

**Senate Standing Committee on Environment and Communications
Legislation Committee**

Answers to questions on notice

Sustainability, Environment, Water, Population and Communities portfolio

Additional Estimates, February 2011

Program: Division or Agency: 4: MDBA **Question No:** 25

Broad Topic: Basin Plan approval process

Proof Hansard Page and Date 12 (22/2/11)
or Written Question:

Senator Birmingham asked:

Senator BIRMINGHAM—You would go to the ministerial council first and they would have their six weeks, which gets us into early 2012 already. Then you would go to the minister, who has his period of time in which he can insist on changes to the act—or to request or insist on changes to the Basin Plan.

Mr Freeman—That is correct. There is an iteration step in there as well. In the event that the ministerial council suggests certain changes, we are then required to go back to the ministerial council and advise what we have done with those suggested amendments. So there could be a further iteration at the ministerial council. But it is along the lines that you have described.

Senator BIRMINGHAM—How long does the ministerial council—the states—then get to comment on or respond to your decisions on amendments to the plan?

Mr Freeman—That is a further three weeks. It is initially six weeks and then, depending on the nature of the suggested changes, the authority considers those and refers them back. The council then has three weeks for further consideration.

Senator BIRMINGHAM—Obviously in your concurrent process of the minister's consideration and the ministerial council's consideration, even if the states were not to request any changes but the minister were to request a change, then I assume you would need to go back to the ministerial council and pursue that process?

Mr Freeman—Can I take that on notice? I do not believe that if there is a subsequent recommended change of direction by the minister that it then goes back to the ministerial council again. But I would like to check that under the Water Act.

Senator BIRMINGHAM—If you could clarify that, particularly given your decision to run them concurrently. ...

Answer:

There is no legislative requirement under the *Water Act 2007* for the Authority to provide the Basin Plan to the Ministerial Council for approval after the Authority has given consideration to suggestions or directions made by the Minister on the Basin Plan (s44(1)(b)(ii)). However, the Authority is required to undertake such consultations in relation to the suggestions as the Authority considers necessary or appropriate under paragraph 44(2)(b) of the Act.

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Program: Division or Agency: 4: MDBA **Question No:** 26

Broad Topic: Authority meetings with new chair

Proof Hansard Page and Date 14-15 (22/2/11)
or Written Question:

Senator Birmingham asked:

Senator BIRMINGHAM—Were minutes taken of the two meetings that have been held since Mr Knowles became chair?

Mr Freeman—Yes, they were.

Senator BIRMINGHAM—Would it be possible to have those tabled for the committee?

Mr Freeman—Can I take that on notice? I am not sure of the detail that is in those minutes and whether it is appropriate.

Senator BIRMINGHAM—Okay. You released some earlier minutes to me under FOI—albeit with some redactions, as is always the case. Will you be happy to release to this committee as much as possible of the minutes of those two meetings as soon as possible?

Mr Freeman—Yes. ...

...

Senator BIRMINGHAM—Were there any meetings of the authority between Mr Taylor's announcement of 7 December and the appointment of Mr Knowles?

Mr Freeman—Yes, there was a meeting in mid-January. There may have been a meeting in December as well.

Senator BIRMINGHAM—Were decisions consistent with the nature of the decisions which the authority is required to keep records of made at either of those meetings?

Mr Freeman—Yes, decisions were made at those meetings.

Senator BIRMINGHAM—Are you able to detail them?

Mr Freeman—I do not have the decisions with me. I could take that on notice.

Senator BIRMINGHAM—If you could provide details of those, it would be appreciated.

Answer:

Two meetings were conducted between 1 February 2011 when Mr Knowles became Chair and the Additional Estimates hearing on 22 February 2011. Minutes of these meetings less material disclosing matters in the nature of, or relating to, deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of the MDBA which has been omitted are at Attachments A and B.

There were two meetings (Meeting 26 - 7 December 2010 and Meeting 27 - 12 January 2011) between Mr Taylor's announcement of 7 December 2010 and the appointment of Mr Knowles. Minutes of these meetings less material disclosing matters in the nature of, or relating to, deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of the MDBA which has been omitted are at Attachments C and D.

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Attachment A – Authority decisions Meeting 28 – 1 February 2011 – Canberra

Agenda Item 2: Adoption of Draft Agenda

5. The Murray-Darling Basin Authority **adopted** the agenda for meeting 28.

Agenda Item 6: Chief Executive's Report

12. The Murray-Darling Basin Authority **agreed** to hold over this item until the next meeting, with the exception of the issue of Authority member attendance at the upcoming Basin Community Committee (BCC) meeting.
13. As other members were unavailable, the Murray-Darling Basin Authority **agreed** that either the Chief Executive or Barry Hart would attend BCC Meeting 14 on 8, 9 February 2011 in Griffith, and arrangements are to be made accordingly.

