



Murray Irrigation

Water Amendment (Review Implementation and Other Measures) Bill 2015

Submission to the Senate Rural and
Regional Affairs and Transport
Legislative Committee.

February 2016

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Executive summary

Murray Irrigation supports the intent of the Water Amendment (Review Implementation and Other Measures) Bill 2015 and particularly the proposed amendments to Section 106 of the Water Act to provide flexibility to the Commonwealth Environmental Water Holder to manage proceeds from trade.

Murray Irrigation is of the view further amendments could be made to strengthen the delivery of triple bottom line outcomes, however, acknowledge that the current amendments go some way towards streamlining processes and reviews and strengthen the recognition of the individual's property right.

Murray Irrigation has long held concerns that the "just add water" approach to water resource management will not achieve the range of environmental and ecological outcomes to deliver a healthy working basin.

Murray Irrigation commends the proposed amendment to S106 of the Water Act to enable the Commonwealth Environmental Water Holder to consider more than volume and flows when looking for solutions to environmental water delivery to maximise the benefits achieved from the volumes held.

"Concerns have been raised that these changes could create a slippery slope towards the Commonwealth Environmental Water Holder buying significantly less water. The opposition are seeking the detail of those regulations that will be in place to ensure that a significant majority of the Commonwealth Environmental Water Holder's expenditure will still be on water. We are also concerned that adjustments to the purchasing parameters of the Environmental Water Holder may have unintended and detrimental consequences on the spending patterns or commitments of other parties to the Basin Plan", Opposition spokesman for Water, Mark Butler, 9 February 2016.

The focus and priority of the CEWH should not be on purchasing more water.

Murray Irrigation is particularly concerned that the idea of "buying water" does not differentiate between entitlement purchase (permanent), or allocation purchase (temporary). Murray Irrigation would be opposed to the CEWH purchasing further entitlement outside the Water Recovery Strategy¹ which outlines how the SDLs will be reached through a range of programs where recovery is still outstanding.

The Basin Plan clearly identifies SDLs for all valleys in the Basin and outlines the recovery required for both local and shared objectives. It would be inappropriate for the CEWH to purchase entitlement separate to the Recovery Strategy which could lead to over-recovery in some areas. We do, however, support the sale of permanent entitlement by the CEWH in valleys where there has already been an over-recovery. In such instances the ability for the CEWH to spend money on environmental solutions other than water is entirely reasonable and likely to achieve better outcomes than flow alone.

Murray Irrigation is of the view the proposed amendments to S106 will allow the CEWH to ensure they can manage the Commonwealth water portfolio to better meet all of the objectives of the Act including Section 3(f).

"to ensure that the management of the Basin water resources takes into account the broader management of natural resources in the Murray-Darling Basin."

¹ Water Recovery Strategy for the Murray-Darling Basin, Department of the Environment, June 2014

1 Background

Murray Irrigation is pleased to provide this submission to the Senate Standing Committee on Rural and Regional Affairs and Transport and would be available to respond to any queries to discuss this submission if required.

1.1 Murray Irrigation

Murray Irrigation is an unlisted public company that provides irrigation water and associated services to approximately 1,200 family farm businesses over an area of 748,000ha through 3,000km of channels in the NSW southern Riverina.

Murray Irrigation is governed by a Board of Directors comprised of six shareholder directors and two non-shareholder directors.

Murray Irrigation's shareholders are farmers with food, fibre and livestock being the focus of regional production. Murray Irrigation's source of water is the regulated River Murray and the company's water supply is almost exclusively NSW Murray General Security water.

Murray Irrigation is a not-for-profit company and we do not pay dividends.

Murray Irrigation was privatised in 1995 and has since had over 27 percent of its original licence volume transferred to environmental accounts through Government water recovery programs.

1.2 Membership

Murray Irrigation is a member of both the NSW Irrigators' Council and the National Irrigators' Council. We work with these bodies to ensure the interests of irrigators are represented.

2 Act Review

Murray Irrigation made a submission to the Independent Panel review of the Water Act 2007 in 2014. Murray Irrigation made several recommendations for amendments to the Act that would provide further balance to the Act to ensure the outcomes of its implementation delivered on triple bottom line objectives.

2.1 Report of the Independent Panel

The Independent Panel undertook a comprehensive, transparent and independent review of the Water Act allowing for the views of a wide range of stakeholders to be considered. The Panel adopted a guiding principle to review the Act to look for ways it could be improved to support effective implementation, including implementation of the Basin Plan.

The Panel made 23 recommendations for amendments to the Act and conclusions to aid the interpretation or implementation of areas under the Act. For the most part, the recommendations proposed by the independent panel are non-controversial. Importantly:

“The Panel has not made recommendations that would represent structural changes to the Basin Plan settings in advance of outcomes being assessed over the medium to longer term.”²

This point is important to consider when assessing the amendments to the Water Act currently before Parliament through which the Government will deliver the reforms proposed by the Expert Panel.

2.2 Recommendations and Government Response

While noting that the majority of recommendations are non-controversial, Murray Irrigation would like to put on record that it is of the view that both the recommendations of the Independent Panel and the Government’s response do not go far enough to ensure the Water Act 2007 delivers triple bottom line outcomes.

