

# Chapter 1

## Introduction and background

### Purpose of this interim report

1.1 The purpose of this interim report is to detail the concerns that the committee has with the Murray-Darling Basin Authority's Proposed Basin Plan (the Basin Plan).<sup>1</sup> The committee's concerns arise because the Murray-Darling Basin Authority (MDBA) has repeatedly ignored the major flaws in the Basin Plan, identified by virtually all relevant stakeholders including farmers, rural communities, scientists, environmentalists, and even the Basin states which referred their powers to the Commonwealth in order to create the Basin Plan. The Minister for Sustainability, Environment, Water, Population and Communities, the Hon Tony Burke MP, has stated his intention to present the Basin Plan to Parliament this year.

1.2 As a result, the committee feels it has little choice but to release this interim report now in a final effort to urge the Government to reconsider the substance of the Basin Plan. Because the Basin Plan is a legislative instrument, the Parliament has no ability to debate amendments to improve the Basin Plan. The Basin Plan will either be agreed to as presented or disallowed in its entirety.

1.3 The committee supports the need for a plan for managing the Murray-Darling Basin, however, it has concern with the lack of transparency and the process followed in developing this Basin Plan.<sup>2</sup> The committee notes that flooding rains of the last two years have returned healthy water levels to the river. This event ended eight years of continuous dredging of the Murray mouth to keep it open,<sup>3</sup> relieved the serious water pressures faced by irrigators, the broader agricultural sector and many rural and regional communities, and replenished the water reserves of many important environmental assets.

1.4 Furthermore, with the significant gaps in the scientific analysis and information underpinning the Basin Plan, Parliament will find it difficult to give the Basin Plan the comprehensive and informed consideration it deserves.

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1 Note: for the purposes of the report, the Guide to the Proposed Basin Plan will be referred to as 'the Guide' and the various iterations of the Proposed Basin Plan will be referred to as 'the Basin Plan'. Where it is necessary to refer to the specific iterations of the Basin Plan, they will be identified by the month of release i.e. the Basin Plan (November 2011), the Basin Plan (May 2012), and the Basin Plan (August 2012). Please note that where direct quotes are used the original nomenclature remains.

2 Note: at the time this interim report was finalised, the final Basin Plan had not been introduced into Parliament. As such, this report provides comment only on the Basin Plan provided to Minister Burke on 28 August 2012 as well as its various precursors.

3 The dredging of the Murray River mouth began in October 2002 and was stopped in December 2010 as part of the 'return of higher flows' to the river. See: [www.waterforgood.sa.gov.au/rivers-reservoirs-aquifers/lower-lakes-coorong/murray-mouth-sand-pumping-project/](http://www.waterforgood.sa.gov.au/rivers-reservoirs-aquifers/lower-lakes-coorong/murray-mouth-sand-pumping-project/) (accessed 20 September 2012).

1.5 The Basin Plan would commence in 2019 and continue through until 2029, so it will inform water policy in the Basin for almost the next two decades. The MDBA needs to assure Australians that its modelling and research will allow Parliament to consider a Basin Plan that is based on the best available science, provides value for taxpayers' money, is fair on irrigators and rural communities, and ensures the long-term ecological sustainability of the Basin. The MDBA also needs to provide a Basin Plan that meets ecological targets and outcomes required by the *Water Act 2007* (the Act).

1.6 Due to the specific focus on the Basin Plan, there are a number of other major issues that this interim report will not cover in detail, that the committee considers essential to its broader inquiry. Instead, these other issues will be given full consideration in the final report. These issues include:

- water trading and buyback arrangements, including the proposed Nimmie-Caira buyback;<sup>4</sup>
- the definition and allocation of different types of water, such as high security, supplementary, and terminal;<sup>5</sup>
- environmental works and measures; and
- possible solutions for the long-term environmental and consumptive water-use problems that are facing the Murray-Darling Basin.

### **Information about the inquiry**

1.7 On 28 October 2010 the Senate referred the matter of the management of Murray-Darling Basin to the Senate Rural and Regional Affairs and Transport References Committee for inquiry. The committee is due to deliver its final report for the inquiry on 1 November 2012.

1.8 The inquiry's terms of reference specifically require the committee to investigate the 'the development and implementation of the Basin Plan.' The full terms of reference are included in Appendix 1.

1.9 To date for the general inquiry (including the coal seam gas interim report tabled on 30 November 2011), the committee has received and published 380 submissions. It has held a total of 12 public hearings in Canberra and interstate. A list of submissions and witnesses can be found in appendices 2 and 3 respectively.