Agenda Item 9: Stakeholder Engagement

Agenda Item 9.1: Stakeholder Engagement Update

29. The Murray-Darling Basin Authority **agreed** to hold over this item until the next meeting, with the exception that the Authority **decided** to publicly release as soon as possible all submissions to the *Guide to the proposed Basin Plan* where authors had given permission for their public release.

Agenda Item 13: Next Meeting

34. The Murray-Darling Basin Authority **agreed** to hold a meeting on Monday 7 February 2011 in Melbourne to consider the held over agenda items and to allow the Chair to meet with Basin Community Committee Chair and members in transit to their meeting in Griffith.

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Attachment B – Authority decisions Meeting 28a – 7 February 2011 – Melbourne
Airport, Victoria

Agenda Item 2: Adoption of Draft Agenda

3. The Murray–Darling Basin Authority **adopted** the agenda for meeting 28a.

Agenda Item 8.2: Natural Resource Management

23. The Authority **agreed** that at future meetings it would only require a paper for noting, with no discussion to be held unless there was a topic of major importance that required specific consideration.

Agenda Item 14: Next Meeting

29. The Murray–Darling Basin Authority **confirmed** the next meeting to be held in Adelaide on 1 March 2011.

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Attachment C – Authority decisions Meeting 26 – 7 December 2010 – Canberra

Agenda Item 7.1: The Guide to the Basin Plan (GBP)

(d) Economic and Social Impact—Potential Submission to Parliamentary Inquiry

28. The Murray-Darling Basin Authority **noted** the two parliamentary inquiries into the Basin Plan and **agreed** to make a submission to both inquiries based on the material provided by consultants on social and economic impacts.
33. The Murray-Darling Basin Authority **agreed** to the draft letter from the Authority members to the Chair of the Committee on Regional Australia inquiry with the exception of the reference to the Goondiwindi proposal for an Irrigation Centre of Excellence (and attachment), which should be despatched separately.

(b) Timeline for Development of the PBP

39. Members **agreed** that they would provide the Committee with progress reports from the *Assessment of Local Community Impacts of Proposals for the Murray–Darling Basin Plan* where possible.

(c) Legal Advices on Social and Economic Factors

41. [H]aving considered all relevant matters, the Authority **decided** not to release any of the legal advices without the approval of the Attorney General's Department.

Agenda Item 7.4: Review of the Scientific & Environmental Impact Assessments for the PBP

62. The Murray-Darling Basin Authority **agreed** with the Chief Executive's recommendations that
- a) the Executive Director, Natural Resource Management, Ms Jody Swirepik, provide the Authority with independent advice on whether the environmental objectives, and therefore flow regimes, at each of the 108 hydrologic indicator sites are appropriate; and
 - b) the Executive Director, River Murray, Mr David Dreverman, provide the Authority with independent advice on whether the additional environmental water identified by region is practically able to be delivered at the end of these catchments in a way that supports the environmental objectives.

Agenda Item 7.5: Some Key Basin Plan Issues

63. The Murray-Darling Basin Authority **considered** the information provided by the Agency on the Coorong, Lower Lakes and Murray Mouth; the barrages; flooding issues; and the operation of surface-water SDLs. With the exception of the SDL paper, and subject to minor editorial changes, the Authority **agreed** to their publication as fact sheets.

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Agenda Item 8.3: Reviews of Commitments Made at Community Meeting Processes

74. The Murray-Darling Basin Authority **agreed** that the word 'included' be changed to 'considered' in the first subheading of Attachment A to Agenda Item 8.3.
75. The Murray-Darling Basin Authority **agreed** to the draft letter to the Minister (Attachment B) outlining the major issues for government.
76. The Murray-Darling Basin Authority **agreed** to the draft letter to BOC from the Authority outlining the major issues raised, during consultations, for state consideration (Attachment C), with ... amendments.
77. The Murray-Darling Basin Authority **agreed** to disaggregate the issues in bullet point 15 to Attachment 1 of Appendix B to Attachment B of Agenda Item 8.3 into a number of separate points.

