



I N L A N D  
R I V E R S  
N E T W O R K

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Senate Standing Committees on Rural and Regional Affairs and Transport  
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## **SUBMISSION**

### **The integrity of the water market in the Murray-Darling Basin**

#### **Introduction**

The Inland Rivers Network (“IRN”) is a coalition of environment groups and individuals that has been advocating for healthy rivers, wetlands and groundwater in the Murray-Darling Basin since 1991.

We have been closely involved in the development and implementation of the Basin Plan since its inception in the Commonwealth *Water Act 2007*.

The need to return the Murray-Darling Basin to sustainable levels of water extraction is critical for the future of the water dependent ecosystems, communities and industries reliant on river flows and safe water quality.

IRN has deep concerns with the approach taken by the NSW Government in river management in general, and implementation of the Basin Plan specifically.

The lack of commitment to protect Commonwealth-owned or ‘held’ environmental water from extraction in unregulated sections of river systems in NSW is a critical issue for the delivery of Basin Plan outcomes.

IRN also has deep concerns about the influence of the irrigation industry on the implementation of the Basin Plan through the Murray-Darling Basin Authority (MDBA) and the NSW Department of Industries – Water (DPI Water).

We believe that the political influence of the irrigation industry, particularly through National Party Ministers holding water portfolios, has caused interference in key decisions and processes in water management across the Murray-Darling Basin.

As stakeholders in the process of developing the Basin Plan, environmental groups, Aboriginal people, floodplain graziers and downstream communities have not been afforded the same level of access to information or consultation with the MDBA as irrigator bodies.

This was particularly evident during the review of the Northern Basin sustainable diversion limit (SDL).

The outcome of the Northern Basin Review was a decision to reduce water recovery to the environment by 70 GL ie down from the current volume in the Basin Plan of 390 GL to 320 GL. This decision did not take into account the environmental, social and economic impact on the Darling River and its dependent communities.

The majority of submissions to the MDBA on the draft Northern Basin SDL called for more water for the environment. There was strong community support for 410 GL to be recovered to improve the health of the Barwon-Darling and Ramsar listed wetlands in the Northern Basin.

Instead, the MDBA adopted a decrease in water for river and wetland health. This included a reduction in currently 'held' environmental water available for the Ramsar listed Macquarie Marshes and Gwydir Wetlands.

This submission will outline some key examples of how this outcome was influenced.

Case studies are provided that demonstrate the close ties between the irrigation industry, MDBA, DPI Water and Federal Government representatives.

These case studies are based on information obtained through the Federal *Freedom of Information Act 1989* (FOI).

Documents demonstrate a high level of contact between irrigator bodies, MDBA and state and federal government staff that could be considered to amount to 'collusion.'

A sample of FOI documents are provided as attachments to this submission.

IRN requests an invitation to present further information to a hearing of this Senate Inquiry.

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## **Key Recommendations:**

That this Senate Inquiry:

1. Call for a full judicial inquiry into the management of water in the Murray-Darling Basin and the implementation of the Basin Plan.
2. Investigate the relationship of the irrigation industry with the MDBA, state government water agencies, and state and federal government water ministers.
3. Investigate the process of appointment to the MDBA Board.
4. Investigate decision-making processes of the MDBA, Basin Officials Committee, Murray-Darling Basin Ministerial Council and COAG in relation to the implementation of the Basin Plan.
5. Investigate the development of Water Resource Plans under the Basin Plan.
6. Call for rules in Water Resource Plans to protect Commonwealth-owned environmental water from extraction.
7. Call for improved resourcing of monitoring and compliance with water management rules.

## **Case Studies from FOI documents**

### **Case Study 1: Negotiations with Namoi Water re rules for water sharing**

Documents received through FOI have revealed that the MDBA entered into negotiations with Namoi Water to allow rule changes in the current Namoi Regulated Water Sharing Plan (WSP) in return for agreement to accept proposals in the Northern Basin Review.

These rule changes, that allow increased extraction of supplementary water, are expected to be accredited by the MDBA in the Water Resource Plan (WRP) being developed for the Namoi River under the Basin Plan.

