

POLICY PAPER

**In response to the Council of Australian Governments'
Memorandum of Understanding on
Murray Darling Basin Reform
26 March 2008**

**Incorporating the views of irrigators from New South Wales,
Queensland, South Australia and Victoria**

Please see first page for list of endorsing entities.

June 2008

Endorsements

This Paper is endorsed by the following organisations (in alphabetical order):

- Border Rivers Food and Fibre (NSW)
- Bundaberg Regional Irrigators Group (QLD)
- Central Irrigation Trust (SA)
- Century Orchards Irrigation Trust (SA)
- Coleambally Irrigation Co-operative Limited (NSW)
- Cotton Australia (National)
- Grow SA (SA)
- Gwydir Valley Irrigators Association (NSW)
- Horticulture Australia (National)
- Hunter Valley Water Users (NSW)
- Jemalong Irrigation (NSW)
- Jubilee Almonds Irrigation Trust (SA)
- Lachlan Valley Water (NSW)
- Lucerne Australia (SA)
- Macquarie River Food and Fibre (NSW)
- Mallee Irrigation (SA)
- Murray Irrigation Corporation (NSW)
- Murray Valley Water Diverters (NSW)
- Murrumbidgee Horticulture Council (NSW)
- Murrumbidgee Irrigation Corporation (NSW)
- Murrumbidgee Groundwater Users (NSW)
- Murrumbidgee Private Irrigators (NSW)
- Murtho Private Irrigation District (SA)
- New South Wales Farmers Association (NSW)
- New South Wales Irrigators Council (NSW)
- Pioneer Valley Water (QLD)
- Queensland Irrigators Council (QLD)
- Rice Growers Association (National)
- Smart Rivers (QLD)
- South Australian Murray Irrigators (SA)
- South West Water Users (NSW)
- Southern Riverina Irrigators (NSW)
- Wakool Landholders Association (NSW)
- Wakool River Association (NSW)
- Western Murray Irrigation Corporation (NSW)

Preamble

The development of irrigated agriculture has coincided with the development of regional Australia, particularly in the Murray-Darling Basin. According to the Australian Bureau of Statistics, in 2004-05, 35,000 farms irrigated 2.4 million hectares and produced food and fibre to the value of \$9.1 billion which was 23% of the total value of agricultural production in that year.¹

In a geopolitical context, a dwindling supply of world food stocks and subsequent spike in basic food prices highlights the importance of Australia's unique position as a major world food producer. Whilst we need to ensure the long term sustainability of our river systems and the communities that rely on them we also need to strike the right balance to ensure that Australia's long term food security is not put at risk. Global food production must grow by 50 per cent by 2030 to meet increasing demand, United Nations Secretary General Ban Ki-moon told world leaders earlier this month.²

The next phase of water management in Australia will be best served by a collaborative approach that involves an appropriate mix of policy, practical understanding and recognition that irrigated agriculture has a critical role to play in Australia's future growth and development.

This paper was prepared in response to a number of issues identified in the Memorandum of Understanding (MoU) on Murray Darling Basin Reform signed by the Council of Australian Governments (COAG) on 26 March 2008.

Irrigators are extremely disappointed with the lack of consultation around this reform process. Governments cannot hope to fundamentally change the system without the support of the regional communities and industries within the Murray Darling Basin (MDB).

The policy positions in this paper were formulated following a series of irrigator-run workshops conducted in Adelaide, Brisbane, Sydney and Melbourne and involved irrigators representing farming families and businesses from across the four Murray Darling Basin (MDB) States.

Key Issues

1. The Murray-Darling Basin Commission becomes the Murray-Darling Basin Authority

Irrigators support the functions and staffing of the Murray Darling Basin Commission being transferred to the new Murray Darling Basin Authority (MDBA). Two separate organisations are clearly not warranted, particularly in a cost-recovery environment.

¹ www.abs.gov.au

² Extract from speech to United Nations food crisis summit, Rome, June 3 2008.

2. All power devolved to the Commonwealth Minister

Irrigators are concerned that the Commonwealth Minister under the current proposal would be able to unilaterally amend the Basin Plan. The Basin Plan is designed to provide all water users some level of certainty. The capacity for unilateral amendment brings into question that level of certainty.

