



Murray Irrigation

Submission on Section 43 Notice

Murray-Darling Ministerial Council
Section 43(A) notice on revised proposed
Basin Plan consensus response to the
MDBA and separate State Comments.

20 July 2012

Contents

Executive summary	2
Addressing issues	3
SDL adjustment mechanism	3
Constraints management strategy	4
Apportionment	4
Review	4
Commencement of SDLs	5
Trading rules	5
Determinin 'actual take'	5
Jurisdictional implementation	5
Water quality and salinity	6
Environmental Watering Plan	6
Conclusion	6

Executive summary

The recommendations and advice provided to the Murray-Darling Basin Authority (MDBA) in the Murray-Darling Ministerial Council Section 43(A) notice provides some practical and common-sense solutions that, if adopted, will result in a more balanced Basin Plan.

Murray Irrigation notes that, with regard to capping water entitlement recovery, there appears to be a majority position from the jurisdictions and we submit that in the absence of a consensus agreement, the position of the majority should be adopted.

Murray Irrigation supports the development of a robust SDL Adjustment Mechanism that includes an open and transparent process for identifying and accrediting initiatives that deliver real environmental benefit and accounting for offsets against the SDL.

Murray Irrigation would suggest that in the shorter term, the MDBA use, as a test case, the Living Murray (TLM) environmental works and measures projects, all of which have previously been modelled, to test the robustness of an adjustment mechanism and restore community faith in the process.

We support the development of a constraints management strategy that fully considers all third party and downstream impacts resulting from relaxing or removing operational and/or physical (infrastructure) constraints.

Murray Irrigation supports the apportionment of the downstream recovery target that is pro-rata of total diversions, and believes this is essential to ensure that no one State is unintentionally worse off than another.

Murray irrigation agrees that the implementation of SDLs needs to allow for deferment in the event that anticipated works and measures associated with any SDL adjustment mechanism are not completed by the commencement date in 2019. Further, we support the Commonwealth commitment to bridge any gap and therefore the requirement to meet SDLs will not be passed onto the States.

We support the use of a combination of methods to determine 'actual take' and submit that this determination need also include environmental take to provide transparency and accountability of environmental water management.

The request by the Ministerial Council to clarify the non-mandatory nature of the water quality and salinity targets as contained in Chapter 8 of the Basin Plan is a welcome and practical decision.

Murray Irrigation agrees in principle with the issues raised by the Ministerial Council regarding the EWP, however, we take issue to the Lower Lakes being single out as a priority environmental asset for maintenance of water levels over and above all other Basin assets.

On the whole, we believe that the Ministerial Council has addressed many of Murray Irrigation's concerns with the Basin Plan and we strongly encourage the MDBA to implement the recommended changes. Further, we support the call by both NSW and Victorian Governments for there to be included in the Basin Plan a specific cap on entitlement recovery with the remainder to be recovered through offsets achieved by environmental works and measures and/or operational improvements, which should form part of a published environmental watering strategy.

Murray Irrigation has reviewed the Murray-Darling Ministerial Council Section 43A(4) notice and makes the following submission on the specific issues raised.

SDL adjustment mechanism

Murray Irrigation has consistently called for a Basin Plan that delivers environmental outcomes. Since the publication of the Guide to the Murray-Darling Basin Plan, we have continually called for investment in environmental works and measures to be identified and quantified against the delivered benefits and environmental outcomes and the associated offsets to the SDLs to be accredited.

We believe that the development of an appropriate, robust and transparent SDL adjustment mechanism is fundamental to restore community faith in the process and to deliver on the promise of adaptive management as stated by MDBA Chairman, Craig Knowles, and Federal Environment Minister, Tony Burke.

It is the view of Murray Irrigation that the accreditation of environmental works and measures is the only way to achieve many of the desired environmental outcomes without causing negative third party and social and economic impacts.

In developing such a mechanism, Murray Irrigation believes it is important that the adjustment process is developed in consultation with stakeholders and a draft be available for comment before the Basin Plan is finalised. We also believe the environmental water recovery strategy, which has long been promised by the Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) is also made available prior to the finalisation of the Basin Plan as recommended by the Standing Committee on Regional Australia¹.

Murray Irrigation believes that it is imperative there is an accountable process for identifying offsets and assessing their effectiveness. We do not believe the simplified re-modelling approach identified by the MDBA during the industry consultation held on 18 July would satisfy communities' desire for transparency and accountability. We support the proposal put forward by the National Farmers Federation that the MDBA work with key stakeholders to develop guidelines for the adjustment mechanism and related processes.

