

## **INQUIRY INTO FLOODPLAIN HARVESTING**

**Organisation:** Slattery & Johnson

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**A brief review of the report “Licensing floodplain water harvesting in NSW: analysis and implications” by Slattery Johnson 2021 – Jason Alexandra**

In late April 2021 I was asked to provide an expert review of the report *“Licensing floodplain water harvesting in NSW: analysis and implications”* by Slattery Johnson.

I found this to be a highly credible, expert report that raises significant and fundamental questions about the evolution of water policies in the MDB. The policy history is accurate and the matters raised need to be taken with the upmost seriousness. The concerns raised are of such significance that they should trigger a moratorium on any further policy development intended to bring flood plain harvested water into the water accounting frameworks used in the Basin. The matters identified are of such seriousness they should inform the terms of reference for a judicial commission of inquiry, such as a royal commission.

The report examines the relationship between river modelling, policy development and implementation and water allocation in the MDB. It is particularly relevant to the northern basin and the development and inclusion of flood plain harvesting (FPH) into the legal and regulatory framework of the Murray Darling Plan and the NSW Water Resource Plans.

The authors demonstrate a clear and comprehensive understanding of the relationships between riverine modelling, the MDB Cap, water accounting, the Basin Plan and the way the Basin states regulate water use. They identify substantive and fundamental concerns about proposals for inclusion of FPH into the Basin water accounts and identify how this undermines the foundations of water policy and regulation in the Basin. The way these matters are handled will determine the credibility and trust worthiness of governance and regulation of water use in the Basin. This report is important and the matters raised should be on the public record. There is a need for widespread understanding of the intent of the MDB Cap and the objectives of the Water Act and that these need to be upheld throughout the implementation stages of the policy. It is deeply inadequate if ‘fiddling’ with modelled numbers undermines and erodes these nationally agreed and important policy settings.

### Jason Alexandra's relevant expertise

In 2008 I was a Senior Executive responsible for Water Policy Coordination at the Murray Darling Basin Commission (MDBC). Between 2008 and 2013 I was a Senior Executive responsible for the Ecosystem Management Branch at the Murray Darling Basin Authority (MDBA). In these roles had responsibility for delivering joint natural resource management (NRM) programs on behalf of six governments. These included the Cap Audits and reporting the to Ministerial Council on the implementation of the Cap reforms, undertaking basin scale ecological assessments and risk assessments, including the risk arising from flood plain harvesting.

I coordinated MDBA's systematic Basin scale Risk Assessments including those on risk to shared waters arising from climate change and changes in water use through farm dams and flood plain harvesting. I also had responsibility for a range of intergovernmental programs including:

- Monitoring of the Living Murray (environmental flows);
- Spatial science and Information management;
- Salinity and water quality management;
- Interstate water markets and water market reform; and
- The Sustainable Rivers Audit.

I contributed to the development of the Basin Plan, through:

- Analysis of water markets, trade rules and trading regimes
- Analysis of risks to shared water resources
- Modelling cap factors and the sustainable diversion limit

## **Review of Slattery and Johnson report: Licensing floodplain water harvesting in NSW: analysis and implications.**

Matthew Colloff

15 September 2021

I was asked to review this report by Slattery & Johnson based on my knowledge of the issues surrounding the implementation of the Murray–Darling Basin Plan. I am an Honorary Senior Lecturer at the Fenner School of Environment and Society at the Australian National University. I have undertaken research on water resources in the Murray–Darling Basin since 1999, including on irrigation water use in horticulture, environmental flows and water governance and policy. I have over 40 publications on these topics in international peer-reviewed journals. Formerly, I was with CSIRO Land and Water for 23 years and conducted research on behalf of MDBA and the Commonwealth Environmental Water Holder. I am an affiliate of the Wentworth Group of Concerned Scientists water group and gave expert witness testimony at the Murray–Darling Basin Royal Commission.

The report covers how science and river modelling has been mis-used in relation to rules on the allocation of water resources in the basin in relation to the practice of floodplain harvesting. In particular, the authors highlight the mismatch between Basin Cap limits and modelling of floodplain harvesting by DPIE and MDBA, a process that effectively involves adjusting the modelled volumes of floodplain harvesting so that they fit with ‘adjusted’ Cap numbers, baseline diversion limits and sustainable diversion limits.

The importance of this report is it brings to light fundamental problems in relation to floodplain harvesting volumes that would be in breach of the *Water Management Act* (NSW, 2000) and the *Water Act* (Cth. 2007). These include the emendation of the Basin Plan without public or parliamentary scrutiny, which would result effectively in separating baseline diversion limits and sustainable diversion limits from the requirements of the relevant state and Commonwealth legislation. In other words, there would be no mechanism to enforce limits on take. Accordingly there would be no way to ensure implementation of the legal and regulatory framework for water reforms in the Basin.

This risk should be a matter for grave concern to all Basin communities and water users, adversely affecting water property rights as well as water markets and their operation. It also erodes trust in the government agencies responsible for the implementation of the Basin Plan.

I have gone through the report in fine detail and where I was uncertain of a statement or a line of evidence, I checked with experts, including those in hydrological modelling, water law, the implementation of the Basin Plan and water allocations and entitlements. I am aware that the authors of the report have addressed every query I raised carefully and comprehensively and double-checked or even triple-checked their facts. The report was reviewed by at least one other reviewer independently.

Accordingly, I consider the report to be of very high quality, both in terms of its important implications for water reforms and for the careful and considered manner of the research, synthesis and findings.