Agenda Item 11: Other Business

Agenda Item 11.1 Correspondence from Australian Conservation Foundation and Environment Victoria

82. Members therefore **agreed** that the Authority would not respond to specific questions about changes to the Guide from any stakeholders, including ACF.
83. Members therefore agreed that just a general acknowledgement should be sent in reply by the Chief Executive to the ACF and Environment Victoria.

Agenda Item 12: Next Meeting

84. The Murray-Darling Basin Authority **noted** the proposed schedule of meetings for 2011 and **agreed**:
 - (a) to schedule a meeting for Wednesday 12 January 2011, while being mindful of what could be achieved by the Chief Executive and the Office by that date, given that the Christmas break would fall in the intervening period;
 - (b) to hold the meeting scheduled for 1 March 2011 in Adelaide;
 - (c) to reconsider holding the meeting currently scheduled for 3 May 2011 in the following week so as to coincide with Budget week so that members could more easily meet with members of the House of Representatives Committee on Regional Australia inquiry into the impact of the Murray–Darling Basin Plan; and
 - (d) to consider holding the meeting scheduled for 1 November 2011 on 3 November to align with the Ministerial Council meeting scheduled for 4 November.

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Attachment D – Authority decisions Meeting 27 – 12 January 2011 – Canberra

Agenda Item 4: Matters Arising from the Minutes, including Review of Action Items

11. Members **agreed** that the paper being prepared by David Dreverman on Lake Victoria be presented to them out of session.
12. Members **agreed** that item 10/11.5/1 should be brought forward and that revenue sources should be discussed at meeting 28 (1 February 2011).

Agenda Item 6: Chief Executive's Report

Corporate—FOI Requests

19. Members agreed that they did not each need to receive the material to be released, but that the schedule should be updated and emailed when a new request came in and that the detail of the progress of all requests should be provided in one folder at each meeting for members' perusal.

Social and Economic—Commonwealth Cross-Agency Meeting on Basin Plan Impacts

29. [M]embers **agreed** to the inclusion of a Regional Australia representative on the panel.

Basin Plan—Ministerial Council Meeting

31. Members **agreed** that this would be an important and critical input to future deliberations.

Agenda Item 7.2: Progress on Consultancy on Assessment of local community impacts of proposals for the Murray–Darling Basin Plan

40. Authority members **discussed** the purpose of the project and **agreed** that it should include points (i) and (iii) of the purpose as set out at paragraph 13 of the Agenda paper, which would then inform the essence of point (ii).
44. In view of the floods, Authority members and consultants **agreed** that interviews in those areas should be postponed until people were ready, and that people who had already been contacted should be informed of this decision, but invited to indicate if they did want to be actively involved in the interim.

Agenda Item 10: Basin Community Committee

Agenda Item 10.1: Basin Community Committee Update

67. Members **agreed** that the MDBA Secretariat should draw up a new roster for members' attendance at BCC meetings in 2011.

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Agenda Item 11 Governance

Agenda Item 11.1: Conflict of Interest

68. Members **noted** the decision of Meeting 22, 30 August 2010, relating to conflict of interest and **agreed** to provide updated declarations of conflicts of interest by 1 February 2011 to allow an early discussion with the new Chair.

Agenda Item 14: Next Meeting

83. The Murray-Darling Basin Authority **noted** the proposed schedule of meetings for 2011 and decisions made at meeting 26, agreed to the revised schedule of meetings for 2011, and **confirmed** the date for Authority meeting 28 (Canberra 1 February 2011).

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Program: Division or Agency: 4: MDBA **Question No:** 27

Broad Topic: Legal advice on the Water Act
2007 – decision by MDBA

Proof Hansard Page and Date 26-27 (22/2/11)
or Written Question:

Senator Birmingham asked:

Senator BIRMINGHAM—Let us just go quickly to who determined what there. The agency has received from me and other stakeholders various FOI requests for legal advice. Has the agency sought advice from the government or the minister about the release of that legal advice?

Mr Freeman—I would have to defer to the FOI decision maker in regard to the FOI request. The FOI decision maker, I understand, outlined the reasons for his decision in the letter. As you would be well aware, the FOI application could be appealed, in which case I could potentially be the decision maker. I have not exercised my mind in regard to revisiting any FOI application in this regard.

...

Senator BIRMINGHAM—Regardless of the FOI request, did Mr Taylor seek to release any legal advice that he had received?

Mr Freeman—The authority collectively determined that it did not want to release its legal advice. Mr Taylor was part of that decision making.

Senator BIRMINGHAM—So that was a decision of the authority?

Mr Freeman—That is correct.

