



# MURRAY REGIONAL STRATEGY GROUP

submission to

## Independent assessment of social and economic conditions in the Basin

Draft report (3<sup>rd</sup> April 2020)

**Murray River Council, Edward River Council, Murrumbidgee Council, Murray Valley Private Diverters (Inc), Ricegrowers Association of Australia (Inc), Yarkuwa Indigenous Knowledge Centre, Murray Irrigation Limited, West Cororgan Irrigation, Speak Up Campaign (Inc),**

**Southern Riverina Irrigators (Inc)**

Berriquin Irrigators Council, Denibootea Landholders Association, Denimein Landholders Association, Wakool Landholders Association, West Berriquin Irrigators)

Submission supported by



## Panel's Terms of Reference

The Panel received stakeholder submissions and input on the proposed Terms of Reference, and has endorsed the following Terms of Reference as final.

### A.

The review will provide an independent assessment of social and economic conditions in rural and regional communities across the Murray-Darling Basin.

### B.

The review will assess impacts (positive and negative) of water reforms including the Basin Plan on the vulnerability, resilience and adaptive capacity of Murray-Darling Basin communities and their development potential. This will include consideration of social and economic impacts of the environmental effects of water reforms.

### C.

The review will consider ongoing structural changes influencing different communities in the Murray-Darling Basin, and seek to separate the effects of these trends, and events such as drought, from the effects of water reform, including the Basin Plan.

### D.

The review will support longer-term efforts to monitor and understand social and economic conditions in the Basin, and the impact (positive and negative) of water reform on different communities in the Murray-Darling Basin. This will be used by governments and leaders to help understand the outcomes of water reform, including the Basin Plan. However, this is not a review of the Basin Plan.

### E.

The work of the Panel will explore a range of options that stimulate, support and promote healthy and sustainable rural and regional communities in the Basin.

## Murray Regional Strategy Group (MRSRG) Response to the Terms of Reference

Stakeholders and community members in the NSW Murray Valley have pro-actively participated for ten years in good faith with community consultation on the Water Act 2007, Murray Darling Basin Plan and related processes. Consultation costs alone to local economies, private businesses and representational organisations, individuals and the broader wellbeing of communities is immeasurable with little or no return. The true social and economic impacts of fully implemented water policy is currently incalculable, not just on Northern Victoria and NSW Murray Valley, but also on the broader Australian public.

It is extremely disappointing that the Federal Government's latest independent review of the social and economic conditions in the Murray Darling Basin appears to be another step in a long line of inadequate reporting on the long- term damage being imposed in particular on these two valleys in the Southern Basin food bowl.

The draft report does not sufficiently identify:

- the disproportional negative social and economic impacts that are occurring in the Murray Darling Basin and flow on impacts to shared community or regional wealth.
- That the Water Act 2007 and Basin Plan concentrates commercial benefits to fewer people and regions
- Social and economic risks of Governments strategies to move water to '*high value*' crops and the subsequent loss of agricultural diversity and production systems that will result

The Terms of Reference while limited, do present the Panel with an opportunity for these issues to be explored. We urge the Panel to revisit its methodology and ensures that more detailed and comprehensive information is included in the main body of the final report.

This is essential to present why disproportional impacts have occurred and importantly, what steps then can be taken to address these. In the absence of such data, recommendations are inadequate, confusing, easily misinterpreted and are not likely to result in meaningful outcomes.

The frequent reference in recommendations to 'accelerating or addressing constraints relaxation' is also confusing and does not inform the reader in what capacity or for what purpose the CMS is being pushed.

