

23 July 2012

Mr C Knowles
Chair
Murray-Darling Basin Authority
GPO Box 1801
CANBERRA ACT 2601

Dear Craig

NFF Submission on revised Basin Plan s.43A(4) Ministers consensus comments

The National Farmers' Federation (NFF) would like to thank you for the opportunity to make a submission on the above. The NFF Water Committee, representing the NFF Members Council, have provided comments and have agreed to this submission. As you are aware, the NFF substantially represents the State Farming Organisations, national Commodity Councils and the broader agricultural value chain.

This submission will outline the key position of the NFF regarding the major policy consensus of Ministers, it will provide some detailed views on specific aspects of the consensus position, and importantly, the NFF will make comment on some aspects of the Minister's dissenting reports that are worthy of further consideration by the Murray-Darling Basin Authority (the Authority).

1. Consensus Report

a. SDL Adjustment Mechanism

The NFF **agrees in principle** but notes that there is a need for a process that engenders stakeholder confidence. NFF suggests that the SDL adjustment mechanism must be available at the time the Basin Plan is tabled in Parliament. More importantly, a clear outline of the SDL methodology proposed to be used to complement an alternative SDL mechanism must be provided with the draft of the Basin Plan sent to Ministers on 6 August (third iteration). Importantly, Ministers will be unable to make an informed decision if there are gaps in the information on which they will base their decision.

Preservation of the 2800GL MDBA modelling run

The benchmark for the SDL adjustment mechanism must remain as the 2800GL modelling outlined in *Hydrologic modelling to inform the proposed Basin Plan*.

The development of the Basin Plan released for public consultation on the 28 November 2011 and its subsequent iterations has been predicated on the use of the hydrologic modelling report released by the Authority in February 2012. Consultation with government and the wider community has been undertaken on this basis.

This has provided the benchmark by which stakeholders have provided views and opinions on the Basin Plan. This modelling run should be maintained. This has been supported by Ministers in the consensus document and has been further reiterated in the individual submissions made by both the New South Wales and Victorian governments. To alter this modelling now will severely compromise the consultation and feedback process, which has been adopted by the Authority.

The Living Murray Initiative

Within the SDL adjustment mechanism there needs to be a complete accreditation of the environmental benefits and water savings generated from The Living Murray projects, which have not been considered within the MDBA's modelling.

All Living Murray works must be considered as offsets against the SDL with the use of an SDL Adjustment Mechanism. Policy documents of the MDBA have outlined that there are offsets against the SDL from these works, which can be considered. The MDBA must honour this statement and the rhetoric of the Chair of the MDBA and ensure that these savings are considered.

This has been clearly stated by the MDBA in the *Hydrologic modelling* report:

“for Basin Plan purposes the presence of TLM environmental works did not result in modification of environmental water requirements (flow indicators) for TLM icon sites as it is evident that the flows would be required to meet environmental water requirements of a broader river reach (i.e. outside of the icon site that do not benefit from works). As such, while TLM works are represented in the model and in some years increased flows due to Basin Plan environmental water requirements will contribute to achieving enhanced environmental outcomes at icon sites, TLM works did not contribute to an offset in the proposed reduction in diversions. The implications of environmental works and measure in terms of potential SDL offsets needs further assessment and discussion with the states and this work will form a major input into the 2015 review”¹.

Further information provided within the subsequent pages of this report state that there is a requirement to further investigate the effect of works and measures, which have been developed. There is a clear pathway to see the full benefit of developing these works, which provide equivalent, if not better environmental outcomes for the environment, with a decreased volume of water taken from current consumptive use. This is what the development of the SDL adjustment mechanism is setting out to achieve.

¹MDBA, (2012), *Hydrologic modelling to inform the proposed Basin Plan*, p.196.

Ministers have indicated that they do not see a requirement for a 2015 review to be undertaken. The *Hydrologic modelling* report released by the MDBA clearly indicated that TLM projects have not contributed as an offset, but that there was the capacity for this to be achieved at the time of the 2015 review. The SDL adjustment mechanism provides the capacity for the benefits from TLM environmental works and measures to be fully considered.

b. Constraints Management Strategy

The NFF **agrees in principle**.

