

CHAPTER 1

Introduction

1.1 The Murray-Darling Basin Amendment Bill 2006 (the bill) was introduced into the House of Representatives on 7 December 2006. On this date, at the recommendation of the Senate Selection of Bills Committee, the provisions of the bill were referred to the Rural and Regional Affairs and Transport Committee (the committee) for inquiry and report by 26 February 2007.

1.2 The Selection of Bills Committee gave the following reason for referral:

The current water crisis facing the Murray Darling Basin and the need to fully investigate the implications of the bill in that context.¹

Conduct of the inquiry

1.3 The inquiry was advertised in *The Australian* on 12 December 2006, and the committee wrote to a number of relevant organisations and stakeholder groups, seeking their comments on the provisions of the bill. The committee received 5 submissions (see Appendix 1).

1.4 All the evidence presented to the committee is available on the committee's website at http://www.aph.gov.au/Senate/committee/rrat_ctte/index.htm

Acknowledgements

1.5 The committee appreciates the time and effort of all those who provided submissions to the inquiry. Their work has assisted the committee considerably in its inquiry and the committee thanks them for their contributions.

Background

1.6 The *Murray-Darling Basin Agreement 1992* (the Agreement) was made on 24 June 1992 between the Commonwealth, New South Wales, Victoria and South Australia, and was subsequently approved by the Parliament of each party to the Agreement. The purpose of the Agreement is to promote and co-ordinate effective planning and management for the equitable, efficient and sustainable use of the water, land and environmental resources of the Murray-Darling Basin.²

1.7 The Murray-Darling Basin Agreement Amending Agreement 2006 (the Amending Agreement) is in part a response by the Murray-Darling Basin Commission

1 Selection of Bills Committee, *Report No. 16 of 2006*, 7 December 2006, Appendix 15.

2 Explanatory Memorandum (EM), *Murray-Darling Basin Amendment Bill 2006*, p. 2.

(the Commission) to, and the amendments are consistent with, the Council of Australian Governments (COAG) Water Reform Framework of 1994.³

1.8 After several years of negotiations, the Murray-Darling Basin Ministerial Council (the Ministerial Council) endorsed the Amending Agreement, and it was signed by the First Ministers of the Commonwealth, Victoria, New South Wales, Queensland, South Australia and the Australian Capital Territory at the COAG meeting on 14 July 2006. However, the Amending Agreement will require the approval of all participating Parliaments before it comes into effect.⁴

1.9 On 25 January 2007 the Prime Minister announced a \$10 billion plan for national water management which includes provision for the Commonwealth to assume management of water resources in the Murray-Darling Basin. If implemented, this is likely to impact on the operation of the bill.⁵

Purpose of the bill

1.10 The bill amends the *Murray-Darling Basin Act 1993* to adopt and implement the Amending Agreement which itself amends the *Murray-Darling Basin Agreement 1992*.⁶

1.11 The main purpose of the Amending Agreement is to facilitate improved business practices for River Murray Water, the Commission's water business unit.⁷

1.12 The Amending Agreement:

- reduces fluctuations in the annual contributions of contracting governments, by allowing annual annuity contributions towards future capital and maintenance costs of River Murray Water;
- simplifies the identification of which costs the Commonwealth does and does not contribute to;
- allows the Commission to accumulate and invest annuity contributions;
- grants the Commission the power to borrow funds, with the approval of the Ministerial Council, where accumulated annuity contributions are insufficient to meet costs in any one year;
- enables the Ministerial Council to recover water business costs from state governments. These costs will be determined by the Ministerial

3 Second Reading Speech, *Murray-Darling Basin Amendment Bill 2006*, p. 1.

4 EM, *Murray-Darling Basin Amendment Bill 2006*, p. 4; Second Reading Speech, *Murray-Darling Basin Amendment Bill 2006*, pp 3 and 4.

5 Department of the Parliamentary Library, Bills Digest No. 72, 2006-07, p. 2.

6 EM, *Murray-Darling Basin Amendment Bill 2006*, p. 2.

7 EM, *Murray-Darling Basin Amendment Bill 2006*, p. 2; Second Reading Speech, *Murray-Darling Basin Amendment Bill 2006*, p. 1.

