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Senate Rural and Regional Affairs and Transport Committee
Department of the Senate
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Parliament House
Canberra ACT 2600

Please find attached submissions for consideration by the Senate inquiry into water management in the Coorong and Lower Lakes, as amendments to the Emergency Water (Murray-Darling Basin Rescue) Bill 2008.

Regards,

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Fair Water Use (Australia) - advocating environmentally-responsible use of the nation's water

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**Murray Darling Basin
Commission of Inquiry – Terms of Reference**

ID	Purpose	Suggested Text	Reference / Remarks
1.	Introduction	<p>The Murray Darling Commission of Inquiry (Royal Commission) shall be established by the Commonwealth of Australia to conduct a full and open inquiry into the management and governance of the Murray-Darling Basin, to determine compliance with section 100 of the Australian Constitution and the need to apply reasonable measures to restore and protect the ecological health of the Murray-Darling river system at all times, including during drought.</p> <p>The inquiry will determine whether changes should be made by the Commonwealth, the States of Queensland, New South Wales, Victoria and South Australia and The Australian Capital Territory with respect to the governance (constitutions, laws, regulations, orders, agreements and treaties), management structure and practices (including, but not limited to, allocation, water trading and regional arrangements) and ascertain whether these practices are consistent with section 100 of The Australian Constitution and the long-term ecological survival of the Murray-Darling river system.</p>	<p>Section 100 - Nor abridge right to use water</p> <p>The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.</p>
2.	Royal Commissions Act 1902	Under the authority of the Royal Commissions Act 1902, a Commissioners Board of Inquiry shall be established to inquire into and report within 12 months of its establishment on the following matters concerning the Murray-Darling Basin:	
3.	Government	1. Current management and governance structure, with specific reference to the responsibilities of the Commonwealth, the States of Queensland, New South Wales, Victoria and South Australia and The Australian Capital Territory	
4.	Water Privatisation	2. The legal status and consequences of the establishment of the water market and the privatisation of the waters of the Murray-Darling Basin by the Council of Australian Governments and as enacted by the Commonwealth, the States of Queensland, New South Wales, Victoria and South Australia and The Australian Capital Territory	
5.	Ecological Health	<p>3. The ecological health of the Murray-Darling Basin and trends in and effects of extraction, diversion and quality of Murray-Darling water, both surface and ground water, over the last 30 years.</p> <p>4. Drafting of guidelines defining the actions required to restore and protect the ecological health of the river system at all times, including during drought, and to define the processes whereby a Murray-Darling Basin Disaster Management Plan will implement an orderly reduction in the volumes of surface and ground water extracted from and diverted within the Murray-Darling Basin.</p>	
6.	Water Use	<p>5. Determine trends of use of surface and ground water of the Murray-Darling Basin over the past 30 years, with specific regard for volumes utilised for irrigation (including determination of crop types, irrigation techniques and intended markets), by other industries and that supplied for critical human needs. Reference will be made to the cost of water, the economic return achieved by water users, water wastage by users and water losses.</p> <p>6. An assessment shall be made of the efficiency and effectiveness of water use by irrigators, industry and communities, towns and cities, and plans to improve efficiency and effectiveness.</p>	
7.	Climate Change	7. An assessment shall be made of the likely impacts of climate change on the availability of surface and ground water in the Murray-Darling Basin and policies that governments of Australia should consider to ensure compliance with Clause 100 of the Australian Constitution, with respect to the “reasonable” use of water, by minimising the utilisation and wastage of resources by all categories of user.	

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8.	Recommendations	8. The Commission will recommend any changes it deems necessary as a result of its inquiry, including those that specifically address paragraphs 1 to 7 as detailed in the special provisions.	
9.	Regard for Murray-Darling State of Emergency	The Commissioners Board of Inquiry shall have regard for the State of Emergency, declared by the States of Queensland, New South Wales, Victoria and South Australia and The Australian Capital Territory with the full support of the Commonwealth, to carry out short term remedial action aimed at restoring the ecological health of the Murray-Darling river system.	
10.	Regard for State Royal Commissions	It is recognised any COAG member State may call its own Royal Commission to inquire into water management and governance. The Commissioners Board of Inquiry shall have regard for such Royal Commissions insofar as they relate to the Murray-Darling Basin.	Recognition of plans for desalination and pipeline projects.
11.	Special Provisions Commissioners Board of Inquiry	<p>The Commissioners Board of Inquiry shall comprise a Chairman and a Commissioner for each of the following areas:</p> <ul style="list-style-type: none"> - Government - Water Privatisation - Ecosystem - Water Use - Climate Change. <p>Any eminent person or expert engaged by the Commissioners shall have placed on the public record a detailed statement of their support and involvement in water reform and of their competency in the area engaged by the Commissioners.</p> <p>Draft reports shall be issued at no less than three monthly intervals until the work of the Commission of Inquiry is completed.</p> <p>Separate reports shall detail findings and recommendations in relation to the restoration and protection of significant ecosystems of the Murray-Darling Basin, such as the Lower Lakes and the Coorong. These reports shall be completed within six months of the commencement of the Commission of Inquiry.</p> <p>A separate report shall detail the findings and recommendations in relation to the waters of the Snowy Mountain scheme.</p>	
12.	Special Provisions Priority of Water Use	<p>Murray-Darling water, including groundwater, shall be provided for use in the following order of priority:</p> <ol style="list-style-type: none"> A. Water required by the Murray-Darling river system to ensure its ecological conservation. B. Water required by residents who are dependent upon the Murray-Darling for their water supply. C. Water for use by irrigators to produce food and drink for residents of the States. D. Water for use by other industries to produce goods and products for domestic use. E. Water for use by irrigators and industries to produce goods and products for export. 	