- If this report is not investigating environmental issues, and is focussed on social and economic impacts, it is not clear why the concept of Constraints (CMS) relaxation is being pushed so hard in the panels' recommendations.
- The Panels frequent reference to CMS appears to be aligned with input from commercial interests/or new developments seeking to overcome historical river system limitations or valleys that will derive benefit (but incur no direct impact) from implementation of the Sustainable Diversion Adjustment (SDL) Projects

- The Murray Darling Basin Authority (MDBA) has not factored in or assessed social/economic impacts of their ‘constraints relaxation’ policy, nor provided such advice to the Federal and State Governments. Further, the MDBA previously reported ‘constraints’ were only relevant with the additional 450GL. The Constraints Management Strategy is now being pursued via SDL/CMS projects as part of the Sustainable Diversion Adjustment Mechanism within the 2750GL

The draft report does not provide actual details on the social economic impacts directly, instead references or assumptions are made that the report will draw a reader’s attention to accompanying or non -specific reports on a website. There is a high risk that the final report glosses over particular geographic social and economic impacts, by the use of more generalised data and therefore such information is not reflected in any recommendations.

MRSB draws the panel’s attention to its submission to the Inquiry into the management of the Murray Darling Basin (Keelty Review). The Keelty Review submission explores backgrounds to why disproportional impacts are/have occurred in the NSW Murray Valley and should provide additional evidence for further investigation of the social and economic issues and impacts

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## Drivers of change:

In the mid 1990s the Council of Australian Governments (COAG) instigated the early steps that would lead to profound changes for how water in the Murray Darling Basin would be managed and directions for its agricultural uses.

COAG and subsequent water policy frameworks have continued the pathway to achieve outcomes for the environment and move water to ‘highest value use’ based on pre-conceived concepts.

Timelines and objectives of the National Water Initiative, Living Murray, Water Act 2007 and the Murray Darling Basin Plan, are all consistent with the original COAG objectives. Environmental drivers are intermeshed with policy to move water to high value crops.

Governments should incorporate a full cost benefit analysis and review of Basin policies. While numerous inquiries, independent reports and MDBA internal reviews have occurred to some extent, none have led to an adaptive framework for decisions.

Lessons learnt, innovation and adaptive thinking are still not inbuilt into Murray Darling Basin policy. Without such an approach, the cost to all values - economic, social and environmental, will be higher than reported and will prove ultimately not to be sustainable.

The decline of public trust and inconsistent application of policy across all geographic regions of the Basin, requires full investigative transparency.

### **MDBA Regulatory Impact Statement (RIS 2012)**

RIS Described the social and economic impacts of the Basin Plan as 'modest'. Assumptions were based on the following:

- How water was being acquired (buyback or efficiencies programs)
- Southern Basin - Sustainable Diversion Adjustment Mechanism (enabling projects to offset buyback)

The RIS made preliminary and inadequate assessments of risks and ignored the disproportional impacts in the Basin.

#### **The RIS (2012) did not assess the following factors.**

- The failure to incorporate Nationally agreed policies and standards in the Northern Basin (Qld/NSW). This means the Southern Basin:
  - is incurring full costs of meeting South Australia's minimum entitlement flow of 1850GL
  - is incurring full social and economic costs of meeting Basin Plan flow targets to South Australia
  - The Basin Plan's requirement that the Southern Basin must recover 2289GL of the 2750GL
- Basin Plan decisions mean:
  - The majority of the Basin Plan's full social and economic costs of water recovery and new requirements for its physical delivery (eg Constraints strategy/and system operational losses) are primarily being borne by Murray and Lower Darling and Victoria's Goulburn system.
  - Murrumbidgee Valley's shared downstream Basin Plan flow targets to South Australia are primarily being met by NSW Murray Valley through the SDL projects.
- Sustainable Diversion Adjustment Mechanism projects (SDL) which are being concentrated in the Murray and Lower Darling Valleys
  - NSW downstream target of 458GL is almost exclusively being achieved via SDL projects in NSW Murray and Lower Darling. This means NSW Murray is meeting both the Murray and Murrumbidgee valleys' downstream target to South Australia
  - How proposed SDL projects will increase river system delivery losses (above capacity) with corresponding reduction in allocations to Murray General Security entitlements
- Constraints Management Strategy:
  - How elevated region flooding risks or direct private property economic impacts of the Constraints Management Projects (Hume to Yarrawonga; Yarrawonga to Wakool Junction, Goulburn River) will occur