In order to address this anomaly, irrigators are seeking acknowledgement in the Inter Governmental Agreement (IGA) that if the Minister deems it appropriate to give the Basin Plan back to the Authority with suggestions then this should automatically trigger an additional consultative process. Irrigators suggest the following (also for inclusion in Section 44 of the Water Act 2007):

Replace Section 44 (2) (b) with words to the effect of:

- (i) The Authority must give a copy of the proposed amendments/suggestions to the relevant State Minister for each Basin State and invite the Basin State to make submissions on the proposed amendments to the Basin Plan. The Authority must allow at least six (6) weeks from when the invitation is given for the Basin State to make submissions; and
- (ii) The Authority must publish an invitation to members of the public to make submissions on the proposed amendments to the Basin Plan. The Authority must allow at least six (6) weeks from when the invitation is given for the public to make submissions; and
- (iii) The Authority must publish on its website the submissions it receives on the proposed Basin Plan in response to the invitations previously issued; and
- (iv) The Authority must consider any submissions it receives in response to the invitations previously issued; and
- (v) The Authority must prepare a document that gives a broad outline of any changes to the Minister's proposed amendments as a result of that consultation process. The document to be provided to the Minister (and also published on the Authority's website) must summarise the submissions and outline how those submissions have been addressed.

Irrigators acknowledge and support the statement in the MoU that current state Water Shares will be preserved. In addition, irrigators want to ensure that the MDB Agreement, subsequent MDB Ministerial Council and MDBC decisions are also accurately reflected in any new arrangements but specifically in the IGA and relevant sections of the Water Act 2007.

3. Critical Human Water Needs

Whilst irrigators support the need for recognition in the Basin Plan of critical human water needs (CHN) we are concerned that unless this matter is dealt with appropriately (i.e. allowance made for price signals) that it could in fact provide a disincentive for government(s) to invest in critical infrastructure into the future.

CHN should be defined simply as basic household needs only (drinking, sanitation and health).

CHN must come from existing state Water Shares which are to be preserved under the COAG MoU. There must be appropriate policy triggers in place in the Murray-Darling Basin (MDB) storages (based on agreed modelling) to deal with CHN and irrigators request that they be engaged in the COAG working group on this important issue.

COAG needs to adopt the principle that the market is the mechanism for addressing CHN requirements up until the point of market failure. Market failure should be defined as the point where the market is unable to supply water.

Government(s) must take into account system losses in addressing CHN requirements.

Irrigators are seeking clarification of the role of non-MDB storages in the provision of CHN.

4. South Australian Storage

The provision of storage capacity for South Australia for water for CHN is supported by irrigators.

That said, there will undoubtedly be third party impacts from the provision of that storage – particularly in light of increased carry-over provisions. Irrigators are of the view that CHN water in MDB storages must be the first to spill and secondly that any third party impacts must be met with compensation. This issue will need to be clarified through discussions on ‘appropriate policy triggers’ (based on modelling) for CHN as outlined in point 3 above.

Irrigators do not support the provision of water for CHN as a proxy for compulsory acquisition of water and Commonwealth must be prepared to compensate for any third party impacts.

5. Basin Officials Committee

Irrigators believe that in a full cost recovery environment, the size of the Basin Officials Committee should be limited to one representative per state, rather than a simple shift of all MDBC Commissioners.

Each state representative should have an appropriate mix of skills including a background in natural resource management.

6. Cost Transparency for Murray-Darling Basin Authority (MDBA)

As a result of this transition process irrigators do not want to see any additional costs passed on to the States or to irrigators.

For some time, irrigators have been seeking transparency in the costs of the MDBC. The transition to the MDBA and the implementation of a more rigorous approach to full cost recovery make this an ideal time to ensure that this transparency is enacted.

Irrigators want to see an accurate and concise schedule of costs for the MDBA (including those costs that can be directly linked to irrigators) produced as part of the annual reporting process. These costs must be discussed and agreed, with those parties who are expected to pay, through a formal consultative mechanism prior to publication in the MDBA's Annual Report. As minimum irrigators are seeking:

- (i) an objective description of the activities involved in each product/sub-product area;
- (ii) an expenditure breakdown; and
- (iii) an assessment of the activities against key performance indicators

7. Funding Tie Between Infrastructure Investment and Market Aims

An artificial linkage has been placed by the MoU between funding to infrastructure projects and progress of states toward market aims.

Whilst irrigators support infrastructure efficiency and the operation of an efficient water market, they do not support the concept of government(s) creating an artificial linkage between the two. This linkage potentially creates inefficient outcomes, particularly in the case of projects involving private irrigation corporations/districts or on farm projects. These organisations have no control over state government policy and hence should not be accountable for it.

In a general sense, if irrigation infrastructure can be made more efficient to the benefit of all, it should occur at the earliest possible opportunity and should not be hampered by potential state government inaction or delay. This artificial linkage should not be included in the IGA or in any consequential amendments to the Water Act 2007.

8. Full Cost Recovery

The more strident approach to full cost recovery is a significant issue for irrigators and if this is to be the approach then irrigators strongly believe it should only apply to efficient costs and those that can be directly linked to the beneficiary. Efficient costs are defined as those costs that are open and transparent and fully contestable in a market environment (i.e. via a competitive tender process).