Further, Murray Irrigation reiterates our previous assertions (submissions to the Guide and the proposed Murray-Darling Basin Plan) that the Living Murray (TLM) environmental works and measures projects must be accounted for and provide offsets to SDLs. As these projects are already proposed or under construction, there is significant amounts of data available and therefore, they should be used to test any adjustment mechanism in the short term.

Murray Irrigation is frustrated by the apparent continued reluctance of the MDBA to give due credit to the outcomes achieved through TLM works and measures, that have been designed and developed by the MDBA, and the offsets they can provide in relation to the Basin Plan SDLs. We again suggest that the offsets provided by these works be identified and accredited as soon as possible.

Murray Irrigation supports the development of a work program of SDL adjustment initiatives and an inter-jurisdictional governance procedure to identify, assess and agree on proposals that could activate the SDL mechanism.

¹ *Report on the Inquiry into certain matters pertaining to the proposed Murray-Darling Basin Plan*, Standing Committee on Regional Australia, July 2012, Recommendation 1, p.ix

Constraints Management Strategy

Murray Irrigation supports the development of a constraints management strategy to identify and assess physical and operational constraints within the Murray-Darling system.

Murray Irrigation believes this need to be undertaken as a matter of urgency to assist in the development of a water recovery strategy.

It is our view that without fully evaluating what constraints exist and if there is any cost effective mechanism of managing water delivery through the system that will not result in negative third party or downstream impacts, the Commonwealth cannot be sure they are recovering the right water product from the right area to achieve the desired environmental outcomes.

Murray Irrigation submits that it must be written into the Basin Plan that where negative third party or downstream impacts would result from removing or relaxing operational or physical (infrastructure) constraints or where the cost of doing so is prohibitive when compared to the benefits, then no action should be taken with regard to that particular constraint.

We support a flexible management strategy that can be updated as operational or infrastructure improvements are identified or as new technologies are developed.

The constraints management strategy must not be restricted to considering environmental water delivery but must assess the impact of constraints on all water delivery and management.

The strategy must also consider cost of relaxing or removing key constraints and who will be responsible for meeting those costs. We would not support a strategy that recommended a means to meet those costs that would ultimately see the costs passed on to irrigators through bulk water charges. Murray Irrigation seeks the explicit exclusion of these costs from the bulk water charges paid by irrigators, including the costs incurred by River Murray Water, that in the case of NSW are passed on to its irrigators.

Apportionment

Murray Irrigation calls for the apportionment of shared recovery targets between affected states pro-rata of total baseline diversions.

We believe this is the only way to ensure fair distribution of the responsibility to achieve a 'healthy working river system' – although we believe the system is already healthy and working.

We contest that apportionment is necessary to assist in the development of a comprehensive water recovery strategy. We also believe the constraints management strategy will identify a need to apportion the shared recovery target as there are system constraints that we feel cannot be addressed and restrict the delivery of large volumes of water as identified in the current draft of the Basin Plan.

Murray Irrigation acknowledges that there may be differing views as to how apportionment can be achieved but notes that both NSW and Victoria support a pro-rata division based on total baseline diversions. It is our view that, in the event a consensus can't be reached, rather than leave the shared recovery target as a single figure, the MDBA should adopt the position held by the majority of affected states.

2015 Review

Murray Irrigation supports the removal of the 2015 review on the understanding that the SDL adjustment mechanism will effectively allow for similar outcomes without the need for amendments to the SDLs having to follow the parliamentary process.

Murray Irrigation notes that there is provision in the Section 43A(4) notice for the SDL adjustment mechanism to provide for reviews of the water recovery strategy in both 2016 and 2019, which is a position we support.

We note with caution the position of the MDBA during the industry consultation on 18 July that the mechanism would effectively be "run" just once, in 2015. We believe this is inadequate to fully evaluate the potential outcomes and benefits of operational changes and works and measures projects.

Murray Irrigation submits the SDLs should be reviewed/adjusted in 2015/16 and again just prior to SDL commencement in 2019 as recommended by the Ministerial Council (paragraph 12) and again at every review of the Basin Plan thereafter.

Commencement of SDLs

Murray Irrigation supports the clarification that SDLs are to take formal effect in 2019, whilst noting that the actual implementation may be deferred in the event that anticipated works associated with an SDL adjustment mechanism are not complete in time.

We agree that all liability for meeting the SDLs in 2019 be assigned to the Commonwealth. We believe the MDBA should codify in the Basin Plan that entitlement reliability will not change in the event that the SDL gap is not closed by 2019 and there will be no negative effect on state water share or entitlement reliability.

Trade rules

Murray Irrigation requests that any clarification of trading rules not be limited to looking at unintended restrictions on the Commonwealth and Basin States trading activity but also ensure there are no unintended restrictions on the ability for company directors to participate in the water market within usual corporate governance arrangements.