Senator BIRMINGHAM—Did the authority seek the opinion of either the AGS or the minister in making that decision?

Mr Freeman—It certainly did not seek the advice of the minister. I would have to take on notice whether we saw the AGS. We did not do that in a formal way. However, there is an AGS outposted office in the authority office. I would have to find out whether there were informal discussions. But certainly we did not seek any advice from the minister in that regard.

Answer:

The Murray-Darling Basin Authority did not seek the opinion of the Australian Government Solicitor or the Minister for Sustainability, Environment, Water, Population and Communities in making its decision not to release the legal advice, however, it did seek the opinion of the Attorney-General's Department. While not a formal Authority communication, the former Chair wrote to the Minister on 6 December 2010 in relation to the release of legal advice, noting in particular a request from the House of Representatives Standing Committee on Regional Australia to provide the legal advice upon which it relied in respect of developing the Basin Plan.

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Program: Division or Agency: 4: MDBA **Question No:** 28
Broad Topic: Basin Plan – effect of recent
rainfall
Proof Hansard Page and Date 31 (22/2/11)
or Written Question:

Senator Xenophon asked:

Senator XENOPHON—Perhaps I will ask my supplementary as it might assist Dr MacLeod. Is there a sense that, because of this exceptional rainfall in recent months, and even this month, that buys some more time in terms of the consultation process for the plan? Has it bought some more time for the Basin Authority to perhaps step back, if only on a short-term basis, to rethink or to remodel the process of consultation and the implementation? I am not suggesting a delay as such, but has it bought a bit of time? Is the sense of urgency slightly different than what it was, say, 12 to 18 months ago?

Mr Freeman—I guess the fundamentals on which the Water Act was based, which was that we have an overallocated system here which is causing environmental harm, are still there. As CSIRO through the sustainable yields project identified, that is actually amplified when you go into drier years. We allocate in percentage terms more and more water with our current resource plans as you move into a drier sequence.

Regarding the current water resource plan, there is probably not a significant impact on the environment during these very wet years, so the environmental degradation to some extent is arrested during these very wet years. I think we have a fair legacy. Notwithstanding that we are getting these exceptional rains, there is still not exceptional runoff. It is significant runoff and it is causing flooding in various places in the Basin, but the correlation between rainfall and runoff has still not fully recovered. That is because we have a very dry landscape and a lot of this water is going into that landscape. I am sorry; I have just lost my train of thought.

Senator XENOPHON—Has this bought a little bit of time to step back and rethink the process and the initial consultation?

Mr Freeman—There are probably two answers to that. The fundamental problem is still there. To the extent that the fundamental problem is causing immediate environmental degradation, that has been arrested by recent rain. So there are two answers

Senator XENOPHON—For how long? Let us say that we just have average years of rainfall for the next couple of years.

Mr Freeman—I could not speculate. I could refer that. The best answer you would get from the authority officers present would be from Ms Swirepik, the Executive Director of Natural Resource Management.

Senator XENOPHON—Perhaps on notice that would be useful.

Mr Freeman—Yes, I could take that on notice.

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Answer:

The flows that occurred in 2010-11 have triggered a range of positive environmental responses, including the commencement of recolonisation of habitat by vegetation species. The extent to which these processes continue and the environment can recover from the recent drought will be dependent on rainfall and water sharing policy over the coming years. The underlying issue of overallocation remains and until this is rectified the environmental response from 2010-11 will be highly dependent on the occurrence of above average, wet years, which are not possible to forecast. The high flows that occurred during 2010-11 are therefore not, of themselves, considered to provide grounds for delaying or slowing the Basin Plan.

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Sustainability, Environment, Water, Population and Communities portfolio

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Program: Division or Agency: 4: MDBA **Question No:** 29
Broad Topic: Guidelines on the role of the
Chair
Proof Hansard Page and Date 8 (22/2/11)
or Written Question:

Senator Birmingham asked:

Senator BIRMINGHAM— ... Are there guidelines on the role and powers of the chair of the authority?

Mr Freeman—There are some outlined in the Water Act. I am not sure whether, when briefing the chair, we also provided some guidance in that regard in the briefing document. There is a briefing pack being prepared for the incoming chair. That includes certain advice, but I am just not sure whether that supplements the Water Act or not.

Senator BIRMINGHAM—Are you able to provide existing guidelines for the role of the chair to the committee?

Mr Freeman—To the extent those exist, I could provide them.

Senator BIRMINGHAM—If you could do so that would be appreciated. ...

