

SUBMISSION TO DRAFT PLAN FOR FUTURE OF RIVERINA-MURRAY

1) Water.

I consider water is the single most important issue in the Riverina – Murray and if the lack of water for irrigated agriculture and consequently the viability of the regional cities and towns it serves can be addressed many of the draft plan's aims for the Riverina – Murray will be achieved.

While I've listed the following comments under Water they also touch on growing the economy through productive agriculture and maintaining and increasing the size and liveability of towns and villages while protecting the environment.

To my knowledge no Environmental Watering Plan for the Murray-Darling Basin Plan has materialised despite numerous requests since the Guide to the Proposed Basin Plan was released in 2010. Hence the vast quantity of water earmarked for the environment has not been justified. The Basin Plan should spell out exactly where the recovered GLs are to be applied, in what quantities, when they are required and how water will be delivered to the various sites and for supporting scientific evidence provided. Meanwhile residents in the Murrumbidgee Irrigation Area, arguably the most important food and fibre producing region in the country, have become accustomed to see the Murrumbidgee River running at comparatively high levels while irrigators struggle to manage on severely reduced allocations. At the same time stories circulate of downstream trees, used to an ephemeral system, dying through receiving too much water.

Moreover the economic uncertainty in a place like Griffith, almost totally reliant on irrigated agriculture, acts as a disincentive to local investment, especially at a time when free trade agreements are potentially providing new opportunities for growers.

There should also be cogent reasons given as to why overbank flows, that can flood communities upstream, are preferred to pumping water into adjoining wetlands by neighbouring irrigators; and also as to why the Lower Lakes and the Murray mouth seem to have been excluded from the Plan. Any Plan that puts Basin communities at risk from insufficient water for production surely needs to take a comprehensive look at the Lower Lakes and the Murray mouth as well.

Overall the Plan needs to give equal weight to all three outcomes, namely social and economic factors as well as the environment. At present it favours the environment. That's not just my opinion but one shared by Professor George Williams of UNSW when commenting on the then Minister, Tony Burke's, response to the Australian Government Solicitor's advice that the Act did make provision for all three. That was an over-simplification of the Act's provisions for while they were all mentioned in the Act it doesn't deal with them equally, but rather the environment takes priority.

Arguably the Act had to favour the environment to maintain a link between the legislation and the Commonwealth Parliament's External Affairs power under the Constitution. What follows might assist in understanding the legal situation.

When the Australian colonies federated 115 years ago they gave the Commonwealth certain powers, set out in Section 51 of the Constitution, such as defence, external affairs and immigration (the issues of the day were free trade - between the states - and immigration). Those matters not included in Section 51 were retained by the states and they included water. This was a conscious decision by the colonies at the time. The Constitution also established the High Court as, amongst other things, the Constitution's interpreter.

In its dying days the Howard Government needed, wanted, to do something about the Murray-Darling Basin. Realising Section 51 didn't give it the necessary power to legislate, it asked the Basin states and the ACT to refer their constitutional powers to the Commonwealth, to vest in it the necessary power, as provided by the Constitution. Queensland, NSW, the ACT and South Australia agreed, but Victoria refused. Malcolm Turnbull was given the task of finding a solution to the problem. He drew on the newly-elected Hawke Labor Government's experience in 1983 in stopping the construction of the Franklin Dam in Tasmania. It had relied on Section 51's External Affairs power to legislate, linking it with our obligations under an international treaty relating to National Parks.

The Commonwealth Parliament passed the enabling legislation, but Robin Gray's Liberal Tasmanian Government refused to stop construction of the dam and took the matter to the High Court which, by the slimmest of majorities (4 to 3) decided in favour of the Commonwealth ie that the legislation was valid in that the Commonwealth had the power under the Constitution.

Turnbull followed suit, by relying on the same External Affairs power, based on two International Conventions, the first in 1971 in Ramsar, a town in Iran, relating to wetlands of international significance and the second in Bonn, Germany, relating to migratory birds. However in drafting the Water Act, it seems a safe bet that the environment was favoured at the expense of the viability of Basin communities (social) and food and fibre production (economic) in order to strengthen the link with the Constitution's External Affairs power. Behind this was the possibility of any future High Court challenges, especially as the composition of the court changes from time to time with appointments favoured by the government of the day and that an albeit narrow majority decision opposite to the Franklin Dam case was a possibility.

The House of Representatives Standing Committee on Regional Australia Inquiry into impact of the Guide to the Plan chaired by Tony Windsor 5 years ago noted that the Act was a matter of concern for many but declined to make any recommendations regarding it. At a meeting at the Hanwood Sports Club (near

Griffith) not long after I sought a comment from our then local member, Michael McCormack MP (appointed Minister for Small Business on 18 July 2016) who had sat on the Inquiry Committee. He said the Committee had been concerned, given the state of the parties, that any amendment might backfire and we might end up worse off.

