



Climate Change Alert October 2008

Commonwealth and States Take Action Towards Murray-Darling Basin Reform

“The referral of powers is an essential element of an overall legislative reform package which will bring about changes in governance and basin-wide strategic planning that will not only address over-allocation issues and improve the provision of environmental water, but will also focus on planning and management of water for delivery of critical human needs.”

Hon. Karlene Maywald, SA
Minister for the River Murray,
Minister for Water Security

Summary

New legislation has been introduced by the Commonwealth Government and several State Governments to significantly reform the governance arrangements of the Murray-Darling Basin (**MDB**).

The reforms include:

- > plans to secure water for critical human needs;
- > more efficient water trading arrangements across the MDB; and
- > the establishment of a single governing body called the Murray-Darling Basin Authority.

The reforms aim to ensure the MDB is managed in the national interest and on a sustainable basis, laying the groundwork for a long-term plan to implement a scientifically-based limit on water use in the MDB.

The Council of Australian Governments (**COAG**) set a deadline for the proposed governance arrangements to commence on 1 November 2008, however slow action by the Federal and State Governments means the deadline will not be met, despite the urgent need for action.

The Intergovernmental Agreement on Murray-Darling Basin Reform

The Commonwealth's Water Amendment Bill 2008 (**the Commonwealth Bill**) gives effect to the Intergovernmental Agreement on Murray-Darling Basin Reform (**IGA**) which was entered into on 3 July 2008 by the Commonwealth, NSW, SA, Victoria, Queensland and the ACT (**the Basin States**).

The IGA recognises that the management of the Murray-Darling Basin is an issue of national significance. The MDB covers one-seventh of Australia, provides water for three million Australians and supports an agricultural industry worth \$9 billion. Specific reforms to be implemented pursuant to the IGA include:

- > The Murray-Darling Basin Authority
- > The Basin Plan
- > Regulation of Water Trading

The Murray-Darling Basin Authority

The powers and functions of the existing Murray-Darling Basin Commission will be transferred to the Murray-Darling Basin Authority so that there is a single institution responsible for managing shared water resources on behalf of the States. The key task of the MDB Authority will be to devise,



implement, monitor and enforce a strategic plan for the integrated and sustainable management of water resources in the MDB (**the Basin Plan**).

The Basin Plan

The Basin Plan, which will take two years to research and develop, will aim to improve the use and management of the water resources of the MDB in order to balance environmental, economic and social needs. It is intended that the Basin Plan will:

- > Set sustainable long-term limits on how much surface and ground water can be extracted from the MDB to deal with over-allocation issues.
- > Identify and manage risks to the MDB's water resources, such as climate change.
- > Address water quality, salinity and environmental watering in order to maintain the river's health.
- > Focus on providing water for critical human needs by providing strategies to manage periods of low water availability to ensure there is enough water stored for all dependent communities.

Regulation of Water Trading

- > The water market and water charge rules will be extended to cover all water service providers that charge regulated water charges, not just those within the Commonwealth's constitutional powers.
- > The Australian Competition and Consumer Commission (**ACCC**) will play a key regulatory role in monitoring and enforcing compliance with water

charge and market rules and it will have the capacity to determine or approve all water charges.

- > This uniform regulation will create more efficient water trading across the MDB by lowering the administrative barriers to trade.

States' Referral of Powers to the Commonwealth

The Commonwealth's amendments to the Water Act are only possible because the Basin States have agreed to pass legislation referring their relevant legislative powers to the Commonwealth. Until now, the Commonwealth's ability to develop a basin-wide strategic plan has been restricted by its limited Constitutional power.

However, it is now close to the November 1 deadline and only one state has passed the necessary legislation to refer matters relating to the MDB and other water management issues to the Commonwealth.

- > NSW is the first state to have taken action by passing the Water (Commonwealth Powers) Act on 25 September 2008.
- > South Australia's corresponding bill passed through the House of Assembly on 15 October and will be brought before the Legislative Council by the end of this month.
- > Both Queensland and Victoria introduced their referral bills into Parliament on 7 October, but will not take the next step to pass the bills until November 10.
- > The ACT has no powers to refer.

The States' referral of powers does not mean that there will be no checks or balances on the Commonwealth's power to legislate over the MDB. The Commonwealth will be bound by the terms of the IGA to seek the approval of the states prior to making any further amendments to the Water Act 2007.

How the Reforms will affect the States

Some of the implications of the reforms for the Basin States are as follows:

- > Under the IGA, the Commonwealth committed to provide up to \$3.7 billion towards significant water projects in the Basin States including upgrading irrigation infrastructure and improving river management, with some money allocated to support private irrigators.
- > The proposed legislation allows Commonwealth and State water laws to operate concurrently and the Basin States will retain decision-making power in relation to state water shares and natural resource management programs. The Basin States will also have an important advisory role in developing the Basin Plan.
- > South Australia will have access for the first time to upstream water storages, including the Hume and Dartmouth dams, to store up to 300 gigitalres of water (18 months' supply) to meet critical human needs in low-flow periods.
- > The State Governments will undertake a communication process with key stakeholders in relation to the implications of these reforms for State-based water resources management.



The Next Step

The Murray Darling Ministerial Council will meet again on November 14, having failed to implement the reforms by the deadline set down at the last meeting in July.

The Commonwealth Bill has been referred to a Senate committee inquiry by [the Greens](#), who stress the need for proper scrutiny of this complex and important legislation, stating that “we urgently need to get this right”. The Senate inquiry will sit on 19 November.

We will be closely monitoring the progress of the State and Commonwealth legislation. If you would like advice on how the legislative reform will impact on your water consumption and entitlements, please contact one of the people below.

For more information on this topic please contact:



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