

## **Submission to Senate Committee on Rural and Regional Affairs and Transport – Murray-Darling Basin Amendment Bill 2006**

### **Background**

1. The Murray-Darling Basin Agreement Amending Agreement 2006 was approved by the Murray-Darling Basin Ministerial Council in September 2005. It provides for amendments to the Principal Agreement to enable improved business management practices for the Commission's water division (River Murray Water). This Amending Agreement enables implementation of the responses of the relevant constituent Governments of the Agreement (Australian Government and the Governments of NSW, Victoria and South Australia) to the 1994 COAG Water Reform Agreement. In addition, the amendments include an important clarification of Schedule D (Queensland as a party to the Principal Agreement) in the matter of limiting Queensland's liability. It also corrects and supplements Schedule C (Basin Salinity Management). Finally it provides for a number of general financial management improvements with application to all jurisdictions including the Australian Capital Territory.
2. Whilst the Ministerial Council initially approved this Amending Agreement in July 2003, implementation was delayed pending clarification of the details of a number of the inherent financial components. These were resolved through consultation between the Commission office, and the five partner Governments at that time. The Australian Capital Territory became a full member of the Commission in May 2006 and has also been involved in these discussions.
3. This Amending Agreement, known now as the Murray-Darling Basin Agreement Amending Agreement 2006, achieves the changes summarised in paragraph 1 above, by amending 21 clauses of the Principal Agreement and two schedules (Schedules C and D). The Amending Agreement was signed by First Ministers of the six Governments on 14 July 2006 for subsequent submission by each Government for ratification by each House of Parliament.
4. On 24 August 2006 the Commission office was advised that the Bill had been withdrawn from the Victorian Parliament due to a minor typographical error. A corrected version was re-presented to Ministerial Council for approval at the earliest opportunity, in September 2006. At that meeting, Council endorsed the revisions and noted that the Commission office was investigating the most expeditious way to obtain jurisdictional agreement to the corrected version of the Amending Agreement.
5. At Ministerial Council on 29 September 2006, Council agreed that an exchange of letters between Governments should occur to confirm the correction of the minor typographical error and that pending ratification by the Parliaments of all jurisdictions, the Commission and Council should act in accordance with the intent of the proposed amendments.
6. In November 2006, Chairman of the Ministerial Council, The Hon Peter McGauran MP, Minister for Agriculture Fisheries and Forestry, wrote to the Prime Minister and First Ministers of the Murray-Darling Basin Ministerial Council partner governments proposing that, rather than resign a revised Amending Agreement, the changes be made as legislative drafting changes only. The progress of the Bill to the House of Representatives, and now to the

Senate, has proceeded on that basis. With the support of each of the constituent Governments, legislation is currently being considered by each of their Parliaments, being New South Wales, Victoria, South Australia, Queensland and the Australian Capital Territory.

7. A governance review of the Murray-Darling Basin Agreement and its alignment with the National Water Initiative is currently underway. This review is expected to deal with broader issues relating to the future directions and governance of natural resource management in the Basin.

## **Content**

8. This Amending Agreement amends some provisions of the Principal Agreement that have general application. These are:
  - (a) to enable Ministerial Council to adopt increased financial limits for approval of works and measures by the Council or the Commission;
  - (b) to enable Ministerial Council to appoint auditors and to establish guidelines for investment of monies by the Commission; and
  - (c) clarification of arrangements for annual and forward estimates.
9. However the majority of the amendments relate to the conduct and operation of the Commission's water division – River Murray Water. The key elements of these changes are as follows.

### *Annual annuity contributions*

10. Since 1998 the Ministerial Council has each year endorsed a cost-sharing arrangement based on levels of service provided by River Murray Water to the states of NSW, Victoria and South Australia. Further reforms, inherent in the application of the COAG principles, were limited by the terms of the Murray-Darling Basin Agreement. Recognising these limits, the National Competition Council endorsed the initial responses of the Ministerial Council, including its commitment to seek agreement of the relevant partner governments to amend the agreement to enable the full extent of the COAG principles to be achieved.
11. The Amending Agreement provides for appropriate contracting governments to make annual annuity contributions towards the future capital replacements and major cyclic maintenance costs of River Murray Water. It also enables annuity contributions to be accumulated and invested, and allows the Murray-Darling Basin Commission to borrow funds where accumulated annuity contributions are insufficient to meet costs in any one year. Borrowings would require approval of the Ministerial Council. These annuity contributions will reduce fluctuations which might otherwise occur in governments' annual contributions and also give a better reflection of the long-run costs of providing water services.

### *Recovery of water business costs from State governments*

12. The Amending Agreement enables the Ministerial Council to recover water service costs including annuities from state governments in shares comparable to those which would apply if fee-for-service pricing existed. These proportions must be reviewed at least every five years. The Amendment enshrines COAG principles relating to the costs of water services and eliminates cross-subsidies between the states for these costs.

*Allocation of responsibility for River Murray Water structures*

13. The Agreement currently provides that the Murray-Darling Basin Commission or the Ministerial Council must nominate which of the contracting governments will be responsible for the construction, operations and maintenance of works or the implementation of measures under the Agreement. This amendment allows the Ministerial Council to reallocate responsibility for River Murray Water Structures from one Constructing Authority to another, subject to the agreement of all parties concerned.

*Financial thresholds*

14. The current Murray-Darling Basin Agreement sets financial thresholds for certain Commission activities, above which approval must be obtained from the Ministerial Council. These thresholds were set in 1992 with no provision for adjusting them to account for inflation or price increases. The Amending Agreement allows the Ministerial Council to alter the thresholds as it sees fit. The approvals relate to the execution of work, the implementation of measures (\$2 million), the construction of work or the acquisition of an interest in land (\$2 million) and the acceptance of tenders (\$2 million).

*Clarification of Queensland's responsibilities*

15. Queensland effectively became a party to the Agreement from 1992 on the basis that it would only contribute towards works and measures in which it is directly involved. This amendment will remove ambiguities in the Agreement that could otherwise unintentionally widen Queensland's responsibilities.

*Salinity Management Authorised Joint Works and Measures*

16. The Amending Agreement also adds a detailed description of works and measures to Schedule C - Basin Salinity Management.

*Other Minor Amendments*

17. A number of other minor amendments achieve the following:
  - (a) Clarification of the meaning of "works" and "measures"
  - (b) Clarification of the annual estimates approval process
  - (c) Simplify identification of the costs to which the Australian Government does and does not contribute;
  - (d) Gives the Ministerial Council the flexibility to appoint an auditor for the Commission, other than the Australian National Audit Office.

**Other Benefits**

18. Since late 2004, the Commission has embarked upon an extensive overhaul of strategic and business planning and practices. In 2005, Commission endorsed the Murray-Darling Basin Strategic Plan 2005-2010. In September 2006 Ministerial Council endorsed a revised budget and associated three year rolling business plan for 2006-07. The Amending Agreement allows full implementation of these improved business practices.
19. The Australian Government provided an injection of \$500 million into the Commission from the May 2006 budget. Partner governments of the Murray-Darling Basin Commission are in agreement that the changes as proposed by this Amending Agreement will allow best use to be made of these funds, through more flexible investments under the guidance of Ministerial Council.