1.10 This report focuses on evidence received since the tabling of the interim report on coal seam gas in November 2011, and particularly on hearings since the beginning of April 2012 as these relate to the most recent and relevant iterations of the Basin Plan.

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4 Note: there is some discussion of the Nimmie-Caira buyback program in chapter 2.

5 Note: there is some discussion of water types in chapters 2 and 4 regarding how the different categories of water licences are considered in the modelling of the 2750 GL/y reduction in take and its socio-economic impacts on the Basin.

## **Acknowledgements**

1.11 The committee would like to thank all those organisations and individuals that have made submissions to the inquiry and appeared as witnesses at public hearings.

## **Note on references**

1.12 References to committee Hansard are to the proof versions. Page numbers may vary between the proof and official version of the Hansard.

## **Structure of the report**

1.13 This report is set out in five short chapters. This first chapter outlines the need for the interim report, information to the inquiry and the background to the Basin Plan. Chapter 2 discusses the issue of surface water and the key criticisms raised in the inquiry regarding the development of the Sustainable Diversion Limits (SDLs) and the target to return 2750 gigalitres per year (GL/y). Chapter 3 deals with the issue of ground water in the Basin Plan and, in particular, the Basin Plan's inadequate treatment of ground water and surface water connectivity. Chapter 4 discusses the failure of the Basin Plan to meet its own stated environmental outcomes and outlines the socio-economic impacts of the plan. Finally, chapter 5 provides an overview of the committee's findings and details the recommendations of the report.

## **Background to the MDB Plan**

1.14 There is a long history of water reform in Australia and water management has long been an issue of national importance. A large component of Australian water reform has focussed on the future environmental, social and economic health of the Murray-Darling Basin. The work of the Australian Government and Basin states led to the passing of the Act to 'deal with the management of water resources in the Basin in the national interest.'<sup>6</sup>

### ***Why an effective Basin plan is necessary***

1.15 The Basin is home to 11 per cent of Australia's population and 20 major rivers including the Darling, the Murray and the Murrumbidgee. According to the Australian Bureau of Statistics (ABS), the Murray-Darling Basin accounts for 40 per cent (or \$15 billion per annum) of Australia's gross value of agricultural production and 65 per cent of Australia's irrigated farms.<sup>7</sup>

1.16 The Murray-Darling Basin has recently experienced what has been described as a "devastating millennium drought" where many communities in the Basin were confronted with the prospect of running out of water. Many irrigators and other water users had their annual water allocations cut to zero. The drought led to continual dredging of the Murray mouth to keep it open, between 2002 and 2010, following four incredibly dry years and over extraction of water. The lack of water put stress on both

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6 MDBA, *Guide to the proposed Basin Plan*, Volume 1, Overview, 8 October 2010, p. xi.

7 ABS, *Completing the Picture - Environmental Accounting in Practice*, 4628.0.55.001, May 2012, p. 66.

the natural environment and on rural communities and farmers that relied on water allocations.<sup>8</sup>

1.17 Despite recent rains, severe droughts will inevitably come again and the development of an effective Basin Plan is a vital step to sensibly and responsibly managing water resources for the long-term. It is necessary that any Basin Plan proposed to Parliament is based on the best available science and modelling and will provide assurance that water will be available to support environmental, social and economic outcomes for future Australians.

*Establishment of the MDBA to deliver the Basin Plan*

1.18 The MDBA was established pursuant to the Act to develop a robust Basin Plan. The objects of the Act provide clear parameters about the management of the water resources, including to:

- give effect to international agreements relevant to the use and management of Basin water resources (such as, the Ramsar Convention which relates to the protection of wetlands, and various agreements regarding migratory birds and animals);<sup>9</sup>
- promote the use and management of the Basin water resources 'in a way that optimises economic, social and environmental outcomes';<sup>10</sup>
- ensure the return to Environmentally Sustainable Levels of Take (ELST) and to protect, restore and provide for the ecological values and ecosystem services of the Murray-Darling Basin;
- improve water security of the Basin water resources; and
- ensure that the management of Basin water resources takes into account the broader management of natural resources in the Basin.<sup>11</sup>

1.19 The MDBA undertook a lengthy process in developing this Basin Plan. The steps undertaken by the MDBA are outlined briefly below.

