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Water Bill 2007

On 17 August the Water Bill 2007 and the Water (Consequential Amendments) Bill 2007 passed through the Commonwealth Parliament.

The Water Bill includes a number of measures to provide for sustainable management of the Murray-Darling Basin water resources. Some provisions of the Bill deal with broader national water issues.

Background

On 25 January 2007, the Prime Minister released a National Plan for Water Security (the NPWS). The NPWS addresses modernising irrigation and the overallocation and overuse of water resources in the Murray-Darling Basin. The NPWS builds on the 2004 National Water Initiative agreement (NWI), which was an intergovernmental agreement signed by state and territory governments and the federal government. The key objectives of the NWI are to improve the efficiency of water use and establish clear pathways to return extractions from all water sources to environmentally sustainable levels.

Following a national water summit on 23 February 2007, the Commonwealth, in consultation with states and territories, prepared a draft comprehensive Commonwealth Water Bill, which provided for new, unified arrangements for the sustainable management of water resources in the Murray-Darling Basin and other matters of national interest in relation to water and water information. This comprehensive Water Bill was to be based in part upon a referral of powers by Basin states to the Commonwealth.

However, following the failure of Victoria to agree to the referral of powers, the Prime Minister announced on 24 July 2007 that the Commonwealth government would proceed with a Water Bill based on the Commonwealth's existing constitutional powers.

This Water Bill implements some of the key proposals outlined in the NPWS.

Key elements of the Water Bill

The key elements of the Water Bill are as follows.

Establishment of the Murray-Darling Basin Authority

A new Murray-Darling Basin Authority will be established by Part 9 of the Water Bill as an independent expert body which reports to the Commonwealth Minister for the Environment and Water Resources. The Authority will have responsibility for the preparation and enforcement of the Basin Plan (see below). It will also have various other functions including measuring and monitoring Basin water resources.

The Basin Plan

The Authority must prepare a strategic plan for the integrated and sustainable management of water resources in the Murray-Darling Basin (Division 1 of Part 2). This Basin Plan will be made by the Commonwealth Minister. The Water Bill sets out mandatory content for the Basin Plan in clause 22, including:

- limits on the amount of water that can be taken from Basin water resources on a sustainable basis (known as long-term average sustainable diversion limits)
- identification of risks to Basin water resources, such as climate change, and strategies to manage those risks
- requirements that a Basin state water resource plan will need to comply with if it is to be accredited
- an environmental watering plan to optimise environmental outcomes for the Basin
- a water quality and salinity management plan which must include targets
- rules about trading of water rights in relation to Basin water resources.

Commonwealth agencies must perform their functions and exercise their powers consistently with and in a manner that gives effect to the Basin Plan (clause 34).

The Murray-Darling Basin Commission, Basin state agencies, operating authorities, infrastructure operators and holders of water access rights must not do acts in relation to Basin water resources that are inconsistent with the Basin Plan (clause 35).

Water resource plans

Water resource plans will generally be prepared by Basin states and provided to the Commonwealth Minister for accreditation (Division 2 of Part 2). The Authority will provide advice to the Minister on whether or not to accredit them. Water resource plans will be accredited only if they are consistent with the Basin Plan and include long-term average sustainable diversion limits. Again, Commonwealth agencies must perform their functions and exercise their powers consistently with and in a

manner that gives effect to the Basin Plan (clause 58). The Murray-Darling Basin Commission, Basin state agencies, operating authorities, infrastructure operators and holders of water access rights must not do acts in relation to Basin water resources that are inconsistent with the water resource plan (clause 59).

The Bill provides for the Commonwealth to manage its share of the impact of the Basin Plan – in particular, any reduction of the long-term average sustainable diversion limit – on water access entitlement holders. In some cases, entitlement holders who suffer a loss because of the Plan will be entitled to a payment from the Commonwealth (Division 4, Part 2).

Water charge and water market rules

The Bill will also enable the Minister to make water charge and water market rules, having regard to advice from the Australian Competition and Consumer Commission (ACCC) (Part 4). The Water Bill sets out Basin water charging and water market and trading objectives and principles that the rules must implement (Schedules 2 and 3). These objectives and principles are consistent with those set out in the NWI. The ACCC will enforce the rules.

The Commonwealth Environmental Water Holder

The Commonwealth Environmental Water Holder is a statutory office holder that will manage the Commonwealth's environmental water within the Murray-Darling Basin in order to protect and restore the Basin's environmental assets. It will also manage water owned by the Commonwealth outside the Basin (Part 6).

Water information

The Water Bill will confer a number of new functions on the Bureau of Meteorology, including functions concerning the collecting, holding, managing, interpreting and disseminating of Australia's water information, reporting on Australia's water resources, compiling and maintaining the National Water Account, and issuing National Water Information Standards (Part 7). There are two mechanisms in the Water Bill whereby a person can be required to provide water information to the Bureau:

- in compliance with regulations which specify persons or classes of persons that must provide specified water information to the Bureau
- pursuant to a requirement to give water information sought by the Director of Meteorology.

More information

Text of the Water Act 2007 will be available on Comlaw shortly:

www.comlaw.gov.au

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