**Murray Darling Basin
State of Emergency - Scope**

ID	Purpose	Suggested Text	Reference / Remarks
1.	Introduction	The Council of Australian Governments shall declare a State of Emergency for the remaining duration of the drought and take urgent remedial actions aimed at restoring the ecological health of the Murray-Darling river system, including the Coorong.	The Murray Darling Basin States and the Australian Government must demonstrate a constructive and collaborative approach to governance and management during the State of Emergency.
2.	Authority	A special act of Parliament shall be gazetted by the Commonwealth with legislative support from the Murray-Darling Basin member States and Territory, for the duration of the State of Emergency, that acknowledges the exceptional drought and excessive and unsustainable water demand that exists in the system. The Commonwealth will, under section 100 of the Australian Constitution, use its vested powers to empanel a State of Emergency Board and address the following issues, utilising the administrative mechanisms currently in place to manage the Murray-Darling Basin:	<p>Section 100 - Nor abridge right to use water</p> <p>The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.</p>
3.	Moratorium	A moratorium will be placed on all water trading whilst the State of Emergency exists, including the provision or granting of any new water allocation licenses by the States.	The State of Emergency will require determination and prioritisation of actions to be taken for the remaining duration of the drought to best protect the interests of Australian residents and the ecology of the Murray-Darling Basin.
4.	Priorities	The State of Emergency Board shall make available surface and ground water within the Murray-Darling Basin, in the following order of priority:	
5.	Domestic needs	i) Provision of water for domestic use by those who depend upon the Murray Darling for their water supply.	
6.	Survivability of the Murray Darling ecosystem	ii) Restoration and maintenance of the ecological health of the Murray-Darling river system and specifically those strategic areas agreed by experts as requiring conservation and those subject to international treaty obligations.	
7.	Commercial: domestic market	iii) Provision of water for irrigators providing fruit, nuts and vegetables for domestic markets. iv) Provision of water for other industry sectors, including the dairy and wine industries supplying domestic markets where no other viable alternatives are available.	
8.	Commercial: permanent plantings (domestic and export markets)	v) Provision of a minimum allocation for irrigation of mature permanent orchard plantings and vineyards that are assessed as being capable of surviving the drought and the impact of projected reductions of inflows into the Murray-Darling as a result of climate change.	
9.	Other commercial: export markets	vi) Allocations for irrigation of annual crops for export and other industries supplying export markets shall only be made once water has been allocated as prioritised in (i) to (v) above and will be determined with reference to the volume of available water remaining.	
10.	Appropriateness of water use	vii) The appropriateness of use of Murray-Darling water for specific commercial purposes will be determined by an assessment process that takes into account principles (i) to (vi) defined above and also efficiency of water use, quantity of water used and the impact on groundwater reserves and the ecology of the Murray-Darling river system.	

**Murray Darling Basin
State of Emergency - Scope**

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11.	Report	At the conclusion of the State of Emergency, the State of Emergency Board shall produce a report detailing actions taken, findings, observations and recommendations for the future.	
12.	Regard for Murray Darling Royal Commission	The State of Emergency Board shall have regard for the Murray Darling Royal Commission with which it shall fully cooperate and share any information uncovered during the State of Emergency.	
13.	Special Provisions	<p>The State of Emergency Board shall be made up of seven Commissioners, a Chairman and a Commissioner appointed by each of the following members of COAG:</p> <ul style="list-style-type: none"> - Commonwealth - Queensland - New South Wales - Victoria - South Australia - Australian Capital Territory <p>Any eminent person or expert engaged by the Commissioners shall have placed on the public record a detailed statement of their support and involvement in water reform and of their competency in the area engaged by the Commissioners.</p> <p>The Commonwealth shall be prepared to use the full scope of its resources to assist with the State of Emergency including use of the Defence force as required.</p> <p>The Commonwealth and the States shall share the responsibility for reasonable compensation of water users as a result of the withholding of water that, in the absence of drought, would ordinarily have been made available.</p>	