A subsequent Senate Legal and Constitutional Affairs Committee concluded that the Act lacks the power and recommended the establishment of an independent panel of legal experts to recommend amendments.

In the lead-up to the 2013 election I suggested that the Basin states be again asked to refer their powers over water to the Commonwealth so that the Act could be amended to enable the environment, food and fibre production and the wellbeing of Basin communities to be given equal weight with less risk of a subsequent High Court challenge but nothing came of it. Of course since then we've seen a change of government in both Queensland and Victoria, which could make any referral of powers harder to accomplish despite which government is in power in Canberra at the time.

Amending the Constitution to give the necessary power over water to the Commonwealth is not a practical option. To do so requires a referendum of all voters resulting in a vote in favour of the proposal by a majority of voters in a majority of states and also a national majority. This is harder to achieve than it sounds. Of 44 proposals in 19 referenda in the 20th century, only 8 succeeded. Given SA's long struggles over water is it likely it would agree to cede power to the Commonwealth? Given the history of clashes between Tasmania and the Commonwealth and the former's reliance on water for hydro-electricity might not it vote against it? Would Western Australia care enough either way? *Yes Minister's* Sir Humphrey Appleby might say that any move by the Commonwealth Government, of whatever political persuasion, to put the question to a referendum would be a courageous one indeed.

Where to from here? The sheer size of both the Murray-Darling Basin and the problem is too great to ignore. So too is the potential for increased and viable agricultural production and valuable export income at a time of transition from mining. As a bonus, population drift to major cities from Basin communities can be alleviated thereby boosting living standards in regional areas while easing pressure on over-crowded capital cities. And yet the environment need not be worse off from any equalising of the three intended outcomes of the Plan. Examples like the re-configuration of Barren Box Swamp north-west of Griffith by Murrumbidgee Irrigation can result in a win-win situation for both irrigators and the environment. It may even present a solution to the Menindee Lakes and render the expensive pipeline from the Murray River superfluous.

Overall we need to look at the big picture while applying much-needed common sense. What's required is another approach to the Basin states and the ACT for a referral of powers with a view to the Water Act being amended to give equal weight to social and economic factors and the environment. Of course the composition of the new Senate will be another hurdle to overcome. However the importance of the Murray-Darling Basin to the nation, not just the Basin states, compels our Federal representatives to grasp the nettle.

2) Regional Transport.

(i) Freight.

Improvements are underway in the Griffith region with construction of intermodal hubs that will remove large trucks from servicing the railhead in the centre of the city which has affected traffic flow and created dust and noise. However generally rail needs to compete better with road freight to relieve our highways of heavy vehicle transport. This is particularly noticeable on the Newell Highway, the main artery between Melbourne and Brisbane, which tracks northwards from Tocumwal on the Murray River. A single lane highway with very few overtaking lanes it can be very frustrating for private motorists, especially those competing with vehicles towing caravans from Melbourne heading to or from Queensland.

The proposal trotted out from time to time for an inland rail line from Melbourne to Brisbane would seem to be more deserving of attention from government than the very fast passenger service from Melbourne to Sydney via Canberra as it could relieve highways like the Newell as well as carrying freight from centres producing vast quantities of agricultural produce, thereby increasing marketing options for growers and contributing to regional economic activity.

Incidentally one wonders where the water will come from that will be required to serve the projected new towns and cities along the route of the proposed very fast train from Melbourne to Sydney.

(ii) Passenger.

Although many, if not most, centres in Riverina – Murray are closer to Melbourne and Canberra than Sydney, most New South Wales residents gravitate to Sydney for most of their needs that can't be obtained locally, especially business and health. The quickest and most direct means of transport from Griffith is by air, but it can be very expensive, over \$400 each way in an emergency, as the one airline has no competition. Even booking well ahead to gain a cheaper seat can set one back nearly \$400 return. Some locals drive to Wagga Wagga (400 kms return) to fly from there at less cost or Canberra (700 kms return) especially if flying interstate. While a competing airline might be seen to be a solution the size of the market probably wouldn't justify a second airline.

Train travel is not an option except for retirees with plenty of time to spare or pensioners who can't afford any alternative. Moreover there's only one train a week direct from Griffith to Sydney, on a Sunday (it comes from Sydney on Saturdays). On other days a 3 hour coach trip to Wagga Wagga is required to meet the train from Melbourne to Sydney, the whole trip taking some 11 hours, if the train is on time and requiring an overnight stay on arrival in Sydney, which adds to the overall expense.

Driving to Sydney takes around 7 hours with the last hour spent negotiating heavy traffic with expensive and inconvenient parking at the end of one's journey.

Travel to Canberra or Melbourne from a centre like Griffith is only viable by car. It's possible to travel to Shepparton by coach and from there to Melbourne by train, but the timing is inconvenient as the service travels through the night.

Allan Haggarty
87 Ortella St
Griffith. NSW 2680
Ph 02 6962 2478
0438 619 853
E: amhaggarty@bigpond.com
July 2016