The NFF further advises that the strategy must be broadened to focus on “water delivery” rather than just “environmental water delivery”. The NFF reiterates the need for third party impacts to be addressed and therefore supports the NSW dissenting report (see below) which suggests that there be no compulsory acquisition of water, land or easements.

The NFF also notes that resolving constraints is an expensive proposition and therefore, this must be contemplated as part of Minister’s and the Authorities consideration of constraints.

c. Apportionment of the Downstream SDL

The NFF **agrees in principle**.

In discussions with the Authority, the NFF notes that there is not yet convergence on the method in which apportionment may occur. Should Ministers be unable to agree, then it is assumed that there will be no apportionment. The NFF strongly suggests that, in the absence of any Ministerial consensus on the method that, in the first instance, the downstream SDL is recovered from the range of efficiency and infrastructure works (including environmental works & measures).

It can be clearly deduced from the reports provided by the Ministers that the discussions around apportionment have been undertaken with the view that the SDL reduction will decrease through the accreditation of environmental works and measures projects, river operation reviews and through any other water efficiency projects, which may arise.

The Ministerial Council noted, “up to 650GL would be achieved through environmental works and measures”. Any recovery strategy developed by the Commonwealth Government must recognise the 650GL of water savings that can be made through works and measures, and ensure that this volume is deducted from the overall volumes of water sought for the environment.

Additional views of both the New South Wales and Victorian Governments have made it clear that there is an expectation for an adjustment mechanism and up to 650GL of environmental offsets to be generated towards the adjustment. It is fundamental that this is understood to be in conjunction with the offset mechanism.

d. 2015 Review

The NFF **agrees in principle**.

Developing and incorporating an SDL adjustment mechanism into the Basin Plan is vital. This will provide the capacity for alterations to the SDL to be made as the savings can be identified. The 2015 review of SDL's suggested in the proposed Basin Plan becomes irrelevant where a SDL adjustment mechanism has been developed.

However, the NFF notes the concerns in relation to work to be undertaken over the period to 2015 and that there may be a need to provide an appropriate review of Northern Basin shared SDL which may be an issue in the absence of a formal 2015 review. NFF suggests that this specific issue be included in the proposed Intergovernmental Agreement (IGA).

e. Commencement of the SDL

The NFF **agrees in principle**.

The NFF endorses that the proposed IGA **and Basin Plan** includes strong provisions that should the Commonwealth be unable to bridge the gap by 2019, that no gap obligation including through SDL compliance arrangements will be passed from the Commonwealth to the States, at any point, and therefore to entitlement holders through means such as reductions to entitlement reliability.

f. Trading Rules

The NFF **agrees in principle**.

Arrangements for environmental water must not result in third party impacts on other entitlement holders – and shepherding arrangements must be available to all entitlement holders.

g. Measurement of actual take & implementation obligations

The NFF **agrees in principle**.

The NFF does not support the passing through to irrigators of any costs associated with jurisdictions implementation obligations. This has occurred previously under regimes where the state jurisdictions costs associated with compliance and monitoring requirements for the Basin have been directly passed to irrigators. The Basin Plan is under development for the benefit of all Australians. Costs for implementing this significant policy must not be passed onto a very small proportion of the community.

The NFF also notes that there needs to be accurate and cost effective measurement of environmental water take and its associated losses. If this is not sufficiently robust, there is a risk to entitlement reliability – and one which may trigger the Commonwealth's obligations under the Water Act in this regard.

h. Water Quality & Salinity Management Strategy

The NFF **agrees in principle**.

There is strong support for a very clear definition of “must have regard to” in the Water Quality and Salinity Management chapter (in addition to other areas of the Basin Plan) to ensure that there is clear and consistent understanding across all states of the compliance requirements placed on jurisdictions.

i. Environmental Watering Plan

The NFF **agrees in principle**.

The NFF, however, **rejects** s.44(c) which states that provides for the use of Commonwealth and other relevant held environmental water, as far as practical, to maintain water levels above a minimum of 0.0 metres AHD in the Lower Lakes.