The Basin Plan (cl 10.28) requires that no net reduction in the protection of planned environmental water can occur in WRPs. Tributary inflows protected by current rules in the Namoi Regulated WSP contribute to planned environmental water.

FOI documents reveal communications between MDBA, NSW DPI Water and Namoi Water discussing arrangements that benefit the irrigation industry, in return for acceptance of changes to the Northern Basin SDL.

A proposal offers that Namoi Water and the NSW government would support the 320 GL proposal with 20 GL from the Namoi if MDBA agreed to changes to the WSP and support an increase in the payment for water under the infrastructure fund and 100%

government funding. DPI Water and the Commonwealth Department of Agriculture are in the emails, and were part of at least two email discussions.

The question of reduction in net planned environmental water, an equivalence test and management of a growth in extraction was met by a comment from MDBA CEO, Phillip Glyde:

‘Where there is a will there is a way...’

For documents disclosing discussion on this matter please refer to Attachment 1(a-c)

We request the Senate Inquiry to further investigate this matter and its implications in regard to delivering a Basin Plan that will not compromise environmental outcomes.

### **Case Study 2: Direct access for irrigation industry to MDBA models**

Documents received through FOI have revealed that MDBA staff provided direct access to models to executive officers of irrigator representative bodies. The models were developed as part of the Northern Basin Review process.

There is deep community concern that biased information was used to reach the conclusions made in the Northern Basin Review.

The key Northern Basin irrigator groups had full access to models, model inputs and assumptions, and modelled outcomes during the review process. Other stakeholders, including environment groups, Aboriginal and traditional owner groups, floodplain graziers and downstream communities had no such direct access to information or engagement with MDBA staff.

The socio-economic model failed to include an analysis of the impact of different water recovery scenarios on the downstream communities on the Darling River, including Wilcannia, Louth and Menindee.

The impact of different water recovery scenarios on floodplain graziers and irrigators below Bourke was also not included in the model.

For documents disclosing discussion on this matter please refer to Attachment 2 (a-d).

We request the Senate Inquiry to further investigate this matter and its implications in regard to delivering a Basin Plan that will not compromise environmental outcomes or cause social and economic unfairness.

### **Case Study 3: Irrigator influence on the MDBA Board**

There is ongoing concern in the community about the appointment of MDBA Board members and the current make-up of the Board in regard to influence of the irrigation industry.

The *Water Act 2007* (Commonwealth) has the following requirements:

## **Subdivision B—Authority’s membership.**

### **178 Appointment of Authority members**

#### *Eligibility for appointment*

- (2) To be eligible for appointment as an Authority member, an individual must, at the time of appointment:
  - (a) have a high level of expertise in one or more fields relevant to the Authority’s functions; and
  - (b) not be a member of the governing body of a relevant interest group.
- (3) For the purposes of this Act, a *field relevant to the Authority’s functions* includes each of the following:
  - (a) water resource management;
  - (b) hydrology;
  - (c) freshwater ecology;
  - (d) resource economics;
  - (e) irrigated agriculture;
  - (f) public sector governance;
  - (g) financial management.

IRN is concerned that the majority of MDBA Board members have a strong background and connection with the irrigation industry. There is a very uneven balance between members with a high level of expertise in hydrology and freshwater ecology compared to members with a background in irrigated agriculture.

This is particularly evident with the most recent appointment of Susan Madden in March 2016. The proposal to appoint Perin Davey, executive officer of Murray Irrigation, in July 2017 was prevented due to public outcry. However, the same arguments could be used against the appointment of Susan Madden.

Documents received through FOI have revealed that Susan Madden was participating in MDBA meetings as the executive officer of Macquarie Food and Fibre in January 2016.

After her appointment to the MDBA Board in March 2016, she then became a strong advocate for the Northern Basin Irrigators Alliance, during the Northern Basin Review.

Documents reveal that by May 2016, Susan Madden, is seeking information for the irrigation industry directly through the MDBA CEO.

For documents disclosing this matter please refer to Attachment 3 (a,b).

