

Australian Greens Minority Report

Chapter 1: Response to the Water Amendment Bill 2008

Introduction

The Australian Greens believe that there are two fundamental problems with the approach currently being taken by the Commonwealth Government to delivering a long-term sustainable solution to the equitable sharing of limited water resources within the Murray Darling Basin and therefore with the *Water Amendment Bill 2008*.

1. Basin communities and water users (including environmental advocates) have not been part of the consultation and negotiation process for the new arrangements. The only key stakeholders engaged have been the State and Territory Governments, leading to some perverse outcomes (e.g. the definition of 'critical human needs' as discussed below). A more consultative and democratic approach would generate a fairer, more robust and sustainable outcome.
2. Commonwealth investment in water buyback, infrastructure improvements and structural adjustment is being rolled out slowly in an ad hoc fashion with no consideration for the social, economic, environmental or structural impacts of where water is bought or irrigation efficiencies invested in. A more consultative approach based on informed and empowered community planning and investment in which buyback and improvements could be combined to redesign local systems would deliver a more sustainable and cost effective outcome and minimise 'stranded assets' and negative impacts on local communities.

The Australian Greens are well aware of the need to move quickly to establish the MDBA and get the Basin Plan underway. We are both disappointed and frustrated that – after dragging their feet on the legislative reform process and failing to get the necessary legislation to federal and state parliaments in a timely fashion – our governments are now attempting to undermine and circumvent normal democratic processes of legislative review by arguing that amendment to this legislation is not possible because it would require re-negotiation with the States over the details of the powers referred. We note however that this is not strictly true for those existing parts of the Water Act and those parts of the Water Amendment Bill which are not dependent on the referral of powers.

This situation was clear from the outset, as were the concerns held by the Australian Greens (many of which were on record as proposed amendments to the Water Act from 2007) and by a number of key stakeholders, including irrigators, floodplain grazers, basin communities and environmental advocates. Nevertheless the Commonwealth proceeded with a very opaque and closed-door approach to negotiation with States and Territories through COAG and other means, and stonewalled efforts to get more information on and have input into the process and the reform model it was developing. This is quite frankly not acceptable.

The Government should not rely on the concern and commitment of the community and the Greens to securing a better outcome to compel us to accept a flawed but slightly better outcome against the risk of a significant delay to introduce a fairer and more robust system – particularly when part of the deal effectively means that the cap on sustainable diversions will not be

operating in Victoria until 2019 and other States until 2014. This last fact undermines the argument of urgency. The Greens in fact believe that the Basin Plan should be in operation as soon as possible ... and certainly long before 2019.

The irony of the problems that have been brought about by the Rudd Government taking a 'behind closed doors' approach to negotiating the framework for basin reform is that the very problems that undermine the current approach (as encapsulated in the Water Amendment Bill) – of States clinging to narrow self-interest and forcing limiting compromises – would have been amenable to the moral suasion brought about by an open and robust debate into the pros and cons of particular measures. We would not be left, for example, with a definition of 'critical human need' in the intergovernmental agreement and Schedule 1 of the Bill which does not reflect the interests or concerns of basin communities and defies common-sense understandings of the term. Contrary to the claims of DEWHA's Dr Horne who said:

"The Scope of this definition was subject to very extensive negotiations with the states during the negotiation of the intergovernmental agreement on Murray Darling Basin reform. The current definition was considered to reflect the interests of all communities in the basin."

It is clear from the evidence received by the committee in both this inquiry and the other ongoing RRAT inquiry into the Murray Darling Basin and the Coorong and Lower Lakes that key stakeholders and communities within the basin do not consider this definition to be in their best interest. It may be possible that the States may genuinely consider this to be in the communities best interests, but this misapprehension could only arise in a consultative vacuum and would not have withstood open community debate.

To this end the Australian Greens will be introducing amendments to tighten the definition of 'critical human need'.

A similar situation exists in relation to the Sugarloaf Pipeline in Victoria, which intends to extract an additional 75GL from the Murrumbidgee catchment for Melbourne's urban water supply. We note that 'critical human need' provisions do not relate to this water and it will be secured from State allocations to irrigation licences as those allocations become available under normal water sharing arrangements – meaning that in low rainfall years when Melbourne's water demands are the most critical there may be little or no water available. While we acknowledge that under the current Basin Agreement it is up to the State to allocate their share of water (... ultimately within what will eventually be set as the sustainable diversion limit) we remain concerned that a move to implement significant new extractions for use of populations outside the basin at a time of basin-wide crisis and significant community suffering is a retrograde and unnecessary step – which threatens to undermine the impetus and community commitment for whole of basin reform.