The NFF believes that determining the use of environmental water is via the development of state and basin wide environmental watering plans. This particular provision prioritises the use of all these entitlement to one asset above all environmental assets in the Basin – making the Lower Lakes only the highest priority environmental asset across the entire Murray-Darling Basin. There are many individuals and regions who would not concur with this view.

j. Groundwater SDL

The NFF **agrees in principle**.

The NFF supports the new endeavours between the Authority and the Basin States that may lead to reconsideration of specific groundwater SDLs based on existing data, knowledge, expertise and science held by the state jurisdictions.

2. NFF agreement with dissenting report comments

There are a small number of additional issues raised in the dissenting reports, which are not included in the consensus report, that NFF believes are worthy of further consideration by the Authority and Ministers. The NFF strongly supports the following matters:

a. Commonwealth – Water Resource Plan requirements (s.1)

While loosely included in the consensus report, the NFF strongly supports the wording in the Australian Government’s dissenting report.

b. NSW Government – Validation of SDL

Given the many concerns about the SDLs, it would appear reasonable that the MDBA provides a detailed public report to validate the methodology used and outcomes of the proposed SDLs

c. NSW and Victorian Governments – No Compulsory Acquisition

The NFF strongly supports the NSW and Victorian suggestion that the Basin Plan include a specific statement that nothing in the plan will require the compulsory acquisition of land, water licences or easements. While the Water Act 2007 does not allow compulsory acquisition of water, the remaining issues are also important principles, particularly in deciding how to manage the delivery of environmental water.

d. NSW Government – acknowledgement of history of effort

NFF supports the comments by NSW that there has been inadequate recognition of the history of effort. This has been a major constraint to acceptance of the Basin's irrigation and broader community of the need for any reform. Stronger comments on this matter would have positive effects.

e. NSW Government – interception

NFF has previously expressed concern about the interception estimates and the impact of these on the baseline. The NSW Government suggests a work program to refine these – this would be used to inform the SDL adjustment mechanism. NFF supports this work program.

f. NSW Government – third party impacts

NFF supports the NSW position that there is explicit incorporation of the need to avoid third party impacts arising from the delivery of environmental water.

g. Structural Adjustment

A number of jurisdictions have requested the explicit consideration of social and economic adjustment measures. The NFF supports these requests.

3. Other Matters

a. Water Recovery Strategy

The NFF requests that the Australian Government immediately releases its proposed Water Recovery Strategy to give community and stakeholder confidence that the agreement and directives of Ministers in their consensus report will be included in this strategy.

b. Intergovernmental Agreement (IGA)

The NFF also requests to be included in a consultation mechanism on the development of the proposed IGA. This has been done previously when COAG consulted on the Murray-Darling Basin Reform IGA signed in July 2008.

c. Australian Government's Contingent Liability

To give effect to some of the above, the Australian Government will need to re-prioritise its water recovery under the proposed contingent liability (NFF

estimates there may be some \$1.5b available here). The NFF proposes that this is redirected from water purchases to the range of water efficiency measures such as river operations, environmental works and measures etc.

Furthermore, NFF supports the inclusion of this in the Water Recovery Strategy.

Implementing these will ensure that all available funds for the recovery water for the environment are prioritised to the most optimal outcomes to minimise the social and economic impacts of the Basin Plan.

Should you wish to discuss this further, please do not hesitate to contact Deborah Kerr, Manager – Natural Resource Management on 02 62695666.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Matt Linnegar', with a large, stylized initial 'M'.

MATT LINNEGAR
Chief Executive Officer

cc The Hon Tony Burke MP, Minister for Sustainability, Environment,
 Water, Population and Communities (Clth)
 The Hon Andrew Cripps MP, Minister for Natural Resources and
 Mines (QLD)
 The Hon Katrina Hodgkinson MP, Minister for Primary Industries
 and Small Business (NSW)
 Mr Simon Corbell MLA, Minister for the Environment and
 Sustainable Development (ACT)
 The Hon Peter Walsh MP, Minister for Water (VIC)
 The Hon Paul Caica, Minister for Water and the River Murray (SA)