- Private property business impacts and irrigation reliability impacts arising from CMS ‘easements to flood’ and Pre requisite policy measures (PPMs) rule changes.
- How/why Publicly funded Commercial benefits are being applied to new downstream irrigation developments who will have increased water transfers options over and above historical Murray River system operational rules/limits
- Water Act 2007 and Basin Plan legacy costs on stranded assets in irrigation schemes and regions
- The impact of the Basin Plan on water trade prices and markets and consequential river system operation demands
- Effects of cumulative impacts of water policy in the Southern Basin (pre and post Water Act 2007)
- The subsequent Northern Basin Review (2018) which reduced water recovery in the Northern Basin (390GL to 320GL) and reduced Basin Plan environmental flow targets to Menindee Lakes (143GL to 41GL)
- That increased system losses from increased trade/ irrigation demands by new irrigation developments is impacting on the property rights and reliability of NSW Murray General Security entitlement holders
- Irrigation reliability impacts to NSW Murray entitlements from application of the Basin Plan in its current form
- Broader social and economic impacts to industry, individual businesses, economic certainty, social well-being
- Concentrated negative impacts to Indigenous employment and decline in future opportunities

### **DRAFT REPORT RECOMMENDATIONS:**

MRSB acknowledges the Panel has raised some positive recommendations in the report but is concerned that report is deficient in reporting on how, why or what level disproportional social and economic impacts are occurring in the Basin.

The report also has conflicting messages. This appears to have occurred as a result of lack of separation on aspects of the Basin Plan and how they actually contribute to direct social and economic impacts in specific geographic regions.

Recommendations and commentary in the report also do not adequately identify or separate commentary in relation to the Basin Plan target of:

- 2750GL
- 450GL

The Panels’ Recommendation to provide greater clarity, certainty around longer term policy, improved delivery of outcomes and to build trust is welcomed but is not accompanied by specific recommendations that would achieve this. The report instead makes frequent reference to:

- Slowing the pace of water recovery
- Accelerating the relaxation of constraints

The Panel notes the issue of lack of trust;

- MRSRG and numerous previous stakeholder submissions over a ten- year period, have made frequent reference to the NSW Murray Valley having less certainty, increased risks and a reduction in trust for equitable decisions.
- MRSRG members have made sustained and frequent requests for ‘solutions to be developed in partnership with affected stakeholders/communities’
- The MDBA, Federal and State Governments consultation methods reduce trust, increase cost to the taxpayers as a result of exclusion of local knowledge and demonstrates a reluctance by Governments to incorporate genuinely, the capacity for local solutions

The Panels’ recommendation to slow the pace of water recovery and extend timeframes are not solutions unless this is accompanied by:

- Complete implementation of the social and economic protections afforded within the objectives and other sections of the Water Act 2007
- A full review of the Basin Plan in its current form
- An adaptive management approach to decisions is embedded into Basin Plan
- A review of the MDBA Regulatory Impact Statement (2012) to account for current knowledge, omissions and levels of evidence on disproportional social and economic impacts
- Full acknowledgment of the need to amend positions where NSW Murray Valley and Northern Victoria incur a yield reduction on their water property rights from increased water extractions and/or prolonged drought in the Northern Basin (Qld/NSW). With the exception of High Security entitlements, NSW Murray and Northern Victoria primarily is meeting the reduction in Northern Basin contributions to SA.
- The Constraints Management Strategy specifically ensures that commercial or systems operational water is not run above natural Murray River capacity to meet new irrigation developments and associated water trade demands, downstream of known natural river system limitations

The Panels’ acknowledges the lack of justification of Governments continuance with acquiring an additional Basin Plan water recovery target of 450GL but notes slowing down the process may reduce costs to the taxpayer.

