

INQUIRY INTO FLOODPLAIN HARVESTING

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Floodplain Harvesting



Select Committee on Floodplain Harvesting

Submission by
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Background

I am Suzanna Sheed the Independent Member for Shepparton District in the Victorian Parliament.

By way of background, I was born at Barham in New South Wales and raised on irrigation properties in southern New South Wales. I settled in Shepparton approximately 38 years ago and represent my electorate in the Legislative Assembly of the Victorian Parliament.

Water policy is of extreme importance to the region I represent. I have been very active in representing the interests of my community at local, state and federal levels on water issues.

Shepparton is located in the wider Goulburn Murray Irrigation District bounded by the Murray River to the north and with the largest Victorian river, the Goulburn River running through it.

The Goulburn Murray Irrigation District has a rich history. Its primary development has been characterised by its access to water for irrigation, fertile land and the climate needed to enable agriculture, dairy, horticulture and other industries to flourish.

The region is at the forefront of global food production and has one of the highest concentrations of food processing factories in rural Australia, being the home for major companies such as SPC, Fonterra, Nestle, Unilever, Pactum, Bega and Simplot to name a few.

Irrigation is critical to the region's agricultural production and manufacturing.

The region is also known for the significant presence of transport, warehousing, and packing firms including Visy Logistics, Patrick's Asciano, Visy Packaging, Amcor, Keating's Transport, Kreskas Brothers and numerous others.

The region is nevertheless faced with great challenges and the Murray Darling Basin Plan (the Plan) is one of these.

The reduction in the volume of water available for irrigation is weakening our regional economy by undermining the productive base of the region. The negative socio-economic impacts on our community have been well documented.

Water deliveries in the Goulburn Murray Irrigation District have fallen from more than 2,000 GL per year prior to the Plan to between about 800GL and 1,000GL in recent years. The largest factor in this reduction has been the Commonwealth directly purchasing over 512 GL of high security water entitlements from northern Victorian irrigation areas.

Northern Victorian irrigators have also been indirectly affected by the further tightening of the Southern Connected Basin water market due to Commonwealth water purchases in other parts of the southern connected basin.

These changes have all occurred to ensure that Victoria meets its obligations under the Murray Darling Basin Plan.

It is therefore reasonable for Victorian irrigators to expect that other states will meet their obligations under the Plan.

The six key actions that Victoria has taken which all states should also take are:

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- i. The Murray Darling Basin Cap (the cap) was introduced in 1995, which all states agreed to. This limited the amount of water that could be allocated within each basin. A key part of the 1995 agreement by the basin States and the Commonwealth was that the cap limit was based upon the extent of development in 1993/94 and that no further development that would increase water use would be permitted. These

cap limits are the basis of the current Sustainable Development Limits (SDLs).

- ii. Part of this agreement, and again reinforced within the Basin Plan, was that Victoria was liable to meet “end of valley” targets before water could be allocated to its licence holders. For example, the mandated dilution flows to South Australia (SA) have priority.
- iii. The limits created by Victoria’s agreement to the Cap led to Victoria introducing in 1998 the *Farm Dams legislation* (incorporated into the Victorian Water Act 1989). This gave licences to the existing farms’ dams but prevented any further dam development within the Murray Darling Basin in Victoria unless its licence to store water was purchased and transferred from another existing licence.
- iv. Basin Plan water recovery has meant that Victoria has transferred approximately 23% of its allowance under the Cap in addition to a further 200GL previously provided under the Living Murray Program.
- v. Victoria introduced carryover as an action to further enable farmers to manage their drought risk. From 2007, Victorian water entitlement holders were able to carry unused allocation water over to the next year provided that storing this water between seasons did not adversely affect other farmers’ current or future allocations. If the storages subsequently spill then the farmers lose (spill) the water carried over in shared storages, to the environment.
- vi. Victoria has metered its water delivery to farmers using the dethridge wheel for more than 100 years. While this was considered to have a 7% error on average, it still enabled proper water accounting and water sharing between users to be undertaken. As part of the Basin Plan, Victoria has implemented the replacement of these meters with more accurate meters to provide even better water sharing and accounting.

The importance of the Darling River and Menindee Lakes to Victorian water management

The Darling River contributes to the downstream flows of the Murray Darling Basin and this contribution is enhanced by the management of Menindee Lakes.

The current Basin Agreement means that Victoria and NSW Murray systems are obliged to meet the minimum flows and dilution flows across the SA border each year and to provide SA its share of available water. If the Darling River does not contribute to the Murray River in any season, then any shortfall is supplied by Victoria and NSW from the Murray system. A failure to supply from the Darling River in any year directly and adversely impacts the Victorian and NSW Murray water allocations. The higher flows required in these circumstances also cause significant environmental damage to the Goulburn River, the Broken Creek, and the Barmah Choke.