The Australian Greens believe that, as a matter of principle in this time of crisis, water resources secured within the basin through necessary investments in efficiency improvements need to be used to address the pressing needs of the basin – to reduce over-allocation back to sustainable diversion levels, to help farming communities adapt to significantly reduced irrigation entitlements, and to ensure the health of the river and the survival of threatened basin ecosystems. There is only limited scope for achieving water efficiency gains within the basin, so while this water is being secured through State Government investments in infrastructure upgrades, this is modernisation activity that Victoria should be undertaking anyway as part of their contribution to basin water reform – and the water being diverted is reducing the quantum of water available to

help the river survive and basin communities restructure. At a time at which basin communities are hurting and receive significant public sympathy, and there is widespread concern over the threat to basin ecosystems, there is a strong argument for stopping additional new extraction occurring for uses outside of the basin.

To this end the Australian Greens will be introducing amendments to the provisions of the Basin Plan to exclude consideration of new extractive uses outside of the basin.

We note the evidence to the ongoing RRAT inquiry the Murray Darling Basin, and the Coorong and Lower Lakes that Adelaide is moving to reduce its dependence on the basin and applaud its efforts. By comparison Melbourne has a huge untapped stormwater resource and discharges 400GL per year of stormwater on average into the sea.

The separate issues of the definition of 'critical human need' and the Sugarloaf Pipeline are discussed in more detail later in this report.

River health and ecosystem resilience

In the face of the combined challenges of a drier and warmer climate, significantly reduced prospects for freshwater runoff in the basin, and the need to address the social and economic crises currently facing the communities of the basin we need to be thinking about and planning for the long-term future. As the recent inquiry into the Coorong and Lower Lakes demonstrated, in considering how to balance competing water uses we need to be mindful of the role that a healthy river plays in sustaining healthy communities. With 80%-90% of the basin's wetlands already gone¹ and the majority of those remaining highly stressed, the basin's wetlands role in maintaining the health of the river and delivering ecosystem services and their ability to maintain water quality (by effectively acting as the 'kidneys' of the system) is severely threatened.

As the late professor Peter Cullen pointed out², we need to put into place a comprehensive ongoing program for monitoring the health of the basin's ecosystems that allows us to measure and adaptively manage their resilience. While putting aside a baseline environmental water allocation is a necessary starting point, the health of many of these systems is dependent on a variable wetting and flushing cycle rather than a constant trickle.

One of the outstanding concerns with the Murray Darling Basin Sustainable Yields Project undertaken by the CSIRO which will inform and underlie the Basin cap is the extent to which it has predominantly focused on the hydrology of available water resources – which is only half of the story. While it provides us much needed data on the extent of the hydrological resource of individual catchments, it does not focus on the science on the ecological water needs to maintain the health and resilience of basin ecosystems from which we can determine what truly 'sustainable' yields are. The ultimate product of the MDBSYP will be an invaluable whole-of-basin mathematical model of the relationship between rainfall, run-off, groundwater flows, et cetera that allows us to determine how much water we have at any given point, and what transmission losses we are likely to experience as water moves through the system ... but it does not provide an evaluation of the health and resilience of the river, its wetlands and other dependent ecosystems that allow us to determine watering requirements and adaptively manage environmental outcomes.

This issue was raised by the late Professor Peter Cullen in the inquiry into the Water Act 2007. While the need to undertake this work is arguably implicit in mandate of the new Murray Darling Basin Authority to develop a Basin Plan and set limits on sustainable diversions, we remain concerned that this is not made explicit within the Water Act ... and it is not at all clear whether there is an appropriate and ongoing resource allocation and responsibility for undertaking the monitoring and assessment of ecosystem health.

To this end the Australian Greens will be moving amendments to ensure that ecosystem health and resilience are explicitly contained in the objects of the Act, and that the MDBA is given explicit responsibility for carrying out those objects.

We note that these amendments were suggested by the Wentworth Group of Concerned Scientists at the previous inquiry into the Water Bill 2007 and put to the Senate by the Australian Greens in 2007,

¹ ACF & IRN, *Wetlands for our Future* report, 2008.

² Professor Peter Cullen, ECITA inquiry into the Water Bill 2007, Hansard.

at the time the ALP (then in Opposition) said they had not had enough time to consider the proposed amendment. We hope the Government should by now have had sufficient time to consider them. These amendments do not impact upon the referral of powers as contained in the intergovernmental agreement.