- It is not clear why the Panel suggests a slower timeframe would reduce costs to the taxpayer if the decisions of the Murray Darling Basin Authority (MDBA) remain unchanged
- Report could have provided reasons why further social and economic impacts are high risk (450GL) and why current neutrality test provisions are still grossly inadequate

The draft report states the Australian Government should time further water recovery to match capacity to deliver to achieve environmental, social and working river outcomes but the report response then refers to points below which only increases social and economic risks (NSW Murray),

- Slowing down water recovery
- Accelerating constraints relaxation

Draft recommendation 6 refers again to aligning multi state approach to deliverability of constraints relaxation as a priority.

The draft report recommends extending the timeframe of the Murray Darling Basin Economic Development Program beyond its 2023 deadline and increases its scale.

- There is no acknowledgement that existing economic diversification programs failed to invest in regions most impacted
  - Previous programs did not enable the impacts to individual or industries disproportionately affected to be addressed, many were not eligible due to criteria
  - Government delivered programs did not consult with potential applicants to assist affected parties meet the requirements of the relevant funding programs
- Report has not adequately identified the challenges around transforming a region from its traditional irrigated and dryland agricultural base to a new economic future.

The report notes need for research and innovation on helping farm businesses to transition to flexible farming systems.

- NSW Murray Valley has historically made the transition from a dryland farming region to multi and diverse agricultural production systems. It is not clear how or what is being recommended;
  - Irrigation farmers/irrigation corporations have heavily invested in maximum efficiencies and now find stranded assets when water availability is being reduced and water property rights being eroded
  - Majority of remaining dairy and other industries are facing an uncertain future as current business investments have already created maximum efficiencies in production systems
  - If the valley is to transform back to a dominance of dryland agriculture, it is unlikely to remain a diverse agricultural region that it is today. Most mixed or dryland farming systems in the Murray Valley have also maximised efficiencies. It is unclear with drier climates and less surface water available how this recommendation would be feasible

The panel's report on digital infrastructure is welcomed and this would require a direct and major investment in technology and improved communications.

- The region has been seeking such investment for a sustained period without success

Draft Recommendation 19 identifies that governments should direct resources to frontline services to address householder distress, mental health issues and financial hardship.

- In addressing these issues, amendments to Government direction on water policy is likely to be highly advantageous to prevent a decline in mental health and financial hardship



- It is acknowledged that the Terms of Reference prevent specific recommendations on the Basin Plan but this should not cause the Panel to ignore identification of 'cause and affect' and that improvements to the Basin Plan itself should be part of the strategy in addressing these social and community risks

### MRSG Recommendations:

- The Panel takes the initiative and has the courage to accurately report to Governments, on the severity of the Water Act 2007 and Basin Plan's social and economic impacts and regions which geographic regions this inequitably is occurring.
  - Identify how, where, why different aspects of the Basin Plan are impacting and where/why such impacts are being concentrated
- A full review of the Murray Darling Basin Authority Regulatory Impact Statement (2012)
- The Panel highlights and provides detail on any negatives arising from current Government/MDBA policy for *'freeing up water trade'* and risks associated with current policy that are driving and facilitating water away from diversified agricultural production systems, to *'notional'* high value crops.
- There is a risk that the Panel's report will leave this to the ACCC report but this will leave significant data gaps in understanding social and economic conditions. The ACCC is not responsible for reporting on social and economic impacts. Its charter is to look at issues of water markets and *freeing up* water trade, consistent with the objectives of the National Water Initiative and Water Act 2007 and report on issues or impediments to trade
- Panel should identify risks to Australia's national and broader economic interests of current policy which is leading to a dominance of water use in one or two type industries. *This high- risk strategy also has major tax base implications* with the change of water ownership to international interests.
- The panel highlight in greater depth the economic diversity of the Southern Basin's agricultural food bowl and how this is being compromised by current water policy
- Identify the social and economic impacts in the Southern Basin of Government/MDBA positions that continue meet SA minimum entitlement flow of 1850GL if the Darling River system is not contributing flows to Menindee Lakes.
  - Options could include a review of the current Tiered water accounting system to bring forward decisions earlier to recognise the loss of contributions from the Northern Basin
- The report makes clearer its recommendations and intentions around further water recovery and specifies its advice more clearly in relation to the 450GL and the 2750GL
- The report needs to identify in more detail the different types of specific regional social and economic impacts and information/data, should be included within the body of the report to support more specific recommendations