Murray Irrigation believes the water trade rules (WTR) as they are drafted will not necessarily achieve the aim of preventing restrictions to trade, but do place an excessive administrative burden on irrigation corporations (ICs), particularly the inclusion of provisions for trade of delivery entitlements which are a singular issue for the specific IC. We believe the WTR are excessive at the same time as not achieving the aims of the Water Act 2007.

Murray Irrigation submits any review of the WTR not be limited to areas pertaining to insider trading (S11.51).

Requirements for determining 'actual take'

Murray Irrigation supports the request that a combination of approaches be used in determining actual take to ensure the determination adequately considers 'take' that is not necessarily for irrigation or urban purposes.

For the purposes of the Basin Plan, all forms of take must be considered including interception, environmental take and non-metered on-farm use (stock and domestic).

As it is currently drafted, it appears 'take' refers only to metered activity. Murray Irrigation contends that non-metered activity such as stock and domestic, riparian, interception, floodplain protection, tourism and other uses must be included in determining 'actual take'.

Jurisdictional implementation obligations

Murray Irrigation notes the concerns of Basin States in regards to the implementation of the Basin Plan. We submit that any costs of implementation must be met by agreement between the Commonwealth and Basin States that does not see the costs passed on to irrigators.

Murray Irrigation notes that according to the Water Act 2007, the Commonwealth's share of risk includes changes in water availability resulting from changes in Government Policy². We would contend that risk includes covering any costs arising from implementing policy that leads to said reductions in water availability.

Water quality and salinity

Murray Irrigation believes the Basin Salinity Management Strategy (BSMS), as contained in Schedule B of the Murray-Darling Basin Agreement has been implemented effectively and is working well to manage salinity throughout the Basin. We agree with the Ministerial Council that the BSMS should be the foundation stone of salinity management within the Basin.

The targets proposed in the revised draft Basin Plan could have compromised the success of the BSMS by implying that targets outside of its operation must also be considered and met by Basin States, including targets outside of their own jurisdictions.

We agree that these targets be clearly stated as non-mandatory and that no punitive action can be taken against a Basin State for not meeting targets outside of the BSMS where it can be shown that the costs of doing so (including social and economic costs) would be considered excessive.

² *Water Act 2007 (Cth), Division 4 – Allocations of risk in relation to reductions water availability, p.96*

Murray Irrigation agrees that all targets should be stated as EC to remain consistent with commonly accepted terminology.

Environmental Watering Plan (EWP)

Murray Irrigation agrees that the EWP should be flexible and maximise the efficiency of environmental water use. We also agree that it should be developed in a collaborative manner, including consulting with stakeholders and draw on local knowledge. We accept that any EWP needs to contain both mandatory (identification of assets) and flexible requirements (watering needs dependent on climatic conditions and priorities).

It is unfortunate that no such plan has been available to date. We submit that the EWP should have been the first step in the process, followed by a water recovery strategy, both of which could have formed the basis of an accepted and justifiable Basin Plan.

In the absence of this process, we agree with the Ministerial Council that the EWP now be developed to provide guidance on the environmental watering requirements of priority assets and functions to support the development by Basin States of consistent valley-based watering plans.

We accept the clarification that meeting a water level requirements in the Lower Lakes be done, as far as practical – or in a non-mandatory manner, by environmental water. We believe only environmental water should be used, outside normal dilution or base flows, to meet this need and state water share or entitlement should never be called on for environmental purposes such as this in the future.

However, we would contend that this provision be met only by Commonwealth or South Australian environmental water as, other relevant environmental water should be used as a first priority to meet the needs of assets in the holding jurisdiction.

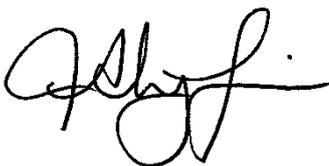
We also note that the inclusion of this provision appears to give priority to a single environmental asset above all else, which would appear to take precedent of Basin annual environmental watering priorities. If the EWP is meant to provide enough flexibility to meet varying environmental needs, one asset cannot be given automatic preference by virtue of location and must be judged, along with all others, depending on need, climate, past conditions and future predictions.

Conclusion

Murray Irrigation urges the MDBA to fully consider all the recommendations of the Ministerial Council. We further suggest the MDBA work with SEWPAC to develop a water recovery strategy as soon as possible to better inform the Basin Plan.

We believe the SDL adjustment mechanism, water recovery strategy and first iteration of the constraints management strategy must all be developed, in consultation with industry and stakeholders, before the Basin Plan is finalised.

Finally, we contend, that in the absence of all jurisdictions reaching a consensus agreement, the MDBA must seriously consider implementing the recommendations of the majority of states.



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