Council through a system similar to fee-for-service pricing, thereby eliminating cross-subsidies between states. The proportion of costs will be subject to review at least every five years;

- permits the Ministerial Council to allocate responsibility for River Murray Water structures from one constructing authority to another, subject to the agreement of the parties concerned;
- enables the Ministerial Council to alter financial thresholds set for specific Commission activities as it sees fit;
- grants the Ministerial Council the flexibility to appoint an auditor for the Commission, other than the Australian National Audit Office;
- clarifies that Queensland cannot be held liable for works and measures in which it is not directly involved;
- clarifies the annual estimates approval process and various definitions; and
- updates the list of works and measures in schedule C to the Agreement.⁸

Provisions of the bill

1.13 Clause 2 of the bill stipulates that the provisions of the Act, with the exception of schedule 1, will commence on Royal Assent.⁹

1.14 Schedule 1, however, will commence on a day to be fixed by Proclamation, because complementary legislation is required in each jurisdiction in order to give effect to the Amending Agreement. The commencement of the Act is intended to coincide with the commencement of the corresponding New South Wales, Victorian, Queensland, South Australian and Australian Capital Territory Acts. Therefore, no time limit has been placed on Proclamation.¹⁰

Schedule 1

1.15 Clauses 1 and 2 amend the definition of "Agreement" to include the Agreement as amended by the Amending Agreement 2006, and insert a definition of "Amending Agreement 2006".¹¹

1.16 Clause 3 provides that the Amending Agreement is approved by Parliament.¹²

8 EM, *Murray-Darling Basin Amendment Bill 2006*, pp 2-3 and 5; Second Reading Speech, *Murray-Darling Basin Amendment Bill 2006*, p. 2.

9 EM, *Murray-Darling Basin Amendment Bill 2006*, p. 4.

10 EM, *Murray-Darling Basin Amendment Bill 2006*, p. 4.

11 EM, *Murray-Darling Basin Amendment Bill 2006*, p. 4.

12 EM, *Murray-Darling Basin Amendment Bill 2006*, p. 4.

1.17 Clause 4 inserts a new schedule 3 to the *Murray-Darling Basin Act 1993*, which contains the text of the Murray-Darling Basin Agreement Amending Agreement 2006.¹³ The new schedule 3 provides that:

- Governments' may make annual annuity contributions, thereby reducing fluctuations that may occur in their annual contributions to the Commission. These annuity contributions will also give a clearer indication of the long-term costs of providing water business services. It is noted that the Commonwealth is responsible for 25 per cent of the investigation, construction and administration costs of the Commission's water business, however, the Commonwealth's annual annuity contributions cannot be used for related operation and maintenance expenses;
- The Ministerial Council may recover water business costs from state governments. The costs recovered from each contracting government will be in proportion to the services provided to it by River Murray Water. This will eliminate cross-subsidies between the states for such costs;
- The Ministerial Council has the authority to reallocate responsibility for the construction, operation and maintenance of works relating to River Murray Water structures between the contracting governments as necessary;
- The Ministerial Council may adjust the financial thresholds which apply to specific Commission activities, thereby accommodating inflation and price increases. Any finance which exceeds these thresholds must have Council approval; and
- Queensland will only contribute towards works and measures in which it is directly involved.¹⁴

Consideration by the Senate Scrutiny of Bills Committee

1.18 The Senate Standing Committee for the Scrutiny of Bills has a standing brief to consider all bills as to whether they trespass unduly on personal rights and liberties, and related matters.

1.19 The Scrutiny of Bills Committee queried the commencement provisions in the Murray-Darling Basin Amendment Bill 2006. The minister's advice was sought as to whether it would be possible to require the bill to commence within 12 months of Assent, and to provide that if no Proclamation is made by that time, the bill be automatically repealed.

13 EM, *Murray-Darling Basin Amendment Bill 2006*, p. 4.

14 EM, *Murray-Darling Basin Amendment Bill 2006*, pp 2 and 5; Second Reading Speech, *Murray-Darling Basin Amendment Bill 2006*, pp 2 and 3; Department of the Parliamentary Library, Bills Digest No. 72, 2006-07, p. 5.