Answer:

References to Roles and Powers of the Murray-Darling Basin Authority (MDBA) Chair:

Document: Guidelines provided in the Chair's Briefing pack

Chief Executive and Authority Member's Appointments:

As per Section 178 (2) & (3) of the *Water Act 2007* to be eligible for appointment as an Authority member, an individual must, at the time of appointment:

- (a) have a high level of expertise in one or more fields relevant to the Authority's functions; and
- (b) not be a member of the governing body of a relevant interest group.

Public Service Act 1999:

The Chair and other four members of the Authority are not part of the statutory agency for the purposes of the *Public Service Act 1999*.

Basin Officials Committee Functions and Powers:

As per Clause 25 of Schedule 1 to the *Water Act 2007*, the chair and the Chief Executive of the Authority may attend and participate in Basin Officials Committee meetings; however they are non-voting members.

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Protocol for the Disclosure and Management of Authority Members' conflict of interest:

The Authority Secretary is responsible to the chair for:

- administering this Protocol;
- keeping the disclosures made under it;
- maintaining the confidential Register of Authority Member's Interests; and
- reporting to meetings of the Authority in accordance with Clause (4)(d).

Procedure for Reporting Conflicts of Interest:

In the case of the Chair, the declaration will be provided to the Chief Executive through the Authority Secretary.

Procedure for Managing Conflicts of Interest:

Where an actual or potential conflict is disclosed, the chair may (on the advice of the conflicts advisor if necessary) propose a method for managing the conflict in accordance with the Act appropriate to the particular disclosure and, if approved by the authority (in the absence of the member making the disclosure), that method will apply.

The chair will be guided by the procedures set out below, which will apply unless the chair has proposed, and the authority has accepted, an alternative.

Obtaining Advice Regarding Conflicts of Interest:

Any Authority member having concerns regarding any issue of conflict of interest or duty should consult with the chair (or in the case of the Chair, the Chief Executive).

Role of Conflicts of Interest Advisor:

The role of the conflicts advisor is to provide independent and objective advice to the Chair and other Authority members in the event they have concerns regarding identification and notification of possible conflicts of interest or perceptions of conflict of interest or advice on how to deal with particular conflicts as they arise.

The conflicts advisor may be consulted by the chair or any Authority member at any time at the cost of the Authority.

The conflicts advisor will keep the subject matter discussed confidential and will not disclose it, except as required by the minister, by law or with the consent of the Authority member concerned. However, the conflicts advisor will inform the chair (or where the conflict involves the chair, the chief executive) that he or she has been consulted and by whom.

Document: MDBA Operating and Procedures Manual 2010

Meeting frequency:

The authority chair may convene a meeting at any time, but must convene a meeting within 30 days after a written request from the minister or two or more authority members and must hold at least nine meetings each financial year (*Water Act 2007*, ss.191(2)).

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Emergency meetings:

Should a particular matter arise that requires immediate consideration by the authority, the chief executive may request the chair to convene an emergency meeting of the authority.

Presiding at meetings:

The authority chair will preside at all meetings where they are present. However, if the chair is absent, Section 192 of the *Water Act 2007*, requires members to appoint one of themselves to preside at that meeting. The Secretariat will maintain a rolling schedule of members to preside as chair in these circumstances, and as soon as practicable, advise the relevant member.

Media:

Media matters will be handled by the chief executive and the chair in consultation with the communications branch of the agency.

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Program: Division or Agency: 4: MDBA

Question No: 30

Broad Topic: MDBA legal advice on the
Water Act 2007

Proof Hansard Page and Date Written
or Written Question:

Senator Birmingham asked:

1. I refer the MDBA to the legal advice received in relation to the Water Act released on 19 and 20 January 2011. Please detail who initiated each request and to whom the advice was initially provided. Has each piece of advice or a briefing on it been provided to the members of the Authority?
2. Has each piece of listed legal advice been provided to Mr Knowles? What other legal advice has been provided to Mr Knowles? Has Mr Knowles read all of this advice?
3. Has Mr Knowles received, or requested any new legal advice since his appointment in relation of the Water Act to balance the needs of the environment, communities and rural economies?