When the Water Act was first introduced by the Howard Government in 2007, the ECITA committee held a rushed inquiry into the provisions of the bill, during which it heard significant evidence from stakeholders and water policy experts of potential limitations of the Act. Despite the committee being given a very short time to consider the Bill and report, the fact that the RRAT committee had only recently completed a substantial and far-reaching inquiry into water policy initiatives³ enabled senators to quickly and effectively respond to the issue. On this basis the Australian Greens put forward a series of amendments based on this combined expert advice. We note that these amendments still remain pertinent to outstanding limitations within the Water Act and the proposed Water Amendment Bill, and have been re-presented to the Senate by Professor Mike Young and Dr Arlene Buchan as part of this inquiry. We also note that to date only one of these amendments has been partially adopted by the Rudd government and express our disappointment with their failure to give due consideration to these issues and engage in consultations with these stakeholders and ourselves around their adoption.

Issues covered by these Australian Greens amendments include:

- **Making sure the Act and the MDBA have an explicit focus on managing environmental health and resilience**
- **Integration with EPBC and compliance with Ramsar and other international environmental treaties (which has been partially implemented)**
- **Ensuring that water entitlements are defined as shares of available water, and take into account the variability of the northern basin**
- **Reducing the ability of the Minister to direct the MDBA and giving it more independence**
- **Including public standing provisions comparable to the EPBC Act to ensure public accountability and to facilitate enforcement of the Act.**

³ RRAT, Water Policy Initiatives Inquiry,
http://www.aph.gov.au/Senate/committee/rrat_ctte/completed_inquiries/2004-07/rural_water/index.htm

Sugarloaf Pipeline and 'critical human need'

There has been some confusion around the provisions relating to 'critical human need' and whether they apply to water extracted by the Sugarloaf Pipeline.

'Critical human need' applies only to water within the River Murray channel and not to its tributaries or other parts of the wider Murray-Darling system, so therefore the Sugarloaf Pipeline will not be able to extract water from the Goulburn River under the 'critical human need' provisions.

The 'critical human needs' provisions only apply during times of extremely low inflows and low water availability within the system - where the level of water available is lower than the worst case flows provisions of the previous Murray Darling Basin agreement, such as has occurred during the last two years.

The Sugarloaf Pipeline is seeking to obtain water for Melbourne's urban water supply by making efficiency gains to irrigation systems operating under water licences which receive seasonal water allocations as a share of available water only when there is water available for allocation.

This means that during periods of extremely low inflows when the 'critical human needs' provisions are triggered there is unlikely to be any water available for allocation to the water licences that the Sugarloaf Pipeline depends on. While the rainfall patterns for Melbourne and the Murray Darling Basin differ, this is still likely to mean that the pipeline is unlikely to be able to deliver extra water in the dry years when Melbourne needs it most.

The other implication of the 'critical human needs' provisions not applying to the Sugarloaf Pipeline is that once the water is in the pipeline there are no restrictions on how that water may be used and no obligation that it only be used to meet the survival needs of humans. If Melbourne Water choose to sell it to industry or use it to water golf courses that is entirely up to them.

We have a particular concern with the diversion of water resources for uses outside of the Basin. There are two reasons for this. One is that we believe as a matter of principle our cities and towns should be aiming to use their own water resources as efficiently and effectively as possible, and we believe it makes little sense to be increasing water extraction from within the basin at a time when it is experiencing severe reductions in inflows ... particularly to move it to a city in a wetter catchment which is managing its own water resources poorly.

The second concern relates to ground water flows. When water is used for irrigation purposed within the basin there is a component of that water use which infiltrates to groundwater and eventually returns to the channel via groundwater flows. In this way the share of the total available water resource within the basin that this allocation represents effectively includes this groundwater return component, meaning that if this water is extracted and used outside the basin it is in fact having a larger impact on basin water resources that needs to be calculated and accounted for. In this way the extraction and use of 75GL outside the basin might have an impact equivalent to, say, 100GL of irrigation use.

This also means that we need careful monitoring and accounting in those situations where we are making water efficiency improvements by lining channels or replacing them with pipes or converting on-farm irrigation infrastructure to ensure that we allow for the groundwater return component. We support such improvements being made and would be keen to see Commonwealth funding for

irrigation improvements being rolled out quicker in a more targeted fashion, but emphasise that we must account fully for water recovery and water use.