We request the Senate Inquiry to further investigate this matter and its implications in regard to the operation of the MDBA in delivering a Basin Plan that will not compromise environmental outcomes or cause social and economic unfairness.

#### **Case Study 4: Political involvement in MDBA processes**

IRN has concerns that the ‘independence’ of the MDBA has been compromised through direct contact with the Federal Minister for Agriculture and Water Resources Water Policy Advisor.

We note that Matthew Coulton is the son of National Party federal member for the seat of Parkes, Mark Coulton. The electorate of Parkes covers most of the Northern Basin catchment in NSW.

There is great concern in the community about the influence of the National Party and its supporters on the implementation of the Basin Plan following the allegations of corrupt conduct exposed on the ABC Four Corners program, ‘Pumped’, aired on 24 July 2017.

We consider it entirely inappropriate for the CEO of the MDBA to have direct communication with a political advisor.

For documents disclosing this matter please refer to Attachment 4 (a,b)

We request the Senate Inquiry to further investigate this matter and its implications in regard to delivering a Basin Plan that is based on independent expert research and unbiased decision-making.

#### **Other Issues:**

1. The use of Commonwealth-owned environmental water for irrigation purposes

The NSW has failed to protect Commonwealth-owned or ‘held’ environmental water, or state-owned environmental water, from extraction.

This was demonstrated recently in the Macquarie River catchment when an environmental flow was released from Burrendong Dam with the objective of connecting the Macquarie River to the Barwon River to facilitate improved fish movements.

This decision was made by the Macquarie Environmental Flows Reference Group, a statutory body, that includes community representatives, State agencies, MDBA and a representative of the Commonwealth Environmental Water Holder.

Good seasonal rain over summer had caused flows in the Barwon-Darling that encouraged a successful breeding of Golden Perch. The environmental flow release in the Macquarie was timed to meet a fresh (rain fed water flow) moving through the Barwon system.

The environmental release was aimed at connecting the Macquarie to the Barwon flow to expedite the movement of Golden Perch from the Barwon up into the Macquarie. The timing of the release worked well.

The key problem with the planned release was the stretch of unregulated Macquarie River between the regulated Macquarie and the Barwon River. There are currently no rules in the unregulated WSP that protect environmental water once it leaves the regulated section of the river.

The increased flows triggered the ‘commence to pump’ rule in the unregulated WSP.

There had been negotiations with the three licence holders in the unregulated section. Two irrigators honoured their agreement not to pump environmental water, while the third extracted a large proportion of the flow.

This inhibited the success of the environmental flow release in achieving its objective.

It is imperative that WRPs developed under the Basin Plan contain rules to protect environmental water from extraction.

## 2. Barwon-Darling WSP

The NSW Government rushed through the gazettal of the Barwon-Darling WSP in 2012 prior to the finalisation of the Basin Plan.

Changes made to rules in the WSP had not been carried out in a transparent manner. As disclosed in the Four Corners program, large irrigators on the Darling River had direct influence on the NSW Water Minister to make these rule changes.

The outcome has been a significant increase in water extraction above Bourke that has seriously impacted on the health of the Darling River.

This increased extraction by a few large corporate entities has reduced water availability for Menindee Lakes and Broken Hill water supply, and water availability for downstream towns, irrigators, floodplain graziers and Aboriginal communities dependent on a healthy river system.

The concept of water sharing and improving river health has been completely overturned in the Barwon-Darling system.

The Barwon-Darling is the key link between the Northern Basin and the Southern Basin. The management of water in this river system and the protection of ‘held’ environmental water is critical to the success of the Basin Plan.

A decrease in water recovery from the Northern Basin, as proposed by the MDBA, combined with unfair and unsustainable rules in the Barwon-Darling WSP will have long-term impacts on the success of the Basin Plan.

The development of the Barwon-Darling WRP must reinstate individual daily extraction limits and provide rules that protect ‘held’ environmental water flows when they enter the system from connected tributaries.

### 3. Water for the Environment Special Account

IRN is concerned about the lack of transparency around the use of public money made available to increase water recovery in the Murray-Darling Basin by 450 GL.