Answer:

1. On 20 January 2011 the MDBA provided a response to a request under the *Freedom of Information Act 1982* attaching a schedule which listed legal advice relating to the interpretation of the *Water Act 2007*, specifically in regard to how the Authority should weight or prioritise environmental, social and economic considerations in development of the Basin Plan. The legal advice listed in the schedule was initiated by the MDBA and each advice was provided to the MDBA and members of the authority.
2. Mr Knowles has been provided with each piece of legal advice listed in the schedule attached to the letter dated 20 January 2011. Mr Knowles has been provided with all formal legal advice held by the MDBA in relation to preparation of the Basin Plan.
3. Mr Knowles has not received, or requested any new legal advice in relation to balancing the needs of the environment, communities and rural economies under the *Water Act 2007* since his appointment.

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Program: Division or Agency: 4: MDBA

Question No: 31

Broad Topic: Legal advice on the Water Act
2007 received by MDBA

Proof Hansard Page and Date Written
or Written Question:

Senator Joyce asked:

1. How many pages of legal advice has the authority received from the Australian Government Solicitor?
2. On how many separate occasions has the Authority sought legal advice from the AGS?
3. Could the Authority please provide this legal advice to this Committee?

Answer:

1. The MDBA has received 539 pages of formal legal advice on the *Water Act 2007* from the Australian Government Solicitor (AGS) since the MDBA commenced operation on 8 September 2008.
2. The MDBA has engaged AGS to provide formal legal advice in relation to the *Water Act 2007* on 39 occasions.
3. The MDBA considers that its legal advice is subject to legal professional privilege and that disclosure of the advice may prejudice the Commonwealth's legal position.

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Program: Division or Agency: 4: MDBA **Question No:** 32

Broad Topic: Socio-economic analysis of the
Guide to the Proposed Basin
Plan

Proof Hansard Page and Date Written
or Written Question:

Senator Birmingham asked:

1. What socio-economic analysis of the Guide, or reduced water availability for irrigation more generally, has been commissioned since the release of the Guide?
2. What are the timelines for reporting of this analysis? Will the analysis be publicly released? If so, when?
3. How comprehensive will this analysis be?
4. Is this analysis only considering the impact of SDL's in the range of 3,000-4,000 GL, or reductions at other levels as well?

Answer:

1. Since the release of the Guide to the Proposed Basin Plan two social and economic studies have been commissioned:

Assessment of the Local Community Impacts of Proposals for the Murray-Darling Basin Plan

The study is being conducted by an independent consortium led by Dr Mark Fenton (from Ecological Behaviour Consultants). Other members of the consortium include the RM Consulting Group (RMCG), Marsden Jacob Associates, Econsearch, Tim Cummins and Associates and Geoff McLeod.

Lower Lakes Social Impact Case Study

This study was commissioned in response to the public feedback from Lower Lakes communities upon the release of the Guide to the Proposed Basin Plan in October 2010. The study commenced in December 2010 and is being conducted by Dr Jonathan Sobels from Ecolknowledge.

2. The *Assessment of the Local Community Impacts of Proposals for the Murray-Darling Basin Plan* was due to report to the Murray-Darling Basin Authority by 15 March 2011. However, because consultations have not been able to occur in some flood-affected areas, in particular Queensland but also delayed in parts of Victoria and New South Wales, the report will not be completed for some weeks.

A draft report of the *Lower Lakes Social Impact Case Study* was received on 3 March 2011 and is being reviewed by Murray-Darling Basin Authority officers.

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It is anticipated that the reports will be made public once appropriate clearance procedures have taken place.

3. For the *Assessment of the Local Community Impacts of Proposals for the Murray-Darling Basin Plan*, consultations were undertaken in 48 ‘social’ catchments across the 19 Murray-Darling Basin regions. These social catchments have been developed to better reflect the areas in which social and economic interactions occur at the local community level. Over 330 meetings have taken place in total, with between 1-6 participants per meeting. Meetings took place with:
- farmers from the full range of irrigation sectors;
 - businesses which directly service the agriculture sector (for example rice mills and fruit packers);
 - businesses which do not directly service the agriculture sector (for example real estate agents, small business owners); and
 - government and non-government community service providers (for example councils, rural financial counsellors and Centrelink).

The *Lower Lakes Social Impact Case Study* was focussed only on the communities of the River Murray delta, comprising the Lakes Alexandrina and Albert and the Coorong and Murray Mouth. Data was gathered from a series of meetings involving a total of approximately 100 people. The project draws out insights gained by the community from the experience of reduced access to River Murray water during the drought and provides an understanding of the community’s reaction to the Guide to the Proposed Basin Plan.

4. Both projects have considered the social and/or economic impacts of reduction in current diversion limits in the range of 3,000 to 4,000 gigalitres as proposed in the Guide to the Proposed Basin Plan.