Therefore, it is critical to Victoria and southern NSW Murray communities that the northern basin provides its share downstream to Menindee. Until more recent times the Darling River contributed approximately 39% of South Australia's entitlement. At an absolute minimum, this share should be consistent with flows available prior to the agreement to cap usage in 1995 (i.e. based on the levels of diversions and farm developments occurring in the large Darling Catchment in 1995).

The current floodplain harvesting means that Victoria will be effectively providing more of its water to meet the long term commitment the northern basin farmers are no longer willing to contribute.

Floodplain Harvesting in the Northern Murray Darling Basin

The degradation the Darling River has been a cause of concern locally nationally and internationally. The fish kills of December 2018 and January 2019 highlighted the devastating impact on the river of low flows over

protracted periods and highlighted the failure of the Northern Rivers to make their contributions to flows as required under the Murray Darling Basin Plan.

In April 2021, I led a group of water stakeholders from my region up the Darling River from Wentworth, across the northern basin region including the Brewarrina, St George (QLD), Cubbie Station (QLD), Dirranbandi (QLD) and Moree and finally the Macquarie Marshes. As we undertook this tour, hearing from many locals in each of these areas, we formed the view that the impact of floodplain harvesting in the northern basin is not only contributing to the decline of the Darling River and its associated communities, but also depriving Victoria, and ultimately South Australia, of water which it would otherwise receive from the Darling River.

We were horrified as a group to see that unchecked development had been occurring since 1995 when the Cap was implemented. When the 1995 agreement for the Cap was struck all states agreed to abide by its terms and to halt any further development. It is estimated that on-farm storages have increased 143% since 1994.

Victoria has stuck to the agreed terms and introduced its farm dam legislation in the late 1990s. It did not allow any further take from that time.

The northern and southern basins are now largely disconnected. The Darling River was the connector but, in some years, there are no flows into the Murray system, at other times minimal flows. The only significant flows now occur during large floods.

This was not always the case.

People we spoke to along the Darling River system, including Indigenous representatives, recall that until approximately 20 years ago the river flowed, save for short periods from time to time. While changes in flows have been attributed to drought and climate change, there can be no doubt that the impact of the proliferation of huge, private dams and associated diversion

works on private property across the northern basin and on the Barwon Darling system have also contributed to this reduction in flow.

The impact of reduced flows upon the Indigenous community and particularly those communities along the Barka-Darling River and around Menindee has been devastating. Not only have towns gone without water and had to have it trucked in when flows are heavily reduced, but many significant sites and communities have been negatively affected as well. Promises of water for Indigenous communities, including the 2018 announcement by former Federal Water Minister David Littleproud to set aside \$40 million to buy water to be controlled and used by Indigenous communities along the river system, have not eventuated.

We observed that in the northern basin, within NSW and QLD, the six actions that Victoria has taken - and other states signed up to, - have not been undertaken. Worse still, there is a proposal to extract even more water than was agreed. These observations can be summarised as follows:

- i. Under the Basin Cap and the Basin Plan Sustainable Diversion Limits (or SDLs), there were limits put on the diversion allowed in the northern basin. The proposed floodplain harvesting regulations are based on the flawed concept that the farmers are only collecting the water that falls on their property and would not leave their property or contribute to the downstream flows in the many rivers that combine to form the Darling River. Clearly the dam construction that has occurred in recent times has reduced the flows in the Darling River and on to Menindee. The recent fish kill events are clear evidence of the impacts of these works.
- ii. The NSW Water Sharing Plans that incorporate controls over floodplain harvesting legislation were recently sent back by the Murray Darling Basin Authority to the New South Wales Government for further work, are extremely overdue and not yet ratified. The Plans adopt end of valley pumping targets for minimum flow conditions just like the southern basin has targets that each catchment must adhere to.

However, the suggestion that these targets are adequate to maintain flows, and even the most basic river health levels, have been demonstrated to be clearly insufficient by the recent fish kill. Further, these targets combined with the appropriate SDLs and licenced volumes for floodplain harvesting, should ensure the appropriate downstream flows to meet the requirements of the Basin Plan and ensure that the Darling River makes a fair contribution to the Murray River.