The building of the Sugarloaf Pipeline has been assessed by Environment Minister, Peter Garrett under the Environmental Protection and Biodiversity Conservation (EPBC) Act, and the impact of the building of its physical structure on directly affected communities in the path of the pipeline approved. However, water extraction will have to be consistent with the water licences under which particular water allocations are received and limited to that which is made under particular seasonal allocations. It will also be subject to the Cap on Sustainable Diversions when the Basin Plan is enacted, which may well result in significant reductions in water allocations where water is currently over-allocated and extraction exceeds sustainable levels of use,⁴ as the following exchange illustrates:

Senator XENOPHON—"There have been assertions made both from the Victorian government and those opposed to the project as to what the water savings would be on that plan as it applies to other parts of the basin in terms of water saving measures. In relation to the north-south pipeline water saving assertions by the Victorian government and the contrary assertions made, what power does the authority have to test those assertions to independently audit whether those assertions or claims of water savings are verifiable?"

Mr Freeman—"The authority will have to familiarise itself sufficiently with that project to understand the economic, social and environment impacts of the project. It will have to essentially look at the project and ascertain what are the economic, social and environmental. It will have to understand the hydrology of the project. It is not there in an audit role, because what it will then do is take that into consideration in setting the sustainable diversion limit for that valley. Whether that water is applied to Melbourne or whether it is applied to irrigation is an issue for the Victorian government, but the authority will have to understand the project. ... Water resource planning is a state responsibility that sits within the framework of the basin plan."⁵

The Victorian Auditor-General in his report "*Planning for Water Infrastructure in Victoria*" (9 April 2008), concluded that "*the level of information provided to the community on water supply projects has been inadequate and needs to be improved*". Specifically, he noted "*the processes underpinning the Victorian water plan fell short of the standard the Department applied when developing the white paper and the Central Region strategy.*" He further criticised the Victorian Water Plan for "*widely varying levels of rigour around the plan's costs and expected water savings benefits.*"⁶ The project should not proceed given that there has not been an independently prepared due diligence report and comprehensive audit of the savings asserted by the Victorian Government.

The impacts of mining on groundwater systems

The Australian Greens are concerned by the potential of mining operations, such as long-wall coal mining in the Liverpool Plains region, to impact on the connectivity of groundwater systems and

⁴ Murray Darling Basin Authority, Answers to questions on notice from Senator Siewert.

⁵ RRAT Hansard, Wednesday 12 November 2008, Canberra, page 30.

⁶ Victorian Auditor-General, *Planning for Water Infrastructure in Victoria*, 9 April 2008
http://www.audit.vic.gov.au/reports_publications/reports_by_year/2008/20080409_water_infrastructure.aspx

adversely affect water quality and rates of flow. There is evidence that suggests that in some circumstances these mining operations can have unintended consequences of intercepting and diverting groundwater flows.

In response to questions on this issue, the Murray Darling Basin Authority indicated that where mining activities impact upon groundwater flows there would be a requirement that that such water 'use' is licenced⁷, saying that:

- (l) Under the *Water Act 2007* s4, interception activity means the interception of surface water or ground water that would otherwise flow, directly or indirectly, into a watercourse, lake, wetland, aquifer, dam or reservoir that is a Basin water resource. An action that intercepts water is an interception activity under the Act.

The MDBA also asserted that the potential of such mining activities to impact upon groundwater flows might require pre-assessment, asserting:

- (j) Subsection 22(7) of the *Water Act 2007* provides that the Basin Plan may require that interception activities with, or with the potential to have, significant impacts on the water resources of the water resource plan area are assessed to determine whether they are consistent with the water resource plan before they are approved ... and may require that water access rights be held for specified kinds of interception activities. This provision provides a pathway to address such an issue.

While the answers from the MDBA indicate that such mining activities would be recognised as water interception activity for the purposes of the Act, and the existing provisions of the Act would provide the Authority with remedy once this situation occurred, the Australian Greens remain concerned that under many circumstances it may be impossible to repair the damage (or prohibitively expensive). On this basis the Australian Green believe that a proactive preventative strategy is warranted and the requirement for such assessment activity should be made explicit in the Act.

To this end, the Australian Greens believe that section 255 of the Act should be amended to ensure that, prior to exploration licences being granted for mining operations an independent expert study must be undertaken to determine the impacts of the proposed mining operations on the connectivity of groundwater systems, surface water and ground water flows and water quality. Where a substantial risk is identified, these exploration licences should not be granted.

The Australian Greens acknowledge the work of Tony Winsor MP on this issue and note that he moved similar amendments to the Act in the House of Representatives. We also note we believe that such an amendment does not impact upon the water sharing and governance arrangements contained within the intergovernmental agreement (Schedule 1) and the referral of powers by State Governments.