The Department of Agriculture and Water Resources Annual Report 2015-2016 includes a report on the operation of the Water for the Environment Special Account (WESA) that states:

*‘Payments totalling \$3 979 000 were made to New South Wales, South Australia and Victoria to assist the three governments to contribute to the preparation of business cases for measures that will ease or remove constraints on the movement of environmental water to the environmental assets of the River Murray, Murrumbidgee River, Gwydir River and Goulburn River.’<sup>1</sup>*

However, there appears to be little or no reporting on how this money has been used. There are no apparent business cases available in the public domain.

While the improved management of constraints will provide better environmental outcomes through the delivery of existing volumes of environmental water, the aim of recovering 450 GL of additional water for environmental benefits will not be achieved through the above expenditure.

IRN considers that the process for allocating funding from the WESA should be transparent and aimed at the purpose of recovering more water.

The WESA has \$1.575 billion to recover 450 GL of additional water through efficiency measures.<sup>2</sup> There is no transparent reporting on the implementation of this program.

We request the Senate Inquiry to further investigate this matter in regard to delivering a Basin Plan in full and on time, as promised by the Federal Government.

### 4. Monitoring and compliance

A full investigation into the resourcing and implementation of adequate monitoring and compliance with water management rules across the Murray-Darling Basin is critical.

The Basin Plan will only be effective in achieving environmentally sustainable levels of take if management rules are recognised and adhered to.

### 5. SDL adjustment mechanism

IRN is deeply concerned that all effort from COAG, Minco and MDBA has been focussed on developing a package of supply measures rather than a balanced approach to the SDL adjustment.

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<sup>1</sup> <http://www.agriculture.gov.au/about/reporting/annualreport/2015-16/part-4/water>

<sup>2</sup> Commonwealth of Australian, 2015, Fact Sheet, *Australian Government investment in enhanced environmental outcomes*

The proposed package of projects adopted by COAG in June 2017 has no detail provided. The business cases for the projects are not available, making it impossible to consider the public benefit of the investment.

We are concerned that this very opaque and unbalanced process is a result of the undue influence of the irrigation industry and political interference outlined in the case studies provided in this submission.

## **Conclusion**

The final implementation of the Basin Plan to meet Commonwealth commitments under international treaties is currently at risk.

Key Environmental Objects of the *Water Act 2007* (Commonwealth) include:

- to give effect to relevant international agreements (to the extent to which those agreements are relevant to the use and management of the Basin water resources) and, in particular, to provide for special measures, in accordance with those agreements, to address the threats to the Basin water resources
- to protect, restore and provide for the ecological values and ecosystem services of the Murray-Darling Basin (taking into account, in particular, the impact that taking of water has on the watercourses, lakes, wetlands, ground water and water-dependent ecosystems that are part of the Basin water resources and on associated biodiversity)

***Relevant international agreement*** means the following:

(a) the Ramsar Convention; Convention on Wetlands of International Importance especially as Waterfowl Habitat, Ramsar 1971

(b) the Biodiversity Convention; Convention on Biological Diversity, Rio de Janeiro 1992

(c) the Desertification Convention; United Nations Convention to Combat Desertification, Paris 1994

(d) the Bonn Convention; Convention on the Conservation of Migratory Species of Wild Animals, Bonn 1979

(e) CAMBA; Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment, Canberra 1986

(f) JAMBA; Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment, Tokyo 1981

(g) ROKAMBA; Agreement with the Government of the Republic of Korea on the Protection of Migratory Birds, Canberra 2006

(h) the Climate Change Convention; United Nations Framework Convention on Climate Change, New York 1992

(i) any other international convention to which Australia is a party and that is:

- (i) relevant to the use and management of the Basin water resources; and
- (ii) prescribed by the regulations for the purposes of this paragraph.

IRN considers it imperative for the Basin Plan to be brought back on track with improved transparency, improved consultation with all stakeholders, and improved independent decision-making.

We trust this Senate Inquiry will consider the recommendations in this submission for the benefit of all Australians.