Irrigators are also strongly of the view that community service obligations including those related to environmental, recreational and other consumptive users must be formally recognised in the IGA and relevant legislation.

Recognition of the social and economic impact of full cost recovery within non-MDB valleys – particularly coastal valleys – must be taken into consideration to ensure that these communities can continue to exist (this may be achieved by a sliding scale maximum price increase).

The new full cost recovery environment must not be used by government(s) to attempt to recover a rate of return on existing assets. Old or existing infrastructure assets should be classified as “sunk costs” and no rate of return, via water pricing or otherwise, should be sought on them. Any rate of return recovery must be limited to new infrastructure only that is government funded and owned. Irrigators note that 1997 has been established as a key date for infrastructure in NSW i.e. any government owned capital infrastructure built before 1997 is recognised for water pricing purposes (by the Independent Pricing and Regulatory Tribunal - IPaRT) as a sunk cost.

9. Externalities

The inclusion of externalities in determination of delivery price is potentially an enormous cost impact around which no detail has been provided.

Irrigators believe that this particular policy position requires careful discussion and consideration before any decisions are made – this discussion process must include the irrigation community. The concept of pricing of externalities is a relatively new one for the water market and in fact, there are few if any (regulated) industry sectors in Australia that have externalities factored into their pricing structure.

As a minimum irrigators are seeking the adoption of the following principles in regards to externality pricing:

- (i) A process, involving irrigators, must be implemented to examine the feasibility of using market based mechanisms such as pricing to account for positive and negative environmental externalities before any decisions are made in this regard;
- (ii) Only those externalities that can be directly linked to irrigators (as determined through the process referred to above) should be considered as part of any pricing process;

- (iii) Water scarcity must not be factored into water pricing – that is a matter for the market to reflect;
- (iv) Both positive and negative externalities must be addressed; and
- (v) The underlying importance of irrigation to Australia’s long term food security must be recognised and accounted for.

Irrigators also note the words used in the IGA on the National Water Initiative (NWI) on externalities. Section 73 states that States and Territories agree to:

- (i) continue to manage environmental externalities through a range of regulatory measures (such as setting extraction limits in water management plans and by specifying the conditions for the use of water in water use licenses;
- (ii) continue to examine the feasibility of using market based mechanisms such as pricing to account for positive and negative environmental externalities associated with water use; and
- (iii) implement pricing that includes externalities where found to be feasible.

10. Commonwealth Investments - Identical Due Diligence

Irrigators believe that infrastructure investment projects within the Basin need to be subject to a consistent due diligence assessment.

In particular, irrigators consider that the funding and savings ratios set by Foodbowl Stage 2 (funding 90% governments and 10% private with savings allocated 50% to the environment and 50% to irrigators) have established a key benchmark for future investment projects.

Irrigators support the Commonwealth Government working with them to ensure equitable consideration of funding proposals.

11. Re-instate On Farm Efficiency Programs

Notwithstanding the current pilot program, irrigators strongly believe that the On Farm Efficiency Scheme is a key component of the NWI, and as such we would like to see a strong and clear statement of commitment to the Scheme.

In light of Minister Wong’s repeated comments that “we must do more with less”, efficiency at an on farm level is clearly justified and (in concurrence with market mechanisms) is part of reaching the Basin efficiency targets.

12. ACCC and Bulk Water Pricing

It is clear from the MoU and recent activity by the Australian Competition and Consumer Commission (ACCC) in regards to water market rules, that the Commonwealth expect the role of the ACCC to considerably expand, but details have not yet been provided on the extent of the role that they will undertake. Irrigators are seeking the opportunity to discuss the role of the ACCC with the Commonwealth Government before its role is defined in either the IGA or more likely in amendments to the Water Act 2007.

Whilst the ACCC are clearly going to have an expanded (although as yet undefined) role, irrigators have spent considerable time and effort in establishing water pricing systems within their states. On this particular point, irrigators are of the view that the role of the ACCC should be limited to establishing rules by which state mechanisms (such as IPaRT) recommend bulk water prices.

Where states have mechanisms in place to either recommend prices or protect against the abuse of monopoly power then ACCC recommendation should be referred to these bodies (i.e. price proposals must be subject to the approval of relevant state mechanisms).

As a key principle, irrigators are adamant that the ACCC must not enter into the businesses of irrigation corporations, private infrastructure operators and private irrigation districts.

13. New knowledge

The Basin Plan should reflect only new knowledge as defined under the Water Act 2007 and this should be reinforced in the agreed risk sharing arrangements.

Notwithstanding the development of a Basin Plan in 2011, irrigators acknowledge the commitment in the MoU that the Commonwealth will honour all existing water resource plans in all jurisdictions.

14. Social and economic impact statements pre-Basin Plan

Irrigators insist that social and economic impact statements be prepared as part of the Basin Plan process. The importance of irrigation to Australia's long-term food security cannot be underestimated and must be considered in any Basin planning processes.

