



Murray Irrigation

**To:
The Senate Standing
Committee on
Environment and
Communications**

Inquiry into the Water Amendment (Long
Term Average Sustainable Diversion
Limit Adjustment) Bill 2012.

October 2012

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Executive summary

Murray Irrigation welcomes the reference of the Water Amendment (Long Term Average Sustainable Diversion Limit Adjustment) Bill 2012 (the Bill) to the Senate Standing Committee on Environment and Communications.

We understand that the Bill is not the proposed Sustainable Diversion Limit (SDL) Adjustment Mechanism in itself, as that is to be included in the Murray-Darling Basin Plan, but provides a means to implement the outcomes of the mechanism.

We believe the Committee is in a position to ask the questions that must be answered prior to the passage of this Bill through Parliament. It is imperative that the Committee request to see the detail of the adjustment mechanism to ensure there are provisions for adequate consultation and consideration of community, industry, State and other stakeholders' concerns before an adjustment to the SDL is implemented.

Without seeing the detail of the adjustment mechanism, no one can be assured that the expected consultation and nil negative effect provisions expected in the Basin Plan will in fact be there.

Murray Irrigation supports a robust adjustment mechanism that is delivered in consultation with the States and stakeholders that results in no negative social or economic impacts for communities. We do not support a process to adjust SDLs that allows the MDBA to be judge, jury and executioner.

Submission

Background

Murray Irrigation Limited is an unlisted public company that provides irrigation water and associated services to almost 2,400 landholdings over an area of 748,000 ha in the NSW southern Riverina. 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's shareholder customers are farmers with food and livestock being the focus of regional production for both domestic and international markets. With a regional population of over 30,000, irrigated agriculture is the foundation of the social and economic wellbeing of our communities, towns and businesses.

Murray Irrigation is a member of both the National Irrigators' Council and New South Wales Irrigators' Council.

Introduction

Murray Irrigation welcomes the reference of the Water Amendment (Long Term Average Sustainable Diversion Limit Adjustment) Bill 2012 (the Bill) to the Senate Standing Committee on Environment and Communications.

We thank the Committee for calling for submissions, providing stakeholders an opportunity to outline concerns with the Bill as it is currently drafted. Murray Irrigation does not believe the Bill can be supported in the absence of crucial information that is to be contained in the Murray-Darling Basin Plan (the Plan) which is yet to be finalised.

This amendment is not the proposed Sustainable Diversion Limit (SDL) adjustment mechanism, the principle of which Murray Irrigation supports, as that is to form part of the Murray Darling Basin Plan. The Bill is designed to provide a means to implement the outcomes of the mechanism, the details of which are currently unknown to all but the Murray-Darling Basin Authority (MDBA) itself.

Murray Irrigation appreciates the opportunity to provide comment on specific areas of concern.

MDBA Control

In the absence of understanding what arrangements are in place for the adjustment mechanism, Murray Irrigation is concerned by the transfer of power in amending SDLs from the Minister, allowing for Parliamentary oversight¹, to the MDBA.

The MDBA owns the modelling that forms the basis of identifying SDLs throughout the Basin. It is expected that this modelling will become the benchmark model run for the SDL adjustment mechanism, which is to be administered by the MDBA.

If the Bill is to pass, the MDBA effectively becomes the judge, jury and executioner of changes to the SDLs. Murray Irrigation believes it is inappropriate for the MDBA to have sole responsibility for determining and then implementing adjustments.

¹ *Water Act 2007 (Cth), Part 2, Division 1, Subdivision F, Section 48.*

Submission

The Bill specifically removes the requirement for the MDBA to conduct any form of consultation in the proposal of an SDL adjustment outside of “considering advice from the Basin Officials Committee”² by removing the need to comply with Subdivision F³ of the *Water Act 2007* (Cth) (the Act).

Murray Irrigation does not believe the Bill is required to enable an SDL adjustment mechanism as part of the Basin Plan. Subdivision F of the Act allows for amendment to the Basin Plan, including the SDLs, and requires formal consultation, is subject to review of the Minister and to disallowance of the Parliament. While we acknowledge the Bill may make it easier to implement the outcomes of an adjustment mechanism, without being aware of the detail of the process, Murray Irrigation believes the safeguards contained in Subdivision F should remain in place.

Limit on adjustment

Murray Irrigation is concerned that the Bill does not segregate SDLs between groundwater and surface water⁴.

In all of the MDBA’s documents and modelling released to date, the Authority clearly separates surface and groundwater sources. In all of the draft Basin Plans released to date, initially in November 2011, then altered in May and amended again in August 2012, there are separate water resource plan areas for surface and groundwater⁵, separate SDL resource units⁶ and separate schedules relating to groundwater⁷ and surface⁸ water SDLs.

The Bill as drafted allows adjustment of no more than five percent of the total Basin adjustment. This poses a significant risk for the separate water resources whereby an adjustment of more than five percent may occur within one water resource, as long as the combined total of adjustment between both groundwater and surface water is not more than five percent.

