Australian Government

MURRAY–DARLING BASIN AUTHORITY

Office of the Chief Executive

TRIM Ref: D12/44707

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

Email: ec.sen@aph.gov.au

Dear Ms Dunstone

I refer to your invitation of 17 October to provide a submission to the Senate Environment and Communications Legislation Committee inquiry into provisions of the *Water Amendment (Long Term Average Sustainable Diversion Limit Adjustment) Bill 2012.*

The proposed amendment facilitates and improves the transparency of the mechanism in the proposed Basin Plan for adjusting the sustainable diversion limit in response to new works or efficiency measures. The end result of the operation of the proposed adjustment mechanism is to improve the effectiveness of the management of the river system and thus deliver better outcomes for the environment, and for industries and communities dependent on the river. I am pleased to provide the attached submission to the Committee.

Yours sincerely

Rhondda Dickson
Chief Executive

26 / 10 /2012

GPO Box 1801 Canberra ACT 2601 Telephone 02 6279 0470 Facsimile 02 6279 0133
Rhondda.Dickson@mdba.gov.au
www.mdba.gov.au

Australian Government

MURRAY–DARLING BASIN AUTHORITY

Submission on Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012

Introduction

The *Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012* (the Bill) amends the *Water Act 2007* and has been developed to provide certainty and transparency in the operation of a mechanism to adjust Sustainable Diversion Limits (SDLs) in the Basin Plan.

When drafted, the Water Act did not foresee the need to make adjustments to the SDLs in response to new works or measures that may alter the amount of water available or required to deliver on the objectives of the Basin Plan.

The proposed amendment will provide for a more responsive SDL adjustment process in a way that is transparent and accountable to the Parliament.

MDBA is aware of strong support from state governments and the community for an adjustment mechanism in the Basin Plan that allows SDLs to be adjusted in response to new works or efficiency measures.

Background

The Water Act requires that the Basin Plan released in November 2011 include an SDL for the water resources of the Murray-Darling Basin.

The proposed Basin Plan prescribed a long-term average volume of 2750 GL per year to be returned to surface water systems to achieve a healthy, working Basin. This volume is based on the Environmentally Sustainable Level of Take (ESLT) and is reflected in the SDL for the Basin as a whole (10,873 GL) and in SDLs for individual surface water resource areas.

MDBA originally included in the proposed Basin Plan a provision to review SDLs in 2015 prior to them becoming enforceable in 2019. The review would have enabled a detailed assessment of works and measures, constraints and other factors that could change the Basin Plan. Any changes from such a review would have required the Basin Plan to be amended by Parliament, following the process as prescribed in the Water Act.

During public consultation on the proposed Basin Plan, MDBA received comments supporting an examination of the potential for a well articulated SDL adjustment mechanism to be included in the Basin Plan rather than using the extensive review and amendment process.

In comments on the May 2012 version of the proposed Basin Plan provided to the Murray-Darling Basin Ministerial Council following the public comment period,

GPO Box 1801 Canberra ACT 2601 Telephone: 02 6279 0100 Facsimile: 02 6248 8053
Email: inquiries@mdba.gov.au Web: www.mdba.gov.au ABN 13679821382

Basin Ministers requested MDBA consider including a mechanism that would allow adjustments to be made to the SDL that did not require the Plan to be reconsidered by Parliament.

In their July 2012 *Report into certain matters relating to the proposed Murray-Darling Basin Plan*, the House of Representatives Standing Committee on Regional Australia recommended that the Commonwealth Government develop a mechanism to adjust sustainable diversion limits automatically in response to efficiencies gained by environmental works and measures.

The current Bill proposes amending the *Water Act 2007* to allow the long-term average sustainable diversion limit set by the Basin Plan to be adjusted within defined limits without invoking the formal Basin Plan amendment process.

Key concepts of the SDL adjustment mechanism for Surface Water
Basin Ministers requested that the SDL adjustment mechanism take into account potential projects that could:

I. use less water to achieve the same environmental outcomes; or

II. improve the environmental outcomes without worsening the social and economic impacts; and

III. operate within the range of 2400 GL to 3200 GL, and potentially further.

Consistent with the above, the SDL adjustment mechanism developed by MDBA in consultation with Basin States allows SDLs to be adjusted in response to initiatives which achieve either: better environmental outcomes, or better social and economic outcomes, relative to those considered in setting the Basin SDLs.

