

INQUIRY INTO THE WATER AMENDMENT (REVIEW IMPLEMENTATION AND OTHER MEASURES) BILL 2015

Submission by the Department of Agriculture and Water Resources

Water Amendment (Review Implementation and Other Measures) Bill 2015

The Department of Agriculture and Water Resources welcomes the opportunity to make a submission to the Rural and Regional Affairs and Transport Legislation Committee's inquiry into the provisions of the Water Amendment (Review Implementation and Other Measures) Bill 2015 ('the Bill').

The Bill implements the Australian Government's response to the independent review of the *Water Act 2007* (the Act). This included accepting in full Recommendation 15, which recommended amending section 106(2) of the Act to "allow trade revenue to be used for other environmental activities in addition to water acquisitions to maximise environmental outcomes from the use of Commonwealth environmental water". As the independent review recommended, the Bill limits the new provision to revenue from the sale of water allocations (as opposed to proceeds of trade in permanent water entitlements); includes provisions to ensure that such trade does not adversely affect the implementation of long-term sustainable diversion limits in the long-term; and ensures that trade revenue will not be used to fund the operational expenses of the Commonwealth Environmental Water Holder, including the payment of water charges.

The Selection of Bills Committee referred the Bill to the Senate Standing Committee on Rural and Regional Affairs and Transport, with the principal issues for consideration being the changes being made to section 106, including that there is no definition on how projects would be defined as an environmental activity and on what basis a decision would be made as to whether a project adheres to that classification.

The Department notes that Part 6 of the Act, pertaining to the Commonwealth Environmental Water Holder, is the responsibility of the Minister for the Environment, the Hon. Greg Hunt MP.

The Commonwealth Environmental Water Holder is required to make decisions subject to the constraints set out within the Act and the environmental watering plan in Chapter 8 of the Basin Plan 2012. This means that investments in environmental activities must be consistent with the broader functions of the CEWH, principal of which is the requirement that the holdings that relate to water in the Murray-Darling Basin must be managed (including disposal) in accordance with the Basin Plan's environmental watering plan and consistent with the Basin-wide environmental watering strategy. (Note: the Commonwealth Environmental Water Holder does not have any water holdings outside the Murray-Darling Basin.)

Section 107 also provides that the Commonwealth Environmental Water Holder is not subject to direction either by the Secretary of the Department (of the Environment) or the Minister, in certain matters, particularly around purchase, disposal and dealings in water and water access rights, water delivery rights or irrigation rights. Thus, the Commonwealth Environmental Water Holder's decisions to trade are taken independently.

The Bill sets out that the Commonwealth Environmental Water Holder must reasonably consider, at the time of the disposal of any allocations, that using the proceeds for an environmental activity "...would improve the capacity of the Commonwealth environmental water holdings to be applied to meet the objectives of...the environmental watering plan". This makes it clear that any environmental activities that were funded by the Commonwealth Environmental Water Holder need to be directly linked to, and improve the capacity to make use of, Commonwealth environmental water in meeting the objectives of the environmental watering plan and Basin-wide environmental watering strategy.

Further, revenue from trade would go into the Environmental Water Holdings Special Account, and, in accordance with section 113 of the Act, could only be used for costs incurred in the performance of the Commonwealth Environmental Water Holder's functions. Funds in the Special Account cannot be used to meet salary costs. The amendments to section 106 under the Bill also include a new provision that trade proceeds that arise from the disposal of water allocations for environmental activities cannot be used to pay regulated water charges as set out under sub-section 91(1) of the Act. The reinforcement of reporting provisions proposed under amendments to section 114 of the Bill also provides ongoing assurance of transparency and accountability by the Commonwealth Environmental Water Holder of the trade and disposal of water and how funds are used.

The Department of Agriculture and Water Resources considers that including a specific definition of environmental activity would unnecessarily limit the activities the Commonwealth Environmental Water Holder can consider funding through the use of trade proceeds for environmental activities. The Department is confident that the broader objects and requirements with which the Commonwealth Environmental Water Holder must comply, coupled with the enhanced transparency provisions proposed in the Bill, ensure that any environmental activities funded by water trade proceeds will lead to improved environmental outcomes for the Murray-Darling Basin.