Further, the MDBA separates the surface water resource in the Basin into two zones, the northern and southern Basin zones⁹. These zones have been separated to acknowledge the fact that the northern system contributes relatively little to end-of-system Murray flows and therefore recovery from those rivers is identified to meet local environmental needs and those of the Barwon-Darling system as far as Menindee Lakes. Again, without separating these systems (Table 1), there is a risk that one zone is adjusted over five percent because the total does not contravene the five percent total Basin adjustment allowance in this Bill. For example the southern Basin Zone could be adjusted by 544GL which is eight percent of the zone total, but this would not contravene the Bill because it is within five percent of the Basin total (for surface water).

Table 1: Total surface water Basin Zone SDLs calculated from Schedule 2, proposed Basin Plan, August 2012

Basin Zone	Zone total SDL (GL)	Five Percent (GL)
Southern Basin Zone	6,729	336
Northern Basin Zone	3,468	173
Disconnected Tributaries	676	34
TOTAL	10,873	544

² *Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012, September 2012, Section 23A(3)*

³ *Water Act 2007 (Cth), Part 2, Division 1, Subdivision F, Section 48.*

⁴ *Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012, September 2012, Section 23A(4)*

⁵ *Proposed Basin Plan, August 2012, Chapter 3, Part 2.*

⁶ *Proposed Basin Plan, August 2012, Chapter 6, Part 2.*

⁷ *Proposed Basin Plan, August 2012, Schedule 4.*

⁸ *Proposed Basin Plan, August 2012, Schedule 2.*

⁹ *Proposed Basin Plan, August 2012, Chapter 6, section 6.05*

Submission

Murray Irrigation believes any adjustment, whether implemented through processes allowed by this Bill or through an as yet unseen adjustment mechanism contained in the Basin Plan must be limited to plus or minus five percent of the groundwater or surface water and, in the case of surface water, the northern and southern Basin Zone.

Explanatory Memorandum

The explanatory memorandum (EM) provides context to the (alleged) need for the Bill.

The EM “envisages” that the SDL adjustment mechanism must operate on a “no-detriment basis”¹⁰. It also says that it is “expected” that SDL adjustment mechanism criteria in the Basin Plan will include stakeholder consultation¹¹. Both are sentiments we support, but the EM on its own provides no protection or certainty for stakeholders that this will actually occur.

At this point in time there are varying opinions as to the social and economic impacts of the Basin Plan and there is no agreed baseline social and economic scenario to measure impacts against. Murray Irrigation is concerned that the “no-detriment basis” cannot be accurately assessed. The fact that the MDBA would be the arbiters of the “no-detriment” test under this Bill is also of significant concern given the widespread criticism of the social and economic analysis undertaken by the MDBA in preparation of the various Basin Plans.

The EM rightly says that there is widespread support for an SDL adjustment mechanism; however, in the absence of the detail about how it will be implemented, the Bill as currently drafted merely allows the MDBA to rubber stamp an adjustment of the SDL by “an amount determined by the Authority”¹², Murray Irrigation is not able to support the Bill in the absence of the detail of the adjustment mechanism in the Basin Plan.

The EM and the Bill requires the MDBA not to propose an adjustment without “seeking and considering” advice from the Basin Officials Committee (BOC); however, this subjective wording is not adequate to ensure that the MDBA responds appropriately to advice and comment from the BOC. Murray Irrigation would support the BOC having a role in determining the SDL adjustments to ensure jurisdictional considerations are incorporated into the outcomes.

Ministerial Oversight

It is Murray Irrigation’s understanding, based on the last available version of the proposed Basin Plan¹³ that the adjustment mechanism can result in adjustment to the SDLs upwards or downwards. Where the SDL would be adjusted downwards (ie. a larger water recovery target), there may be budget implications resulting from the adjustment, given current bipartisan policy for the Government to “bridge the gap”. Murray Irrigation believes 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.

¹⁰ Explanatory Memorandum, Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012, Para 6.

¹¹ Explanatory Memorandum, Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012, Para 13

¹² Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012, Section 23A (1)(a)

¹³ Proposed Murray-Darling

Submission

Conclusion

Murray Irrigation supports the inclusion of a robust, fair and transparent adjustment mechanism in the Basin Plan that is underpinned by state and stakeholder consultation; however, in the absence of the detail of such a mechanism, we cannot support the MDBA being given ultimate responsibility to determine changes to SDLs without Parliamentary oversight.

Murray Irrigation reserves the right to support an amendment such as that proposed if the detail contained in the Basin Plan itself meets the above criteria which relegates the MDBA's role in SDL adjustment as administrative only.

Therefore, we encourage the Committee to request of the Minister and the MDBA the text of the proposed adjustment mechanism to be included in the Basin Plan before making a recommendation on how to deal with the Bill. This would enable stakeholders to evaluate how SDL adjustments are determined and what level of consultation and accountability it contains. This would provide the full context for the proposed adjustment mechanism, rather than the half picture we have at the moment.

Anthony Couroupis
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