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Program: Division or Agency: 4: MDBA

Question No: 33

Broad Topic: Guide to the Proposed Basin
Plan - Diversion limits

Proof Hansard Page and Date Written
or Written Question:

Senator Birmingham asked:

1. Please detail baseline data used to establish surface water diversion limits for South Australia. What was the rationale for choosing this surface water diversion limit?
2. Is the MDBA aware of complaints that the 665GL CDL applied by the MDBA does not account for interstate trade or Living Murray initiative water? Does the MDBA have a view on these complaints?
3. Was the MDBA aware when drafting the SDL for the Angus Bremer Groundwater area that in 1995 the South Australian Government reduced the Diversion Limit for the Angus Bremer from 27GL to 6.5GL? Was this considered when applying a further 40% cut to the Diversion Limit?

Answer:

1. The current conditions baseline diversions in South Australia correspond to the diversions under the Murray-Darling Basin Ministerial Council (MDBMC) Cap level updated for the water recovery under The Living Murray (TLM) initiative and permanent inter-state and intra-state trade. The principles and approach for determining baseline conditions was guided by Section 78(2) and Schedule 4 of the *Water Act 2007*. The principles and approach for determining baseline conditions were:
 - Where a transitional or interim water resource plan exists, baseline conditions reflect the current diversion limits established by the transitional or interim water resource plan.
 - Where a transitional or interim water resource plan does not exist, baseline conditions reflect the current diversion limits established by a plan or any other instrument made under a law of a state that relates to the particular water resource. This includes the state's implementation of the Cap on Diversions as described in Schedule E of the Murray-Darling Basin Agreement.
 - Where surface water models are available to model river systems, the baseline model will be the latest, readily available model that reflects as closely as possible, current water sharing rules, operating conditions, infrastructure, access entitlements and current diversion limits.

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- In modelled systems, baseline conditions include the 500 gegalitres (GL) recovered under TLM initiative, and the 70 GL recovered associated with investment for the Snowy River known as River Murray Increased Flows under the Joint Government Enterprise ('Water for Rivers'). The most up-to-date simulation of the states' preferred environmental use of this water was adopted.
- Baseline conditions do not include modelling water purchased by the Commonwealth as part of 'Water for the Future' to be used for environmental purposes. This program is on-going and it is not practical to continually update models for new purchases. However, the volume of water purchases in particular valleys will be available to offset any reductions.
- Permanent trades are included in baseline conditions up to the most recent date that can be incorporated into the model.
- Temporary trades are not incorporated, except where significant regular arrangements occur.

2. Yes.

The 665 GL/y CDL includes permanent interstate trade until June 2009 and TLM water recovery.

3. Yes. The most recent best available science was used to inform the proposal to reduce the Diversion Limit by 40 per cent.

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Program: Division or Agency: 4: MDBA

Question No: 34

Broad Topic: Guide to the Proposed Basin
Plan – Hydrological modelling

Proof Hansard Page and Date Written
or Written Question:

Senator Birmingham asked:

1. The MDBA has previously said that 20 per cent of water flows are not represented in hydrological models and that these flows would be accounted for by an additional analytical model. What is this additional analytical model?
2. Why could this 20 per cent of water flows not be represented in original hydrological modelling?
3. What allows this additional analytical model to represent these flows when the original hydrological modelling could not?

Answer:

1. The additional analytical model sets out flows and diversions under the conditions of without-development (i.e. conditions prior to significant human development), current diversion limits (i.e. the limits imposed on diversions under current arrangements) and proposed Sustainable Diversion Limits (SDLs) for all SDL areas in the Basin (see *Guide to the proposed Basin Plan* Volume 1 Appendix C pages 209 to 222). The various policy positions and constraints developed by MDBA were also included as rules in the model which was designed to inform water sharing considerations at the Basin and catchment (SDL area) scale.
2. The MDBA used the hydrologic modelling framework first developed by CSIRO in the Murray-Darling Basin Sustainable Yields project to undertake detailed Basin Plan modelling. The framework links together 24 river system models developed by states, MDBA and Snowy Hydro. These models have been developed over a number of years and together with the modelling framework is the best available linked hydrologic model of the Basin for developing SDLs. These models represent flows and use in the major rivers of the Basin and do not explicitly represent interception of runoff by farm dams and plantation forestry before it reaches the major rivers.

In addition, in some valleys some unregulated diversions occur outside of the modelled area. The quality and quantity of data for these diversions is limited and is of poor quality. Therefore inclusion of these diversions in the models will reduce the accuracy of the river systems models.