While the Act pays lip service to delivering social and environmental outcomes³, it is only in so far as they give effect to relevant international agreements which are weighted towards maintaining an environmental status quo.

Murray Irrigation is of the view further changes could be made that would provide more balance to the Act while still achieving significant environmental outcomes.

Unfortunately the way the Act is framed, and its implementation to date has largely pitted the ‘Environment’ against ‘Agriculture’.

Murray Irrigation has been working with the CEWH and other departmental and Government officials in an effort to change the focus to view ‘Agriculture’ as part of the solution to enable effective environmental outcomes to be achieved with industry and community support.

² Report of the Independent Review of the Water Act 2007, Commonwealth of Australia, November 2014, p ix

³ Water Act 2007, Section 3(c).

3 Amendments to S106

3.1 Murray Irrigation original submission

Murray Irrigation made the following submission to the Water Act Review regarding S106 of the Water Act:

Trade of Commonwealth Environmental Water

The Water Act does not restrict how much water can be held by the Commonwealth Environmental Water Holder (CEWH), however, it does restrict how the CEWH may dispose of both entitlement and allocation under Section 106. In summary, S106 states that:

- 1. The CEWH cannot dispose of allocation or holdings unless they are not required to meet the objectives of an environmental water plan and cannot be carried over, however,*
- 2. The CEWH can dispose of allocation or holdings in a system with carryover provisions if the proceeds are used to acquire entitlement or allocation in another water area.*

The restriction that currently exists on Commonwealth environmental water trade has the potential to limit the efficient and effective management of Commonwealth environmental water holdings. This restriction prevents the CEWH from considering alternate means to achieve environmental outcomes, such as upgrading regulating structures to allow improved or higher flow delivery, installing fishways to promote fish passage or undertaking environmental works and measures to better manage environmental flows.

Amending Section 106 to allow the CEWH to use the proceeds from a sale of environmental water in any way it sees fit will not lead to lesser outcomes for the environment because the CEWH is obliged to function for the purpose of protecting or restoring environmental assets⁴ and must manage water holdings in accordance with the Plan⁵. These obligations ensure the CEWH could only use proceeds in a way that fulfils the fundamental objectives as per Part 6, Division 1 Section 105 of the Water Act.

Recommendation: *Remove Section 106(1)(b) of the Water Act and amend Section 106(2) to remove reference to water holdings acquired with the proceeds of a disposal.*

3.2 Independent Panel Recommendation

The Independent Expert Panel noted that there were a variety of views regarding S106 of the Act including some supporting removing the section altogether therefore removing any restrictions on the CEWH's participation in the Water Market. Other submissions recommended allowing the proceeds of trade to meet operational costs or to support other social and economic objectives in the Basin.

The Independent Panel considered all recommendations and considered that allowing the CEWH to use proceeds from trade for environmental purposes other than water purchases, subject to stringent safeguards and limitations, could maximise environmental outcomes.

This view is supported by both S3(f) of the Act and allows for the CEWH to operate beyond the "just add water" approach to deliver real and effective outcomes for the environment. Murray Irrigation has consistently advocated for an approach to environmental water management that considered more than flows alone including in our submissions to the House of Representatives Standing Committee on Agriculture, Fisheries and Forestry inquiry into future water supplies (2004), to the MDBA on the Guide to the Murray Darling Basin Plan (2010), the Senate Regional Affairs and Transport Committee Inquiry into the Management of the Murray-Darling Basin (2010), the House of Representatives Standing

⁴ Water Act 2007, Part 6, Division 1, Section 105(3)

⁵ Water Act 2007, Part 6, Division 1, Section 105(4)

Committee on Regional Australia inquiry into the Guide to the Murray-Darling Basin Plan (2010) and many more.

We note the independent Panel's view is consistent with this belief:

*"The Panel acknowledges that there could be benefits from the Commonwealth Environmental Water Holder providing additional funding for targeted activities to maximise environmental outcomes from environmental water use. For example, the installation of cold water curtains around reservoir outlets could provide greater benefits for native fish, potentially outweighing a small sale of allocations in one year to fund them. Furthermore, such activities by the Commonwealth Environmental Water Holder could support the object of the Act to ensure that the management of Basin water resources takes into account the broader management of natural resources in the Basin (section 3(f))."*⁶

4 Conclusion

Murray Irrigation would like to see the Amendments to the Water Act 2008 go further to deliver triple bottom line outcomes that sustain and promote productive agriculture and ecological resilience.

Murray Irrigation believes the amendments currently before the Parliament go some way to reducing the regulatory burden and protecting the rights of water holders, but more could be done.

Murray Irrigation believes the proposed changes to S106 will allow the CEWH to operate more effectively to deliver maximum environmental outcomes in the working river system. This is a view supported by an Independent Panel of Experts tasked with conducting a robust review of the Water Act.

Due to the stringent safeguards proposed to be applied to the CEWH and the fact that the CEWH is obliged to function for the purpose of protecting or restoring environmental assets, Murray Irrigation sees no risk to the environment, or the implementation of the Basin Plan if the amendments are supported.

Murray Irrigation encourages the Committee to endorse the amendments.

Michael Renehan
Chief Executive Officer

⁶ Report of the Independent Review of the Water Act 2007, Commonwealth of Australia, November 2014, p78