



## **Submission to Senate Committee on Rural and Regional Affairs and Transport on the Water Amendment (Review of implementation and other measures) Bill 2015**

ACF and Environment Victoria welcome the opportunity to comment on this Bill with specific reference to Part 4, Trading by the Commonwealth Environmental Water Holder (CEWH).

It is essential that the CEWH is guided in all its activities by its functions as defined in s105 of the Act and insofar as the Murray-Darling Basin is concerned, by the 'Environmental Watering Plan' as defined in Chapter 8 of the Basin Plan. All decision making by the CEWH about the use and disposal of environmental water *must* be in accordance with the functions described in s105.

The proposed change to s106 will bring not bring any additional environmental benefit to the Murray-Darling Basin and is an unnecessary amendment to the Water Act. The existing s106 is fit for the purpose of ensuring environmental water is available at the time and location where it will produce greatest benefit, whilst enabling water that cannot be used to be sold into the consumptive pool. The provisions are working well and no evidence has been presented by either the government or the Independent Review of the Water Act to suggest otherwise. Indeed all uses of s106 to date have been widely welcomed by irrigation and environmental interests. Purported 'additional' benefits that may derive from the CEWH expending sales revenue on complementary initiatives cannot be proven. These important initiatives are currently the responsibility of other agencies and jurisdictions. The new s106 merely opens up the opportunity for governments responsible for these existing programs to cost-shift to the CEWH, at the expense of water that otherwise would have been delivered to the environment.

Nonetheless, given the primacy of s105, we are satisfied that the proposed new s106 poses minimal risk to the environment, if the following conditions are met:

- 'Reasonable belief' should be an objective test based on best available science and the circumstances at the time. The key test is that both the decision to dispose of environmental water and how to use the proceeds must comply with s 106.3.c so that it '**would improve the capacity of the Commonwealth environmental water holdings to be applied to meet the objectives of one or more of the following: (i) the environmental watering plan etc.**'
- Any disposal of water must not impact on the SDL in the catchment (as outlined in s.106.5)
- The ability to engage in other environmental activities allows the CEWH greater flexibility to perform its functions and achieve its objectives. However, any such activities must be in accordance with the environmental watering plan and must be demonstrated to improve the environmental outcomes of environmental watering conducted by the CEWH.
- Item 28 of the Bill amends the CEWH's annual reporting requirements. The CEWH will have to report on 'the purpose for which the proceeds of disposals of water or Commonwealth environmental water holdings have been used during the year.' The annual report should include details of how spending on environmental activities improved the CEWH's capacity to meet the objectives of the environmental watering plan.

Our organisations would welcome the opportunity to further engage with the Committee on this or any other Basin Plan related matter.

For further information please contact:

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