At present, the primary information driver for the new Basin Plan appears to be the CSIRO Sustainability Studies. Irrigators believe that policy made on the basis of this research alone will be fundamentally flawed. The CSIRO Studies certainly must inform the policy making process but they should not define it. These CSIRO studies must be tested against local/community knowledge and must be underpinned by a documented understanding of the social and economic implications of potential changes to water sharing arrangements.

This important issue can be addressed through an amendment to the Water Act 2007 (Sect 22) which makes it obligatory that the Basin Plan specify objectives, outcomes and monitoring for social and economic assets of the Basin

These social and economic studies must be funded by the Commonwealth (and not cost recovered) and they must be undertaken by an independent and reputable entity.

15. Treatment of Savings

Irrigators recognise and support the fact that large scale irrigation efficiency programs are still a critical component of the overall Commonwealth package. However, details on how the savings from these projects will be treated have not yet been documented.

Acknowledging the principles that have recently been applied, irrigators propose that savings generated through government funded infrastructure investment be established as follows:

- (i) 50% for environment – must be clearly identified and accounted for as environmental water in the environmental watering plan; and
- (ii) 50% for irrigators – no new licenses but savings must be used to improve reliability and availability within existing licenses.

The Basin Plan and the MDB Cap will need to recognise and account for savings that have been generated through water use efficiencies.

16. Structure and Membership of Basin Advisory Group

Irrigators recommend that:

- a) The current Community Advisory Committee (CAC) and Living Murray Community Reference Panel (CRP) should be abolished and a single community committee should be formed with clear roles and linkages documented and employed;
- b) The new advisory committee to reflect the requirements in the Water Act 2007 (Section 202) and consist of sixteen (16) members but with at least eight (8) of those being irrigators;
- c) The role of the committee should be twofold:
 - (i) it should provide advice directly to the key decision-makers including the Commonwealth Minister but also the Ministerial Council and the Murray Darling Basin Authority; and
 - (ii) it should engage directly with Basin communities down to the catchment level.
- d) The advisory committee should be fully resourced (including a secretariat) and paid for by the Commonwealth and must not be subject to cost recovery provisions.; and
- e) The advisory committee chair should also sit as an observer on the Ministerial Council

17. Government Agency Costs

As a result of changes to the governance structures within the Murray Darling Basin, extra cost burdens have been placed on a number of government agencies including the Bureau of Meteorology, ACCC and the Department of Environment, Water Heritage and the Arts.

Irrigators do not believe that the new governance arrangements should be seen as an opportunity to cost shift agency expenses to the irrigation community. From our perspective, all of these costs were part of the original \$10 billion plan for water security and as such, they should not be subject to cost-recovery provisions.

18. Competitive Neutrality

The Commonwealth have introduced the concept of competitive neutrality without providing any explanation of its expectations in this regard. Irrigators request that the Commonwealth provide a clear understanding to industry of expected results of the application of this economic principle before it is applied in the MDB context. Like any business, irrigators consider that the process of competitive neutrality must allow for an open and transparent process that ensures all services are fully contestable in the market place.

Notwithstanding the development of a Basin Plan in 2011, irrigators acknowledge the commitment in the MoU that the Commonwealth will honour all existing water resource plans in all jurisdictions.

19. Water Management Partnerships

The MoU provides for funding to state government entities where costs increase as a result of complying with the new system.

Irrigators support provision of this same funding for non-government irrigation corporations, private infrastructure operators and private irrigation districts. In the event that it is not, irrigators in those areas will clearly see an increase in costs as they are recovered.

The challenge for government(s) in this process is to ensure that these compliance costs are minimised. Simplicity is a good principle to apply.

20. Consistent Water Modelling

If one of the aims of the new governance structure for the MDB is to standardise water modelling then irrigators expect to see an extensive and meaningful consultation with both the states and with industry before any particular model is adopted. It must also be recognised that if standardisation occurs then irrigators must not be disadvantaged.

21. Link between Inter Governmental Agreement (IGA) and Water Act 2007

There needs to be a transparent process followed to ensure that what is agreed in the IGA is reflected accurately in the legislation.

22. Focus outside Murray-Darling Basin

If the COAG MoU is used as a model for management of water outside the confines of the MDB then this will have profound impact in many areas. In many cases these 'external' systems operate in a significantly different manner and they do not have either the financial or

administrative capacity to deal with a complex regulatory structure. In addition, the introduction of policies such as full cost recovery could have a potentially devastating effect on the irrigation industry and the dependent regional communities.

Irrigators are of the view that before any political decisions are made on this issue that there must be a separate, comprehensive and meaningful consultation process with the groups and individuals likely to be impacted and their circumstances must be properly accounted for.