*Guide to the Proposed Basin Plan, October 2010*

1.20 In October 2010, the MDBA released the *Guide to the Proposed Basin Plan* (the Guide) which outlined proposals for public consultation. The MDBA stated that

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8 See, for example, MDBA, *Proposed Basin Plan consultation report*, May 2012, p. 4; [www.waterforgood.sa.gov.au/rivers-reservoirs-aquifers/lower-lakes-coorong/murray-mouth-sand-pumping-project/](http://www.waterforgood.sa.gov.au/rivers-reservoirs-aquifers/lower-lakes-coorong/murray-mouth-sand-pumping-project/) (accessed 20 September 2012).

9 MDBA, *Revised Draft of the Proposed Basin Plan*, May 2012, p. 194.

10 Section 3 of the *Water Act 2007*.

11 Section 3 of the *Water Act 2007*. The legislative objectives are discussed in further detail in Senate Legal and Constitutional Affairs References Committee, *A Balancing Act: provisions of the Water Act 2007*, June 2011.

the Guide was the 'landmark first-stage document in the process of establishing a plan' for the long-term management of the Basin.<sup>12</sup>

1.21 The Guide proposed that the additional surface water needed for the environment ranged from 3000 to 7600 GL/y.<sup>13</sup> However, the MDBA determined that reductions that exceed 4000 GL/y would not meet the requirements of the Act and accordingly the Authority only examined scenarios between 3000 and 4000 GL/y.<sup>14</sup> The MDBA has altered this range over time.

1.22 The Guide, and the subsequent consultation process, received a great deal of criticism. This criticism has been outlined in multiple public reports, including the House of Representatives Standing Committee on Regional Australia inquiry into the impact of the Guide to the Murray-Darling Basin Plan report titled, *Of drought and flooding rains* (the Windsor Report).<sup>15</sup>

1.23 Central to the proposals outlined in the Guide was that they reflected the best available science at that point in time.

#### *Proposed Basin Plan, November 2011*

1.24 The MDBA continued to amend its proposals, based on stakeholder feedback, which led to the release of the Basin Plan on 28 November 2011. This document, again, was developed for the purposes of further consultation. Accompanying the Basin Plan (November 2011) was the *Plain English Summary of the proposed basin plan* which attempted to set out a summary of the proposals in easy to understand language.

1.25 In the Basin Plan (November 2011), the MDBA outlined specific long-term ESLT including identifying the return of surface water for environmental purposes to be 2750 GL/y (a critique of this figure is provided in Chapter 2).

1.26 In the Basin Plan (November 2011), there was a significant increase of groundwater extraction by 2600 GL/y from that included in the Guide. The increase was made by the MDBA based on the inclusion of the work that various state governments had undertaken to establish caps on sustainable use for groundwater resources, such as the ACT Plan limit, the Achieving Sustainable Groundwater Entitlements program in New South Wales, South Australian natural resource management regulations, and local groundwater management rules in Victoria and

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12 MDBA, *Basin Guide released for public consultation*, 8 October 2010, [www.mdba.gov.au/media\\_centre/media\\_releases/basin-plan-guide-released-for-public-discussion](http://www.mdba.gov.au/media_centre/media_releases/basin-plan-guide-released-for-public-discussion), (accessed 17 September 2012).

13 MDBA, *Guide to the proposed Basin Plan*, Volume 1, Overview, 8 October 2010, pp 125–128.

14 MDBA, *Guide to the proposed Basin Plan*, Volume 1, Overview, 8 October 2010, p. xxi.

15 House of Representatives Standing Committee on Regional Australia, *Of drought and flooding rain*, 2 June 2011, [www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=ra/murraydarling/report.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=ra/murraydarling/report.htm).

Queensland.<sup>16</sup> Since this significant shift, there have been other changes made to the overall groundwater SDL in subsequent versions of the Basin Plan (more detail is provided in Chapter 3).

1.27 The Basin Plan (November 2011) also sets out proposals for further discussion over a 20-week consultation period. It was intended that the results of this consultation would then 'inform the development of the Basin Plan.'<sup>17</sup>

1.28 As a part of the public consultation for the Basin Plan, three public MDBA meetings were staged in Victoria at Shepparton on 13 December 2011, Mildura on 10 February 2012 and Swan Hill on 22 February 2012. The Shepparton and Mildura meetings were held during peak harvest (grain and grapes). Consequently less than a 1000 people attended these meetings in total for irrigation districts representing approximately 35 000 customers.<sup>18</sup>

