



Submission to the Water Amendment Bill 2018

My name is Melissa Gray from Dubbo NSW, I am a Healthy Rivers Ambassador for the Macquarie and Castlereagh Rivers and their tributaries.

I am writing this submission to strongly oppose the Water Amendment Bill 2018 (the Bill).

The Bill allows an amendment to the Basin Plan that has been disallowed to be re-tabled and subsequently reconsidered by Parliament. The Legislative Instruments Act 2003 (Cth) already allows a legislative instrument that has been disallowed to be re-tabled in Parliament. It is therefore necessary to analyse why the Bill is being used to facilitate reconsideration of the Northern Basin Instrument (NB Instrument).

- The Bill is being tabled so as to circumvent the community consultation provisions provided for in the Water Act. That is, the Bill will overcome the need to place the NB Instrument on public exhibition for a minimum of one month. This is particularly problematic as the version of the NB Instrument that was placed on public exhibition in late 2016 is different to the current version.

The impacts of the NB Instrument would be felt acutely in the Macquarie Valley. As it is the valley is over-allocated, we don't have enough water in the public account to keep our Ramsar listed Macquarie Marshes as healthy and resilient as we have a legal obligation to do so under the Water Act and other International Agreements.

Public support for the Macquarie Marshes and the Rivers in our Valley is strong in the Dubbo region, many people fought hard in the lead up to the Northern Basin disallowance vote, and consider the disallowance in February to have been a win for our communities, Aboriginal Cultures, recreational fishing industry, birdwatchers, graziers and small irrigators.

- The Bill includes transitional provisions that state that a request that has already been made by a Basin State under cl. 6.05 to reallocate water recovery from one valley to another is to be expressed as having been made in 'anticipation' of this new clause. In other words, a request that has already been made – despite the fact that the NB Instrument was disallowed and therefore could not have authorised such a request – will be retrospectively validated. Reallocating water between valleys in the same zone is very likely to disadvantage certain landholders. Reallocating water savings associated with the adjustment mechanism is unlikely to result in sustainable diversion limits that reflect an environmentally sustainable level of take; it is also unlikely to be based on best available scientific knowledge, as required by the Water Act.

- The Bill provides for the Minister to direct the MDBA to prepare an amendment to the Basin Plan that is 'the same in effect' as an earlier amendment that has been disallowed. It further states that that such a direction is a non-disallowable instrument. This differs considerably from the provisions in the Water Act that would otherwise apply to a proposal to amend the Basin Plan. Specifically, under the relevant provisions in the Basin Plan, it is the MDBA – not the Minister – that decides that it will prepare an amendment to the Plan. This is in keeping with its status as an independent statutory authority. By authorising the Minister to direct the MDBA by way of a non-disallowable instrument (i.e., no Parliamentary oversight) to prepare an amendment to the Basin Plan, the independence of the MDBA is significantly compromised.

In summary, the Bill appears to be a way of rushing through the Northern Basin Amendments to avoid the very justified public scrutiny that would and should accompany the re-tabling of the Instrument.

Yours Sincerely,

Melissa Gray

Healthy Rivers Ambassador

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24th May 2018.