⁷ Murray Darling Basin Authority, Answers to questions on notice from Senator Siewert, page 2 item (i)

Chapter 2: The Way Forward – *The MDB 2010-2050 Plan*

The need for a planned and integrated approach to investment

The Australian Greens believe that a more integrated approach to water buyback, infrastructure improvements and structural adjustment is needed to maximise the benefits of the reform to basin governance represented by the Water Act 2007, the Water Amendment Bill 2008, and the principles enshrined in the National Water Initiative. We share the concerns of irrigation communities, environmental advocates and water policy experts about the ad hoc nature of the current water buyback process, the timeframe within which the \$12.9 billion *Water for the Future* investment is being rolled out, and the lack of targeting, coordination and planning to bring forward infrastructure investments as part of a regional approach to building the industries and communities of the future.

As Jenni Mattila from the Bondi Group put it, there has been a lack of consideration and planning for the shape of the future basin emerging from the current restructuring process, and a lack of focus on which farming system option and in what proportion might produce the most profitable and sustainable mix:

"I think that that is probably the fairest thing to say—that we do need to think through the issues a little bit more than we have. As we know from last time, there has not been a socioeconomic impact statement done on the buyback. It is meant to be done in May next year. I think that we need to be clear that it is quite clear that the basin is actually overallocated. However, one of the things that we need to sort through is what we are going to focus on. Are we going to focus on high security water? Are we going to focus on permanent plantings—because you must have water to do that? Are we going to focus on general security water? Are we going to focus on crops that you can either plant or not plant depending on the environmental conditions? From what I can see, those sorts of issues have not been thought through in enough detail."⁸

The Australian Greens want to see a focus on ensuring the viability and ongoing profitability of our most sustainable and productive food production areas, and appropriate support given to farmers who want and need to transition to more adaptable and resilient farming systems. We want to see clear and reliable information given to farmers and communities about the kind of future they face, the choices that have to be made and the relative prospects of their region. We believe that the basin communities are best positioned to make decisions about the future prospects and shape of their districts and regions once they are given the information, tools and support to do so.

The Australian Greens would like to see an honest and open debate with the community about the future shape of the basin. We want to see a process for taking the Murray Darling Basin forward that puts community at the centre of the decision-making process, rather than excluding them from the debate. We believe that a focus on planning for sustainable regional communities can allow individual landholders to come together to discuss how they can balance investments in infrastructure, structural adjustment and the sale of water allocations to ensure planning with appropriate economies of scale to ensure communities can thrive and grow into the future. An excellent example of how such an

⁸ Bondi Group, RRAT Committee Hansard, Thursday 13th November 2008, pages 8-9.

approach can succeed is given in the case study of the Torrumbarry Reconfiguration and Asset Modernisation Strategy (TRAMS) discussed in the submission from ACF⁹:

"I have been having discussions with irrigation corporations, water services committees and irrigation districts, and one of their concerns is that an ad hoc approach to water purchase across the basin could have that Swiss cheese effect—leaving stranded infrastructure and so on. ... One of our concerns is that the investment in infrastructure improvement could end up creating gold plated infrastructure where ... we will end up with gold plated stranded assets in the future.

... Those communities across the basin have had enough time now to really start thinking about what is the best option for them in a 50- to 100-year time frame looking at the impacts that climate change is likely to have on them. The resounding message is that the best outcomes will come not from keeping the buyback separate from infrastructure improvement and structural adjustment but from integrating those different funding streams into a single program and looking at the process of change from the irrigation district level upwards. An example of that would be the Torrumbarry irrigation district, which has got its community together, looked at the long-term impact of climate change and other risks to its area, taken a realistic view of what really good areas will remain viable for irrigated agriculture into the future and what areas will not be viable for irrigated agriculture into the future and asked what the best use for that land is. Is it conversion to dryland cropping? Is it conversion to grazing? Is it for some other purpose, for example carbon credits or some sort of ecosystem services investment. That district has really tried to work out from that understanding what the types of land and water reforms are which are necessary to put them on a sustainable trajectory.