- iii. There was no specific reference to water extracted as a function of floodplain harvesting in the Murray Darling Basin Cap of 1995, nor in the Basin Plan SDL's, other than diversions consistent with irrigation development at 1993/94, which were permitted. It was expected that NSW would develop water harvesting licences in accordance with the 1993/94 levels of development in the same manner as Victoria did with its farm dams legislation. **NSW has taken until now to legislate and manage its floodplain harvesting – this is 27 years after the Basin Cap was agreed to by the NSW Government.** The current NSW floodplain harvesting proposal is legitimising the development over the last 27 years and will increase the diversions way beyond the SDLs. The water sharing plans have adopted a benchmark close to the 2010 level of development rather than the 1993/94 level agreed to by the states. The current proposal does not even backdate the proposed floodplain harvesting to 2010 conditions but is accepting all but the most recent earthworks.
- iv. The floodplain harvesting licence calculations are allegedly providing some water recovery for the Basin Plan by reducing the allowed harvesting compared to current levels. However, this is a flawed approach as this includes a level of development that should have not been permitted. So even with the proposed reduction the resulting licence diversions are much higher than the 1993/94 levels, or even the 2010 development levels.
- v. The proposed carryover provisions for floodplain harvesting provides for five-year averaging of diversion. This means that if there is insufficient

water in a dry season to harvest then a bigger percentage of the next wet season can be harvested. This concept is completely contrary to carryover which means that a licence holder should be able to carry harvested water into the next season for later use. This should not mean that lack of water in dry years allows even more diversion in a wet year. This effectively is just a way of legitimising oversized dams on farms and increasing the level of diversion. It is not the conservation or carryover of water from one season to be used in another.

- vi. The metering of the volumes harvested should have been implemented in the northern basin many years ago as agreed. The Federal Government under the Basin Plan provided \$100 million to NSW to implement a metering program. Only 10% of this program was utilised in the southern basin of NSW. In the northern basin, the landholders successfully argued to have the money reassigned to the on-farm works program (effectively enabling more dams to be built) with the proviso that the farmers implemented a metering program themselves. Recent analysis suggests that almost 70% of diversions are still not properly measured, and proper water accounting is still not being practised in the northern basin.

Thus, the NSW water harvesting legislation should be modified so that it reflects the Basin Cap agreement in 1995 as the benchmark and is aligned with the Basin Plan SDLs. In short, the NSW Government should: -

- i. Adhere to the Basin Plan SDLs as a further step that uses the 1995 Cap on diversions as its basis.
- ii. Adopt appropriate end of valley targets to ensure it provides its appropriate share of downstream flows into the main stem of the Murray River.
- iii. Adopt the 1995 levels of development when determining floodplain harvesting licences as it committed to do.
- iv. Adopt a series of management actions and water recovery that meets the further 23% reduction in licenced volume used in accordance with the Basin Plan.

- v. Remove the concept of carryover of 'underuse' which is effectively an averaging of take condition, not a carryover of real unused water.
- vi. Immediately implement a state-wide metering program and undertake transparent and appropriate annual water accounting in the northern basin which incorporates floodplain harvesting.
- vii. Develop a suite of surveillance and monitoring of use activities to provide confidence to the Australian community the changes are real and continuing.

I further submit the following to the Inquiry: -

1. In relation to the terms of reference, the legality and the extent of floodplain harvesting development must be regarded as doubtful. Given that all states signed up to the Murray Darling Basin Cap, it is apparent that the rampant development since 1995 across the northern basin, and the ongoing floodplain harvesting is in breach of the Murray Darling Basin Plan and possibly the NSW Water Management Act 2000.
2. I make no submission in relation to the water regulations published on 30 April 2021 save to say that the measures seem to have been developed very late in relation to commitments made by NSW 26 years ago, and the necessity for regulations of this nature suggests an acknowledgement of existing illegality of floodplain harvesting.
3. Victoria has complied with the Murray Darling Basin Cap and has a reasonable expectation that all other states will do so. New South Wales has failed to comply with the Cap and in order to remedy the breach must take all steps necessary to bring it back into compliance with the requirements as agreed to in 1995. These are the conditions that were made under the Basin Plan and should be adhered to.
4. In Victoria, carryover is limited in that it only involves the utilisation of water that was allocated and not used in a prior season. The notion adopted in the northern basin of carryover accruing shortages of water year on year with the capacity to take the lot on an accruing basis in a

later year when flows are plentiful will ensure that larger-than-needed works constructed in recent years are legitimised, and that no flows will ultimately be available downstream in many more years than was previously the case. The need for end-of-river flow targets are essential and these carryover provisions do not allow for this to occur with an acceptable frequency.

5. The need for end-of-stream flow targets being met are essential to the operation of the Murray Darling Basin Plan, a healthy river system and that Victoria's mandated contributions to downstream users are met, that is, the requirement that South Australia receives its large minimum requirements from the Murray River before any upstream take by Victorian irrigators can occur.

Dated 29 August 2021

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