- The report does not identify social and economic data gaps in the main body of the report and how this should be addressed
- The report needs to identify why and in what capacity the Panel makes continued and strong reference and recommendations to accelerate constraints relaxation ('easements to flood') over private property and/or cause third party irrigation impacts;
  - Report strong recommendations appear to underwrite/support movement of water to new irrigation developments and regions through 'constraints relaxation;
  - Report does not demonstrate any recognition at all of the social and economic impact assessment of the CMS strategy to riparian landholders
  - Report does not acknowledge protections in the Water Act 2007 and how NSW Murray General security entitlement holders would incur further risk of system losses if operational water is delivered over bank via the CMS strategy (Refer **Attachment A (Water Act 2007)**)
  - Report makes no reference to tourism financial impacts from CMS/ higher Murray River flows (eg loss of access to camping/or recreational areas)
  - Report makes no reference to social and economic impacts to shires, tourism and private landholders of the elevation of major flooding risks as a result of the Basin Plan's Constraints and SDL projects
- Report does not identify social and economic impacts of the Sustainable Diversion Adjustment Projects where political /MDBA decisions are enabling the burden of the Basin Plan's commitment of additional 2000GL to SA to be largely provided by NSW Murray and Lower Darling Valleys.
  - Report does not identify inequities of NSW decisions to ensure NSW Murray and Lower Darling incurs the full costs of meeting and delivering NSW share of the downstream commitment to South Australia
- The report does not identify how communities will address social and economic risks if irrigated agriculture and flow on economic benefits in the NSW Murray Valley is no longer viable – instead the report makes high level statements that Governments should invest in economic diversification programs.
  - The report does not identify why such programs are inadequate and how their current form does not offset social and economic impacts of the Basin plan.
  - Report has not identified or made specific recommendations on how such programs could be improved or why the current approach cannot not work
  - Panel has not sufficiently demonstrated how irrigated agriculture can be replaced and by what means
  - The report does not highlight how/why the social and economic objectives of the Water Act 2007 and Basin Plan are not being adhered to and inequitable decisions have been applied by the MDBA. *(Note this will also help guide future Government guidelines and investment in Economic diversification programs)*
  - Report does not identify how subsequent geographic economic and population threshold declines, have a 'ripple effect' on Governments broader decisions relating to the provision of more general Government services

- The report has not explored further regionally specific details of social and economic impacts assessments of water recovery based on actual entitlements purchased or acquired through the Basin Plan processes.
  - NOTE : Federal Government **has already acquired 2850 GL** of entitlement, but because of MDBA conversion formula, further water recovery is required.
  - The 2289GL target in the Southern Basin will actually be higher due to MDBA's conversion formula
- The report notes that First Nations people are underrepresented in social and economic data sets, and difficulties in understanding issues and needs. MRSNG however points out that any '*difficulties*' should not mean it can't be done. Employment opportunities for **local** indigenous peoples are being and will be further diminished, through the current disproportional impacts of current water policy. It is important therefore to ensure these impacts are reported and also highlight the importance of localised consultation as not all concerns will be reflected in regional structures eg (NBAN/MLDRIN)
- The Terms of Reference while limited, do present the Panel with an opportunity for these issues to be explored. We urge the Panel to revisit its methodology and ensures that more detailed and comprehensive information is included in the main body of the final report.
- The Panel refer to the attached submissions in more detail to assess why the NSW Murray Valley is disproportionately impacted by Government water policy

## Conclusion:

MRSNG draws the panel's attention to its submission to the *Inquiry into the Management of the Murray Darling Basin* (Keelty Review). This report (attached) explores the background and reasons for the current disproportional of water policy and how this affects the NSW Murray Valley.