One of the biggest improvements could be made to the basin not by the Commonwealth government maintaining the silos over its different funding programs but by bringing them together and starting to ask those irrigation communities to have a good hard look at what they think their futures ought to be. That is not only because it is a 50- to 100-year time frame that we are looking at but also because those communities are ready for change. We are not where we were two years ago, when communities were saying: 'There is nothing wrong with us; we will be fine. The environment doesn't need any more water, and we want it all for irrigation.' There has been a quantum shift in the attitude of most of those communities, who know that change is required and want to be involved in the process."¹⁰

In putting the position of the National Farmers Federation to the RRAT inquiry, Ben Fargher also advocated for an integrated approach to the investments made through *Water for the Future*:

"Our position on these things is that we have supported the water reform agenda; we have supported the government's reform—we have got some modification of technical detail; we have supported the operation of the market; and, if acquisition is to occur, it will be from willing sellers only. We also want that linked as a strategic package with investment on farm to help farmers do more with less on farm and through system. It is not as though we have a policy on the specific purchase or otherwise of that particular property. Our concern is

⁹ Submission 5, ACF. *Land and water reform in the Murray Darling Basin*, pages 4-5.

¹⁰ Dr Arlene Buchan, ACF, RRAT Committee Hansard, Thursday 13th November 2008, pages 17-18.

focused only on buyback if it is not integrated in a package with on-farm and through-system investment. If it is in such an integrated package and governance reform and other issues—such as metering and monitoring and the acceleration of the National Water Initiative—are happening, farmers and irrigators are happy to engage in the water reform process in this country. If it is being done non-sequentially, then obviously we have a concern.

With our lobbying activities we are saying, 'Let's keep it together. Acquisition will be from willing sellers only. Farmers and irrigators need a healthy river too. But, with food shortages and all the challenges that we face in regional Australia, let's back farmers to do more with less on farm and through system as well.' We have a record of delivering more with less; we can do more so in the future, but we need the tools to be able to do it. If we can keep those two aspects together, then we will be centrally engaged in the debate."¹¹

There is a real danger that the current ad hoc approach will deliver what Dr Arlene Buchan described as a "Swiss cheese" effect – with holes in irrigation infrastructure where individual irrigators have been forced by financial pressures to bail out that make it harder for their neighbours to maintain existing irrigation infrastructure ... increasing both the risk of stranded assets and the likelihood of the economies of local communities dropping below sustainability thresholds. As Professor Mike Young put it:

"...There is a real risk that we could spend on infrastructure that proves to be redundant. It is a very difficult time. The National Water Initiative, which all governments agreed to comply with, requires a level playing field. What is happening at the moment is that we are finding bits of the system that are inefficient and we are upgrading them. That breaches the National Water Initiative. There is a real risk this could come at a cost to the nation. While investment goes into the core bits of infrastructure, which you would expect to survive no matter what happens, there is no problem. If we go one step further than that, my strong advice as an economist dealing with issues like this is that we reset the system in terms of the overall plan, first, which includes looking at the structure of the river, because there is natural infrastructure, and then there is built infrastructure for supplying water. We are upgrading the built infrastructure, but we have not yet looked at the natural infrastructure, the river itself, and that must also be a priority."¹²

As was pointed out in evidence to the committee by Deborah Kerr from the National Farmers Federation there is a significant opportunity that is being missed to invest in irrigation infrastructure improvements at a time when low or zero allocations have meant that many irrigation properties are not in operation.

"If you look at the drought, currently many irrigation farms are not being utilised. Now is an ideal opportunity for those works to be undertaken, as there could also be some beneficial flow-on impacts to communities where currently contractors who used to do sowing, harvesting or whatever for farmers perhaps could be used to implement these on-farm works. So, with the drought, we think there would be some beneficial impacts to communities if those works were rolled out here and now."¹³

¹¹ Ben Farghar, NFF, RRAT Committee Hansard, Wednesday 12th November 2008, page 12.

¹² Prof. Mike Young, RRAT Hansard, Wednesday 12 November 2008, Canberra, page 5.

¹³ Ms Deborah Kerr, NFF, RRAT Hansard, Wednesday 12 November 2008, Canberra, page 12.

Investing in infrastructure improvements during this 'forced downtime' would provide much-needed jobs and cash-flow to the basin communities that are hurting the most. It would also give irrigators something to do with during this time of despair and provide that other commodity that is in particularly short supply within the basin at the moment – hope.

