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Committee Secretary
Senate Environment and Communications Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Re: Inquiry into the Water Amendment (Purchase Limit Repeal) Bill 2019

The Board of MLDRIN appreciated the opportunity to provide the following comments and responses to the to Inquiry into the Water Amendment (Purchase Limit Repeal) Bill 2019

About MLDRIN

The Murray Lower Darling Rivers Indigenous Nations (MLDRIN) is the peak representative body of Sovereign First Nations in the lower Southern part of the Murray Darling Basin. The group currently includes Delegates from 24 Nations across Victoria, NSW and South Australia.

Our core work includes:

- Advising the Murray Darling Basin Authority (MDBA) on all matters relevant to Traditional Owners and Aboriginal people in the Southern Murray Darling Basin, in particular, the implementation of the Basin Plan
- Having an active role in Natural Resource Management and water planning
- Providing a forum for our member nations to keep informed, deliberate on issues and provide feedback and advice to decision makers across all levels of Government
- Advocating for our member Nations' rights and interests in land and water, specifically to progress the recognition of Aboriginal water rights and Cultural Flows
- Providing leadership and capacity building for our member nations

Response to the *Water Amendment (Purchase Limit Repeal) Bill 2019 (the Bill)*

MLDRIN strongly supports the Bill as a crucial step to ensure governments have the necessary means to achieve water recovery targets, progress the objectives of the Basin Plan and sustain communities and cultural values that are dependent on healthy, flowing rivers. Please excuse the brevity of this submission, which has been prepared to respond the restricted timeline of the Inquiry.

MLDRIN argued strongly against the *Water Amendment Bill 2015* and the imposition of an arbitrary cap on water recovery through purchase of entitlements from willing sellers. We provided a submission to the Inquiry into the Water Amendment Bill 2015 and provided evidence at a hearing of the Committee inquiring into that Bill.

Our key concerns regarding the 1500GL cap on water buy backs include:

- 1) The cap imposes a limitation on the Commonwealth that will significantly increase the cost of water recovery to meet SDLs, hence making implementation of the Basin Plan more expensive and more difficult.
- 2) The cap directly impacts on the Commonwealth's ability to meet the Objects of the Water Act 2007
- 3) By imposing a limitation on water purchase in the Water Act 2007, the cap could override the Commonwealth's obligations to achieve SDLs established in the Basin Plan.
- 4) Infrastructure investment and efficiency upgrades entail significant disturbance and impacts on Aboriginal cultural heritage and important cultural landscapes. Legislating to prioritise this approach to water recovery heightens the risk to cultural assets and undermines Traditional Owners' ability to care for their Country.

We support the Water Amendment (Purchase Limit Repeal) Bill 2019, and call for it to be passed as a matter of urgency, for the following reasons:

Our culture is dependent on healthy rivers

The health of the Basin's ecological assets is critically important to support the cultural continuity and sustainability of over 40 unique Aboriginal Nations. Indeed, our very right to practice and sustain our culture is underpinned by the maintenance and recovery of the environment of the Basin. The Australian government is bound to recognise and give effect to those rights and interests through its ratification of both the United Nations Declaration on the Rights of Indigenous People (UNDRIP) and Convention on Biological Diversity (CBD).

The 1500GL cap on water recovery through direct purchase is an arbitrary and politically motivated restriction, which undermines the Australian Government's ability to meet the objectives of the Basin Plan, therefore detrimentally impacts on the rights, interests and cultural obligations of our members.

Water recovery by direct purchase is the best value for money

Peer-reviewed studies and research by the Australian Government's Productivity Commission demonstrate that water recovery through direct purchase from willing sellers is significantly cheaper and provides more flexibility than other mechanisms.

In a 2010 publication, the Productivity Commission since 2010 pointed out that:

'Purchasing water from willing sellers (at appropriate prices) is a cost-effective way of meeting the Government's liability for policy induced changes in water availability. Subsidising infrastructure is rarely cost-effective in obtaining water for the environment, nor is it likely to be the best way of sustaining irrigation communities.'¹

By restricting water recovery through direct purchase, the 1500GL cap is likely to dramatically increase the cost to Australian taxpayers of achieving water recovery targets under the Basin Plan. Irrigation infrastructure upgrades (the Government's preferred alternative to buybacks) are significantly more expensive and also provide substantial private benefits to landholders.¹ The increased costs, and unnecessary transfer of public resources to benefit individual landholders and businesses, represents entrenched injustice in the water allocation and management framework.

Deficiencies in water offset projects make buy-backs an essential tool in Basin Plan implementation

Basin Governments have staked the achievement of Basin Plan targets on a series of contentious and in some cases poorly conceived 'supply measure' projects, designed to offset real water recovery.

Governments are relying on these projects to deliver equivalent environmental outcomes arising from recovery of 605GL of water. However, a succession of reports from Basin governments, independent scientific and economic studies, and submissions from Traditional Owner organisations and local communities have cast doubt on the viability of a number of these projects. For example, the business case for the proposed Menindee Lakes Water Saving Project, intended to offset 72GL of water recovery, has received scathing assessments due to the lack of detail, poor public consultation and dramatic environmental risks.²

If these projects do not deliver the anticipated environmental outcomes (as is very likely), Governments will be required to recover water to address the shortfall. A

¹ Productivity Commission (2010) *Market Mechanisms for Recovering water in the Murray-Darling Basin* Key points pxxii

² <https://www.abc.net.au/news/2018-11-02/menindee-lakes-water-plan-fails-to-impress-locals/10456930>

<http://www.sunraysiaadaily.com.au/story/5472482/dont-ruin-the-menindee-lakes-ex-water-authority-director-speaks-out/>

reconciliation process will require Basin governments to ‘make good’ on the recovery target through other means. Removing the arbitrary 1500GL cap on direct purchase is an essential enabling step to ensure governments are empowered to perform this critical function of the Basin Plan. Failure to remove the cap could see taxpayers burdened with a hugely increased bill for Basin Plan implementation.

Our rivers are facing an ecological and cultural crisis

Recent mass fish deaths on the Darling River evidence the severity of risks to the health of our waterways, water dependent ecology and cultural values and uses arising from overallocation of our rivers. We need effective mechanisms to be able to address overallocation and sustain the Aboriginal and non-Aboriginal communities who rely on them. Purchase of water entitlements by willing sellers is a fair, cost-effective and timely way to address severe risks and impacts on our waterways. Governments must have all the tools at their disposal.

The imposition of the 1500GL cap through the Water Amendment Act 2015 was an arbitrary restriction motivated by political purposes, not sound public policy, scientific or economic decision-making. MLDRIN argues strongly in favour of the Water Amendment (Purchase Limit Repeal) Bill 2019 and the immediate repeal of the 1500GL buy-back cap.