Murray Regional Strategy Group urges the Panel **to delay its final report** to ensure more detailed assessment of social and economic impacts of water policy in the Murray Darling Basin.

The Inquiry into Social and Economic Conditions in the Murray Darling Basin, should instigate new Government strategies in water policy and the Murray Darling Basin Plan, to maximise environmental outcomes while mitigating social and economic impacts in the Southern connected Basin. This could include but not be limited to, increased flexibility, additional options and a refocus on any remaining funding in the Federal Government Water for the Future Program on more innovative solutions.

## ATTACHMENT A

# Schedule 3—Basin water market and trading objectives and principles

Note: See section 4.

## 1 Definitions

In this Schedule:

*exchange rate* means the rate of conversion to be applied to water to be traded from one trading zone and/or jurisdiction to another.

*trading zones* means zones established to simplify administration of a trade by setting out the known supply source or management arrangements and the physical realities of relevant supply systems within the zone so that trade can occur within and between zones without first having to investigate and establish the details and rules of the system in each zone.

*water access entitlement tagging* means an accounting approach that allows a water access entitlement that is traded from one jurisdiction or trading zone to another jurisdiction or trading zone to retain its original characteristics when traded to the new jurisdiction or trading zone (rather than being converted into a form issued in the new jurisdiction or trading zone).

## 2 Objectives and principles

This Schedule sets out:

- (a) the Basin water market and trading objectives; and
- (b) the Basin water market and trading principles.

Note 1: These objectives and principles are relevant to the formulation of:

- (a) the provisions of the Basin Plan (see item 12 of the table in subsection 22(1)); and
- (b) the provisions of water management plans for particular water resource plan areas (see subsection 22(3)); and
- (c) the provisions of the water market rules (see paragraph 97(1)(b)).

Note 2: These objectives and principles are based on those set out in clauses 58 to 63 and Schedule G of the National Water Initiative when Part 2 of this Act commences.

## 3 Basin water market and trading objectives

The objectives of the water market and trading arrangements for the Murray-Darling Basin are:

- (a) to facilitate the operation of efficient water markets and the opportunities for trading, within and between Basin States, where water resources are physically shared or hydrologic connections and water supply considerations will permit water trading; and
- (b) to minimise transaction cost on water trades, including through good information flows in the market and compatible entitlement, registry, regulatory and other arrangements across jurisdictions; and
- (c) to enable the appropriate mix of water products to develop based on water access entitlements which can be traded either in whole or in part, and either temporarily or permanently, or through lease arrangements or other trading options that may evolve over time; and
- (d) to recognise and protect the needs of the environment; and
- (e) to provide appropriate protection of third-party interests.

## 4 Basin water market and trading principles

(1) This clause sets out the Basin water market and trading principles.

(2) Water access entitlements may be traded either permanently, through lease arrangements, or through other trading options that may evolve over time, if water resources are physically shared or hydrologic connections and water supply considerations would permit water trading.

(3) All trades should be recorded on a water register. Registers will be compatible, publicly accessible and reliable, recording information on a whole of catchment basis, consistent with the National Water Initiative.

(4) Restrictions on extraction, diversion or use of water resulting from trade can only be used to manage:

- (a) environmental impacts, including impacts on ecosystems that depend on underground water; or
- (b) hydrological, water quality and hydro-geological impacts; or
- (c) delivery constraints; or
- (d) impacts on geographical features (such as river and aquifer integrity); or
- (e) features of major indigenous, cultural heritage or spiritual significance.

(5) A trade may be refused on the basis that it is inconsistent with the relevant water resource plan.

