public hearing, Adelaide, 8 November 2012)

Australian Conservation Foundation – Answers to questions taken on notice (from public hearing, Adelaide, 8 November 2012)

River Lakes and Coorong Action Group – Answers to questions taken on notice (from public hearing, Adelaide, 8 November 2012)

Murray Valley Winegrowers Inc – Answers to questions taken on notice (from public hearing, Adelaide, 8 November 2012)

Conservation Council of South Australia and The Wilderness Society – Answers to questions taken on notice (from public hearing, Adelaide, 8 November 2012)

Wentworth Group of Concerned Scientists – Answers to questions taken on notice (from public hearing, Canberra, 12 November 2012) and written questions

Murray-Darling Basin Authority - Answers to questions taken on notice (from public hearing, Canberra, 12 November 2012)

ANEDO - Answers to written questions taken on notice

National Irrigators' Council - Answers to questions taken on notice (from public hearing, Canberra, 12 November 2012)

Appendix 2

Public hearings

Thursday, 8 November 2012 - Adelaide

River Lakes and Coorong Action Group

Ms Suzanne Rex, Chair

Ms Elizabeth Tregenza, Secretary

Conservation Council of South Australia

Professor Diane Bell, Representative

Mr Rob Fowler, President

Mr Tim Kelly, Chief Executive Officer

The Wilderness Society (South Australia)

Mr Peter Owen, South Australia Campaign Manager

Australian Conservation Foundation

Mr Jonathan La Nauze, Healthy Rivers Campaigner

Murray Valley Winegrowers Inc

Mr Mark McKenzie, Chief Executive Officer

Victorian Farmers' Federation

Mr Richard Anderson, Chair, Water Council

Ms Melanie Brown, Water Advisor

Monday, 12 November 2012 – Canberra

National Irrigators' Council

Mr Tom Chesson, Chief Executive Officer

New South Wales Irrigators' Council

Ms Stefanie Schulte, Economic Policy Analyst

Mr Richard Stott, Chairman

National Farmers' Federation

Mr Matt Linnegar, Chief Executive Officer

Australian Network of Environmental Defender's Offices, New South Wales

Ms Emma Carmody, Policy and Law Reform Solicitor

Ms Rachel Walmsley, Policy and Law Reform Director

Wentworth Group of Concerned Scientists

Mr Peter Cosier, Convenor

Mr Timothy Stubbs, Environmental Engineer

National Water Commission

Mr James Cameron, Chief Executive Officer

Department of Sustainability, Environment, Water, Population and Communities

Ms Mary Harwood, First Assistant Secretary, Water Efficiency Division

Mr David Parker, Deputy Secretary, Water Group

Mr Tony Slatyer, First Assistant Secretary, Water Reform Division

Murray-Darling Basin Authority

Mr Russell James, Executive Director, Policy and Planning Division

Dr Tony McLeod, General Manager, Water Resource Planning

Ms Jody Swirepik, Executive Director, Environmental Management Division