There are two different types of projects that may be considered for adjusting SDLs; supply measures and efficiency measures.

Supply measures are any works, measures, river operations or rules changes which find ways to use less water to obtain the same environmental outcomes. Water savings identified through these types of projects will be made available for consumptive use, which means the 2750 GL/y recovery volume can be reduced (SDL increased). The combined effect of these types of proposals will need to achieve equivalent environmental outcomes to those achieved under the 2750 GL/y SDL reduction proposed in the Plan.

Efficiency measures are initiatives that recover and provide more water to the environment in ways that will not lead to an increase in negative social and economic impacts. These types of initiatives will need to have no social or economic detriment and could include, for example, improving the efficiency of on-farm irrigation or piping delivery channels in irrigation areas. Savings identified as a result of these initiatives will be delivered to the environment, which means that the 2750 GL/y recovery volume to improve environmental outcomes will increase (SDL decrease) without having any negative impact on production.

It is important to clarify that the Authority has assumed in developing the Basin Plan that some 600 GL of water would be recovered through existing planned investments in efficiency improvements by the Commonwealth. Any proposed efficiency measures would need to additional to this investment.

In the current draft of the Basin Plan, the net effect of any proposed SDL adjustments cannot exceed plus or minus 5 per cent of the proposed surface water SDL for the Basin of 10,873 GL/Year, which equates to approximately 540 GL. However, because the 5 per cent is a net figure, the mechanism can provide up to 650 GL of offsets as sought by the Victorian and New South Wales governments from supply measures provided there is a sufficient increase in the SDL reduction amount resulting from efficiency measures.

Developing and assessing potential adjustment measures

Consistent with the SDL adjustment mechanism included in the altered draft Basin Plan (August 2012) it is proposed that Commonwealth, state and territory governments will progressively develop supply and efficiency measures to 'feed into' the adjustment mechanism. Based on the suggestions received from the Minister on this draft of the Plan on 13 September 2012, the mechanism is to operate in 2016 and thus projects are expected to be developed up to this time.

Each project's feasibility, costs and potential SDL effects would be determined by governments through a rigorous assessment process. MDBA's role in this assessment process will be to provide technical support in assessing the potential SDL adjustment associated with particular projects.

It is proposed that based on consensus decisions of Commonwealth, state and territory governments (not MDBA) a list of confirmed projects will be agreed to before the SDL adjustment mechanism is applied.

SDL Adjustment Mechanism

Projects agreed to by jurisdictions will be assessed by the MDBA as a package in 2016. The detailed process for developing and assessing projects is still under discussion between governments. It is currently envisaged that a collective assessment of supply measure projects will be undertaken to enable the inter-related outcomes from a suite of projects to be taken into account when determining the overall SDL adjustment.

Beyond 2016, approved projects will be progressively implemented. It is envisaged that progress will be regularly reviewed with completed works subjected to a final audit. Based on these assessments of progress, the SDL adjustment amounts determined in 2016 may be amended in 2019 with further reconciliation of outstanding supply and efficiency measures over the following few years.

The timeframes for operating the SDL adjustment mechanism will enable Water Resource Plans to commence operation in 2019, as required by the Basin Plan. The Bill also contains a provision that requires all Water Resource Plans to account for SDL adjustments that result from the operation of the mechanism.

Interaction with the constraints management strategy
The Ministerial Council has also requested MDBA to prepare a constraints management strategy to be completed within 12 months of the Basin Plan being made. The strategy will identify constraints that affect water delivery, look at options and opportunities to relax or remove constraints, and assess how removing constraints will affect water delivery and third parties.

The strategy will be prepared in consultation with Basin States and the public, and will clearly set out the scope of the work and the respective roles and responsibilities of all stakeholders.

It will be important for the constraints management strategy and the operation of the SDL adjustment mechanism to be managed in an integrated manner. Together, these mechanisms will ensure that the objectives of the Basin Plan can be delivered in a way that responds to proven new works and efficiency measures, thereby maximizing benefits for the environment and limiting social and economic impacts.

Groundwater adjustment
The Bill also provides for an SDL adjustment mechanism to apply to groundwater SDLs. Should the Bill be enacted, a groundwater SDL adjustment mechanism could be included in the Basin Plan should the Minister suggest such a mechanism in any further comments he chooses to make on the altered draft Basin Plan.

The MDBA supports the inclusion of a groundwater SDL adjustment mechanism in the Basin Plan.