(6) Trades must not result in the long-term annual diversion limit being exceeded. That is, trades must not:

- (a) cause an increase in commitments to take water from water resources or parts of water resources; or
- (b) increase seasonal reversals in flow regimes;

above sustainable levels identified in relevant water resource plans such that environmental water or water dependent ecosystems are adversely affected.

(7) Trades within overallocated water resources (including ground water resources) may be permitted in some cases subject to conditions to manage long-term impacts on the environment and other users.

(8) Where necessary, water authorities will facilitate trade by specifying trading zones and providing related information such as the exchange rates to be applied to trades in water allocations to:

- (a) adjust for the effects of the transfer on hydrology or supply security (transmission losses) or reliability; and
- (b) reflect transfers between different classes of water resources, unregulated streams, regulated streams, supplemented streams, ground water systems and licensed runoff harvesting dams.

(9) Water trading zones, including ground water trading zones, should be defined in terms of:

- (a) the ability to change the point of extraction of the water from one place to another; and
- (b) the protection of the environment.

The volume of delivery losses in supplemented systems that provide opportunistic environmental flows will be estimated and taken into account when determining the maximum volume of water that may be traded out of a trading zone.

(10) Exchange rates must not be used to achieve other outcomes such as to alter the balance between economic use and environmental protection or to reduce overall water use.

(11) Trade in water allocations may occur within common aquifers or surface water flow systems consistent with water resource plans.

(12) Trade from a licensed runoff harvesting dam (that is, not a small farm dam) to a river may occur subject to:

- (a) a reduction in dam capacity consistent with the transferred water access entitlement; or
- (b) retention of sufficient capacity to accommodate evaporative and infiltration losses; or
- (c) conditions specified in water resource plans to protect the environment.

(13) Compatible institutional and regulatory arrangements will be pursued to improve intrastate and interstate trade, and to manage differences in entitlement reliability, supply losses, supply source constraints, trading between systems and cap requirements.

(14) The transfer of water allocations and entitlements will be facilitated (where appropriate) by water access entitlement tagging, water access entitlement exchange rates or other trading mechanisms that may evolve over time.

(15) Institutional, legislative and administrative arrangements will be introduced to improve the efficiency and scope of water trade and to remove barriers that may affect potential trade.

(16) Barriers to permanent trade out of water irrigation areas up to an annual threshold limit of 4% of the total water entitlement of that area will be immediately removed, subject to a review by 2009 by the National Water Commission under paragraph 7(2)(h) of the *National Water Commission Act 2004*, with a move to full and open trade by 2014 at the latest.

(17) Subject to this clause, no new barriers to trade will be imposed, including in the form of arrangements for addressing

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## **62 The Water Market Rule Functions include the making, amending and implementing of protocols:**

- a. prohibiting, restricting or regulating the transfer of entitlements (Agreement, Sch D, cl 13(2)(c)); and;
- b. defining trading zones, and determining one or more conversion factors and exchange rates (including to account for losses incurred in delivery of traded water), to be applied in trading water from one area of the Basin to another (Agreement, Sch D, cl 6(1)(d)).

## **63 In its conduct of the Water Market Rule Functions, including in developing and implementing the said protocols, the MDBA must:**

- a. have regard to the fact that the inefficient and/or inappropriate use of Basin water resources would have (inter alia):
  - i. a significant detrimental impact on the availability of Basin water resources (s 10(1)(f)(i) of the Act); and
  - ii. a significant detrimental economic and social impact on the wellbeing of the communities in the Basin (s 10(1)(g) of the Act);
- b. have regard to the amount of transmission loss that may be incurred through evaporation, seepage, or other means (Basin Plan, cl 12.16(1)(d), 12.18(1)(b) and 12.18(2)(a)); and

c. not hinder the ability of the MDBA to regulate and manage the flow of water within the upper River Murray and the River Murray in South Australia, in accordance with the Agreement (Agreement, Sch D, cl 6(1)(e) and cl 13(2)(c)).