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Also, a few SDL areas in the Basin where water use is relatively low were not represented in the hydrologic modelling framework (e.g. Ovens, Paroo, SA Non-Prescribed Areas). This was either because a river system model had not been developed for the area or the analytical model was sufficient to determine any reductions in use that were required.

3. The analytical model ensures that interception activities and other non-modelled use are included in the total water balance for the Basin.

In the analytical model, the volume of water used by interception activities has been added to the modelled inflow and diversions estimates to provide a more complete picture of inflows and diversions in the Basin.

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Program: Division or Agency: 4: MDBA

Question No: 35

Broad Topic: Employment of particular individuals

**Proof Hansard Page and Date
or Written Question:** Written

Senator Joyce asked:

1. Has the Authority or the Chair of the Authority taken any steps to employ or make approaches to the following individuals:
 - Jennifer Westacott
 - Lindsay Nielsen
 - Peter Sutherland
 - Brendan Rynne
 - Peter Cosier
 - Karlene Maywald
 - Noel Peters
2. If so, what role does the Authority believe these individuals will take?

Answer:

1. The Authority has engaged the services of Jennifer Westacott, Lindsay Nielsen, Brendan Rynne and Peter Sutherland. Peter Cosier and Karlene Maywald have been appointed as members of the Proposed Basin Plan Testing Committee, a committee established under the *Water Act 2007*.

Noel Peters has not been approached by the Authority. Mal Peters, a former Director of the National Farmers Federation has been appointed as a member of the Proposed Basin Plan Testing Committee.

2. Jennifer Westacott, Lindsay Nielsen, Brendan Rynne and Peter Sutherland have been engaged to assist the Authority in the ongoing development of essential policy elements of the proposed Basin Plan. This assistance does not replace the Authority's overall decision making role in relation to the preparation of the proposed Basin Plan.

The role of the Proposed Basin Plan Testing Committee, of which Peter Cosier, Karlene Maywald and Mal Peters are members, is to test approaches and provide advice to the Authority ahead of finalising the proposed Basin Plan. The Committee operates in addition to and alongside existing consultative bodies, including the Basin Community Committee and Basin Officials Committee.

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Program: Division or Agency: 4: MDBA

Question No: 36

Broad Topic: Decisions made by the
Authority

Proof Hansard Page and Date Written
or Written Question:

Senator Joyce asked:

Could the Authority please provide this Committee with all the decisions it has made since December 7 in accordance with s 198 of the *Water Act* which requires the Authority to keep records of all of its decisions?

Answer:

No decisions under s198 of the *Water Act 2007* were made during the period of 7 December 2010 to 22 February 2011.

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Program: Division or Agency: 4: MDBA

Question No: 37

Broad Topic: Resignation statement by Mr
Taylor

Proof Hansard Page and Date Written
or Written Question:

Senator Joyce asked:

In his resignation statement Mr Taylor refers to the fact that:

“... the Authority has sought, and obtained, further confirmation that it cannot compromise the minimum level of water required to restore the system's environment on social or economic grounds. “

When did the Authority seek that confirmation and when was it received?

Answer:

The former Authority chair may have been referring to clarification that was sought on certain aspects of previous legal advice on 11 November 2010, on which a response was received on 26 November 2010. However, this answer should not be interpreted as confirming Mr Taylor's summary of that advice.

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Program: Division or Agency: 4: MDBA

Question No: 38

Broad Topic: Briefings provided by MDBA

Proof Hansard Page and Date Written
or Written Question:

Senator Joyce asked:

Could you please provide the Committee with a list of the briefings the MDBA has given to the Minister for Water or his / her staff, and the Prime Minister, or his / her staff, in the last 3 months?

Answer:

The Murray-Darling Basin Authority has provided the Minister for Sustainability, Environment, Water, Population and Communities' office with the following briefs in the period 7 December 2010 to 7 March 2011:

- Publication of the Peer Review Reports
- Murray-Darling Basin Ministerial Council Meeting
- Data centre recovery capability
- Request for leave for the Chief Executive
- Outcomes from the Murray-Darling Basin Authority Meeting 27, 12 January 2011
- Outcomes from the Murray-Darling Basin Authority Meeting 28, 1 February 2011
- Approval for MDBA to incur revised operating deficits in 2010-11, 2011-12, 2012-13 and 2013-14
- Murray-Darling Basin Authority proposed bargaining position for the 2011 Enterprise Agreement

No briefs have been provided to the Prime Minister's office during this period.