"... I think that, importantly, in order to achieve that, to expedite the implementation of the act and the Water for the Future program we should be accelerating the rollout of the Commonwealth programs— all of the buyback, the infrastructure investment and the structural adjustment programs; these are all important parts of the reform process. There is no justification for delaying the rollout of any of them. I think that there are great opportunities to not maintain those as individual, separate, siloed projects anymore but to integrate the investment of those different funding streams. And there are great opportunities to be looking from an irrigation district upwards—giving communities some of the information and the tools they need so that they can start planning their irrigation districts and work out what they want them to look like in the future. So, kind of moving away from the ad hoc implementation of those programs, to looking at an irrigation district and asking: what do they want this area to be like over a 50-year, 70-year, or 100-year time frame, taking into consideration the impacts that climate change and so on will have, and giving them some of the information and tools they need to be involved in the decision-making and the planning process."¹⁴

In addition to the evidence presented by both the ACF and NFF about the need for and benefits of a planned and integrated approach, Dr Don Blackmore also advocated a similar approach during the previous RRAT inquiry into the Murray Darling Basin, Coorong and Lower Lakes:

"Given that there are significant community assets, I want to see the irrigation community not protected but supported in the future, because I see them, as I always have, as a very important part of the future of Australia. ... But it is not going to be the same industry, so which bits of the industry are we going to deal with? The first issues you have to deal with are how you are going to rebalance it with the environment and what climate change number you are going to pick to put into the equation, because it will be different for each river.

Who is going to do that? The science is not going to give you that. It is a judgement call because, as you would have heard today I imagine, the rainfall variation under the climate models is still significant, even though the aggregated impact is pretty clear.

The second issue you have is: what are you going to do with an irrigation industry? On the basis of the evidence that I see, you have to remove the consumptive burden on the basin by between 15 and 30 per cent. How do you do that equitably? Are you going to let the market do it? You can work out how the Commonwealth should invest and in which areas it should invest. At the moment it has a market mechanism in which people are willing sellers, but they are willing sellers because of where they are on their mortgage and not where they are located in the landscape. I am an observer of this now and not managing it, so I can probably be a bit more freewheeling, but what I see is that in one area we go out and we buy water and in exactly the same channel system we are investing millions of dollars to upgrade the channel system so it is an effective part of our future.

¹⁴ Dr Arlene Buchan, ACF, RRAT Hansard, Thursday 13th November 2008, page 10.

... We need to go and talk to the leaders of the industry, the Laurie Arthurs and a heap of others, and ask, 'What is a healthy industry?' We need to sit down with them and say, 'This industry is going to change, unfortunately'—we would all like it to be more comfortable, but it is going to change—'so how do we facilitate that change in such a way that we leave a viable industry and viable communities in place?' The current market mechanisms are not taking very much water out of the system, so they do not much matter. But, if you are going to get into a significant market intervention, you would want to have some better navigation in this space."¹⁵

Dr Blackmore also provided some information about how existing data could be put together to assist irrigation communities in their planning and decision making:

"In the irrigation industry, it is relatively easy to set out the profit at full equity for farms. Take the ABS and GIS data and lay it out; you can soon see where the properties that are not going to be viable in the medium to long term exist. You lay over that two or three other biophysical parameters. One of them is the salinity of the groundwater, the second one is the depth of the groundwater and the third is access to drainage. You soon understand which people are irrigating in areas where it is going to be very difficult to sustain them in the future. As it turns out, because of the way the geomorphology of the southern basin is laid out, many of those properties are located towards the end of channel systems, where it is more saline, away from the rivers and the alluvial and near-alluvial plains. Many of those people already are the water traders and many of them hang on to their water because it has been profitable for them to be a speculator. They have been in the business for a very long time, have low debt and can trade. I know many of them personally. They do very nicely out of it.

These areas also require water to travel hundreds of kilometres down channels. If you believe what I am saying—that water is going to concentrate more in the summer—it would be better to take some of that burden off the channel system to make the rest of it more effective for those that remain. So what I am suggesting is—something that is a little different from what Mike was suggesting—that we go in and we target the areas that we should be purchasing water on. We should pay a premium to purchase water from those areas, for two reasons. One is that you want people to go out with dignity. The other is that you are going to get the channel losses back as a saving as well, so you can afford to pay a premium. Not only do you get the water right, you also get the channel losses."¹⁶

The Australian Greens do not want to see some of our smartest and most efficient farmers walking off potentially productive properties in some of our more sustainable districts because of the uncertainty, or because of financial difficulties that have nothing to do with the profitability of their enterprises and everything to do with the costs of credit at a time of extremely low water allocations. We have expressed concern in the past about the risk of investing in infrastructure improvements on what may become stranded assets. Taking a planned approach to targeting infrastructure investment based on planning at the irrigation district level with the support of the best available science on its future

¹⁵ Dr Don Blackmore, RRAT Hansard, *MDB and Coorong and Lower Lakes inquiry*, Tuesday 9th September, Canberra, Pages 92-3.

