

# Dissenting Report by the Australian Greens

1.1 The level of haste with which this Bill has been treated has left no opportunity for public hearings. This is alarming.

1.2 The argument that this must be dealt with urgently is unjustified. While submitters such as the NSW Government may believe that urgency is required to allow for 'certainty', this certainty is not time-specific. Having a fixed period of public consultation does not in any way erode certainty. Indeed, by circumventing regular process in this way, there is no certainty in process anymore. Certainty is not the goal here. What is meant by certainty is speed. This is to the River's detriment.

1.3 This Bill is plainly designed to facilitate the immediate passage of the disallowed Northern Basin Instrument. This instrument was rightly disallowed. The message that this disallowance should have sent was that more work was necessary. Instead, this Bill seeks to bypass that work and simply force it through, all the same.

1.4 This Bill:

- overrides the requirements of the *Water Act 2007* that the Northern Basin Amendment be subject to public exhibition for a minimum of one month. The argument that this instrument has already been subjected to public exhibition ignores that the latest version is markedly different to the version placed on exhibition in late 2016, and that the facts on the ground are also different. For example, as outlined in Submission 10:

Some of these [differences] are significant, notably those set out in the newly inserted cl. 6.05(6) and cl. 7.14A, which provide for water recovered in one valley to count toward recovery requirements in another valley.

This is a clear violation of the requirement to base decisions on the best available science, as required by the *Water Act 2007*

- allows the Minister to direct the Murray Darling Basin Authority to prepare amendments to the Basin Plan. This violates the independence of the Murray Darling Basin Authority and interferes with its independent functioning. This has serious consequences for public confidence in the Authority and flow-on impacts on the public's trust in the Authority to offer independent advice

- flatly contradicts the Federal Government's proclaimed commitment to improving transparency and restoring public confidence. This commitment has failed at the first hurdle. This Bill allows for the disallowed instrument to be reconsidered without community consultation. This inquiry has been rushed to such an extent as to prevent public hearings. At every step, scrutiny has been avoided, not embraced.

1.5 As a result, the issues with the underlying Northern Basin Amendment remain unresolved.

1.6 There remains insufficient protection and consideration of the impacts on the Lower Darling catchment. As made clear in Submission 5:

The modelling conducted for the Northern Basin review is based on flows over the last 114 years. This requires the assumption that 'traditional' management of flows is applied. However, NSW and Queensland have altered management of flows... no modelling has been done which applies current management of flows.

1.7 Arguments made in some submissions are simply incorrect. Cotton Australia (Submission 8) mischaracterised the Northern Basin Review's conclusions that 'greater environmental outcomes could be achieved through the 320GL adjustment rather than the original 390GL.' This is inaccurate. One need not read beyond page 2 of the Northern Basin Review to learn that 'The Authority understands that by returning less water to the environment (as compared to the settings in the current Basin Plan), the ability to achieve the same environmental outcomes will be slightly reduced.'

1.8 This is the outcome that this Bill will achieve. It will take more from the environment at a time when the environment is critically stressed. There simply is not water to spare.

1.9 It is concerning that Cotton Australia, a key stakeholder in this area, does not support the total package of 'toolkit measures' the MDBA has advised require full support in order to recommend the Northern Basin Amendment.

1.10 Considering the influence that the cotton industry has on this debate, it is questionable if these toolkit measures will be employed. If they are not, then the environmental consequences are made more dire.

1.11 It is important to recognise that this Bill is being considered in the context of a South Australian Royal Commission into the Murray Darling Basin, which has raised serious and substantial questions over the legal construction of the Plan in general, and the Northern Basin Amendment in particular, as it relates to the *Water Act 2007*. As this Bill will allow for the reintroduction of the substance of the Northern Basin Amendment, it is premature to support this permanent change while there are questions over whether such a change is lawful.

1.12 Many of the submissions favouring the 70GL provision do so without reference to *how* the adjustment should occur, focusing instead on *whether* it should occur. The Australian Greens believe that the process matters, as does the outcome. The process currently being followed, which is opaque, and the recommendation itself as to how the adjustment should be linked to these 'toolkit measures', which have no statutory underpinning, is weak and likely to fail.

1.13 In summary, it is the view of the Australian Greens that passage of the bill be opposed.

1.14 The Australian Greens believe that the Senate should not consider the Bill any further until the Federal Government makes available its legal advice that what is being proposed with this Bill is compatible with the *Water Act 2007*.

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