#### *Proposed Basin Plan – a revised draft, May 2012*

1.29 Following the consultation period for the Basin Plan (November 2011), the MDBA released the Basin Plan (May 2012).<sup>19</sup> This version incorporated changes arising from the consultation process and also reflected new information. The surface water to be returned to the environment remained at 2750 GL/y; however, the groundwater SDL decreased from 4340 GL/y to 3184 GL/y.<sup>20</sup>

1.30 With the Basin Plan (May 2012), the MDBA was confident it had captured a balanced view and the Basin Plan (May 2012) was provided to the Murray-Darling Basin Ministerial Council. The Ministerial Council (which consists of all Basin water ministers and the Federal water minister) had a six week period to consider and comment on the Basin Plan (May 2012) and make suggested changes.<sup>21</sup>

#### *Ministerial Council comments on draft Proposed Plan*

1.31 On July 2012 the Ministerial Council provided its additional comments on the Basin Plan (May 2012) to the MDBA. These comments outlined the areas of

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16 MDBA, *Delivering a Healthy Working Basin: about the draft Basin Plan*, November 2011, p. 33.

17 MDBA, *Plain English summary of the proposed Basin Plan*, November 2011, p. vii.

18 Goulburn-Murray Water, *Proposed Murray-Darling Basin Plan Submission*, April 2012, [www.g-mwater.com.au/downloads/media-releases/Goulburn-Murray Water Proposed Murray Darling Basin Plan Submission.pdf](http://www.g-mwater.com.au/downloads/media-releases/Goulburn-Murray-Water-Proposed-Murray-Darling-Basin-Plan-Submission.pdf), p. 19; MDBA, <http://freeflow.mdba.gov.au/2012/01/25/more-public-meetings-scheduled/> (accessed 2 October 2012); MDBA, <http://freeflow.mdba.gov.au/2011/11/25/public-meetings-scheduled-so-far/> (accessed 2 October 2012).

19 MDBA, *Proposed Basin Plan – a revised draft*, May 2012, [http://download.mdba.gov.au/revised-BP/PBP\\_reviseddraft.pdf](http://download.mdba.gov.au/revised-BP/PBP_reviseddraft.pdf).

20 MDBA, *Addendum to the proposed Groundwater Baseline and Sustainable Diversion Limits: Methods Report*, July 2012, p. 2.

21 MDBA, *Changes to the draft Basin Plan released*, 28 May 2012, [www.mdba.gov.au/media\\_centre/media\\_releases/changes-to-the-draft-basin-plan-released](http://www.mdba.gov.au/media_centre/media_releases/changes-to-the-draft-basin-plan-released), (accessed 17 September 2012).

disagreement with the Basin Plan (May 2012). Specifically, the comments and requests raised by the Council as a whole included the following:

- an SDL adjustment mechanism to be developed which recognises works and measures, investment in infrastructure and on-farm water efficiency to recover water;
- further modelling of a 3200 GL/y 'without constraints' scenarios to be undertaken to determine what environmental outcomes may be achieved;
- equitable downstream apportionment and water recovery to be divided fairly between states;
- removal of the formal 2015 review in the Basin Plan;
- SDLs to commence in 2019 and accredited water resource plans to stand for 10 years (i.e. until 2029);
- additional work to be undertaken regarding groundwater SDLs; and
- insertion of a clause making it clear that the obligation to 'bridge the gap' between current and future SDLs will not be passed from the Commonwealth to the states.<sup>22</sup>

1.32 In addition to the Council's feedback as a whole, each Basin state Minister provided detailed comments to the MDBA for further consideration. These comments detailed state specific concerns, including the call for more water to be recovered for environmental purposes (South Australia), and less water to be returned to the environment (i.e. Victoria, New South Wales) due to social and economic impacts on communities.<sup>23</sup>

#### *Altered Proposed Basin Plan, August 2012*

1.33 Following receipt of the Ministerial Council comments, the MDBA sought further advice from 'the Basin Community Committee, national peak bodies, key scientists and technical experts, indigenous representatives and local government representatives from areas most likely to be affected by the Ministers' propositions.'<sup>24</sup>

1.34 On 28 August 2012, after this further consultation, the MDBA released the Basin Plan (August 2012) along with two volumes of documents outlining its views on the matters raised by the Ministerial Council. Discussion of the feedback it received through consultation on these matters was also provided. The MDBA indicated it had attempted to incorporate matters where there was a consensus position

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22 MDBA, *Attachment A – Council as a whole comments*, 9 July 2012, [http://download.mdba.gov.au/revised-BP/AttachmentA\\_Main.pdf](http://download.mdba.gov.au/revised-BP/AttachmentA_Main.pdf), (accessed 17 September 2012).