¹⁶ Dr Don Blackmore, RRAT Hansard, *MDB and Coorong and Lower Lakes inquiry*, Tuesday 9th September, Canberra, Pages 94.

prospects would be a way to minimise this risk – while at the same time helping to build community engagement at a time where community support is at its most valuable.

To this end the Australian Greens are advocating a *MDB 2010-2050* plan and recommend that the Commonwealth Government should:

- **Resource and support community planning as a matter of priority**
- **Enable communities to produce plans which integrate infrastructure investment, water sales and structural adjustment**
- **Provide incentives and support for them to do so**
- **Give integrated community plans priority in assessing funding applications**
- **Empower the MDBA to develop an indicative but non-binding Basin Plan (including likely levels for catchment sustainable diversion limits) as quickly as possible to support this community planning process**
- **Create community planning support teams and resources to bring together expertise in relevant fields and to produce decision-support tools including district maps with overlays of relevant information**
- **Learn from and publicise successful community planning initiatives (such as TRAMS) and facilitate the sharing of knowledge and experience between communities**
- **Develop a vision for the Basin in 2050 of a vibrant community sustained by a healthy river system that delivers food, fibre and ecosystem services to the nation – with all communities plans finalised and underway by 2010.**

Recommendations

That Basin Plan be developed and implemented by 2011.

That existing State water sharing plans should be required to come into line with the Basin Plan within 6 months of its release, and not delayed until 2014 (or 2019 in Victoria).

That the principles of the National Water Initiative and the proportional allocations indicated under existing water sharing plans be used as a basis for revising those plans where they exceed the sustainable limit on extraction set out by the Basin Plan.

That the Bill is amended to:

- **tighten the definition of 'critical human need'**
- **exclude consideration of new extractive uses outside of the basin in the provisions of the Basin Plan**
- **ensure the Act and the MDBA have an explicit focus on managing environmental health and resilience**
- **achieve integration with EPBC and compliance with Ramsar and other international environmental treaties (which has been partially implemented)**
- **ensure that water entitlements are defined as shares of available water, and take into account the variability of the northern basin**
- **reduce the ability of the Minister to direct the MDBA and to give it more independence**
- **Include public standing provisions comparable to the EPBC Act to ensure public accountability and to facilitate enforcement of the Act**

- to ensure that, prior to exploration licences being granted for mining operations an independent expert study must be undertaken to determine the impacts of the proposed mining operations on the connectivity of groundwater systems, surface water and ground water flows and water quality.

That the Commonwealth Government support and develop a *MDB 2010-2050 Plan*, to develop a vision for the Basin in 2050 of a vibrant community sustained by a healthy river system that delivers food, fibre and ecosystem services to the nation, by:

- making community planning a matter of priority
- enabling communities to produce plans which integrate infrastructure investment, water sales and structural adjustment
- providing incentives and support for them to do so
- giving integrated community plans priority in assessing funding applications
- Empowering the MDBA to develop an indicative but non-binding interim Basin Plan (including likely levels for catchment sustainable diversion limits) as quickly as possible
- creating community planning support teams and planning resources to bring together expertise in relevant fields and to produce decision support tools including district maps with overlays of relevant information
- publicising successful community planning initiatives (such as TRAMS) and facilitating the sharing of knowledge and experience between communities
- ensures community plans are up and running by 2010

Conclusion

The Basin is facing a crisis of a scale and magnitude that outstrips any agricultural or environmental challenge of the past. The magnitude of our response must reflect this scale if we are to avoid serious social consequences for basin communities, a significant threat to our food security, and the irretrievable loss of precious habitats. Importantly, our response must also engage and empower basin communities to rethink the way they use water resources looking to a future in which there may be much less to go around. We need to support and empower communities to build a vision of a vibrant and resilient Murray Darling Basin for 2050 and provide the resources they need to restructure and rebuild their economies. An *ad hoc*, Swiss cheese approach will not deliver a sustainable future. We have only one chance to get this right.

Commonwealth, State and Territory Governments have a choice – they can provide democratic leadership and partner with communities to build this future ... or they can continue with the parochial, lowest common denominator approach that has, over the last century, been at the root of our problems with whole-of-basin governance and over-allocation.



Senator Rachel Siewert
Australian Greens Senator for Western Australia

WATER AMENDMENT BILL 2008

MINORITY REPORT

SENATOR NICK XENOPHON

I endorse and support the remarks and conclusions contained in the minority report of the Australian Greens into the Inquiry on the *Water Amendment Bill 2008*.



NICK XENOPHON
Independent Senator
for South Australia