23 Note: see Ministerial Council state specific comments, 9 July 2012, Attachments D, F and G. [www.mdba.gov.au/proposed-basin-plan](http://www.mdba.gov.au/proposed-basin-plan).

24 <http://www.mdba.gov.au/have-your-say/view-submission> (accessed 25 September 2012).



among Basin states; however, many other matters that individual states expressed opposing views on were difficult to accommodate.<sup>25</sup>

1.35 The return of surface water to the environment stayed at 2750 GL/y. However, the groundwater SDL changed again, this time from 3184 GL/y to 3324 GL/y.

1.36 Key matters considered by the MDBA, and therefore reflected in the Basin Plan (August 2012) included:

- apportionment of downstream shares among jurisdictions to be consistent, equitable and transparent. The options to achieve this were subject to further discussion within the Ministerial Council to reach a consensus position. As such no formal changes were made on this issue in the Basin Plan;
- inclusion of an SDL Adjustment Mechanism to take into account 'efficiencies and savings achieved through various initiatives in the Basin that could lead to adjustment of SDLs.'<sup>26</sup> The Basin Plan (August 2012) provided a framework and the MDBA indicated it would continue to work with jurisdictions to finalise detailed guidelines underpinning this mechanism; and
- further adjustment to groundwater SDLs based on additional information provided by Basin states regarding groundwater aquifers.<sup>27</sup>

1.37 The Basin Plan (August 2012) was provided to the Minister Burke on 28 August 2012. Any further changes to the Basin Plan can only be instigated by Minister Burke, and not from individual Basin state Ministers. However, Minister Burke indicated that he would continue to work with all Basin states to finalise the Basin Plan in 2012.<sup>28</sup> Minister Burke stated that the Basin Plan (August 2012) is closer 'to a genuine consensus position to reform of the Murray-Darling Basin.'<sup>29</sup>

1.38 When the MDBA provided the Basin Plan to the Ministerial Council for consideration, Minister Burke stated publicly that he did not consider it went far enough. He stated that the 2750 GL/y figure was not 'as environmentally ambitious for

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25 The Hon. Craig Knowles, *Transmittal letter to the Hon. Tony Burke MP*, 6 August 2012, <http://download.mdba.gov.au/altered-PBP/APBP-Transmission-letter-from-MDBA-Chair-to-Minister-Burke-06-August-2012.pdf>, (accessed 17 August 2012).

26 The Hon. Craig Knowles, *Transmittal letter to the Hon. Tony Burke MP*, 6 August 2012, <http://download.mdba.gov.au/altered-PBP/APBP-Transmission-letter-from-MDBA-Chair-to-Minister-Burke-06-August-2012.pdf>, p. 2 (accessed 17 August 2012).

27 The Hon. Craig Knowles, *Transmittal letter to the Hon. Tony Burke MP*, 6 August 2012, <http://download.mdba.gov.au/altered-PBP/APBP-Transmission-letter-from-MDBA-Chair-to-Minister-Burke-06-August-2012.pdf>, (accessed 17 August 2012).

28 MDBA, *Statement from the Chair*, [www.mdba.gov.au/files/MR-statement-from-chair\\_v02\\_2012-08-28.pdf](http://www.mdba.gov.au/files/MR-statement-from-chair_v02_2012-08-28.pdf), (accessed 17 September 2012).

29 The Hon. Tony Burke MP, Minister for Sustainability, Environment, Water, Population and Communities, Media Release, Government working closely with states on basin plan, 28 August 2012, [www.environment.gov.au/minister/burke/2012/mr20120828.html](http://www.environment.gov.au/minister/burke/2012/mr20120828.html), (accessed 17 September 2012).



the health of the basin' and he wanted to see the further modelling for 3200 GL/y.<sup>30</sup> Despite this, Minister Burke has remained adamant that the Basin Plan will be put before Parliament, and 'signed off' by the end of 2012.<sup>31</sup>

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30 ABC News PM, *Environment Minister still not happy with rivers plan*, 6 August 2012, [www.abc.net.au/pm/content/2012/s3561783.htm](http://www.abc.net.au/pm/content/2012/s3561783.htm), (accessed 20 September 2012).

31 ABC Rural, *Murray-Darling basin plan will be signed off before end of year: Burke*, 7 August 2012, [www.abc.net.au/rural/news/content/201208/s3562362.htm](http://www.abc.net.au/rural/news/content/201208/s3562362.htm), (accessed 20 September 2012).

