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Australian Competition & Consumer Commission
Murray-Darling Basin Inquiry

Public submission — Chris Bagley

Thank you for the invitation to submit an Issues Paper. I respond ‘Other’ to your category prompts, indicating that my submission is not coming from an expected quarter. But that is not necessarily a weakness: if our established patterns of thinking about Basin governance were adequate there would have been no need to establish your Inquiry.

Basin population

Water pricing is circumscribed by a de facto policy objective to maintain population levels in the Murray Darling Basin at least to current levels. But that policy has never been articulated in parliamentary debate and is not mentioned in your Terms of Reference. We have a dismal record of developing policies only to hastily change direction under pressure from threatened communities as those policies are implemented.

South Australian Murray-Darling Basin Royal Commission Report ¹ (SARC) asserts “the eventual setting of the ESLT in order to produce the SDL was a major failure of process. The MDBA and the Commonwealth Government of the day can be seen not to have followed the plain requirements of the Water Act. Instead of trying to fix the limit beyond which key environmental values would be compromised, they appear to have set out to gauge the limit of sectional or political tolerance for a recovery amount.”

Your Inquiry will fail to consider “market trends since 2012” unless it anticipates likely population trends in the Basin. Without that dimension to your work you will be herding sheep into a yard that has a gate swinging open at the far end.

I ask that your Inquiry report on economic factors significantly affecting population levels in the Basin, including:

- **Water pricing**
- **Technological change**
- **Corporatisation in agriculture**

¹ Murray-Darling Basin Royal Commission Report. January 2019.
ISBN 978-0-6484670-1-4 (paperback) 978-0-6484670-2-1 (online resource)

Legality of Basin Plan

I share sentiments expressed by the SA Royal Commissioner, “Two opposite impressions come from the experience of conducting this Royal Commission. The first is one of admiring praise for the enactment of the Water Act 2007 (Cth) (Water Act) and, with crucial qualifications, for the making of the Basin Plan 2012 (Cth) (Basin Plan) under the Act. The second is one of deep pessimism whether the objects and purposes of the Act and Plan will be realized.” (SARC, page 11). As drought has intensified and the price of water escalated in recent months stakes have dramatically risen for each of three major stakeholder groups: irrigators, environmentalists and water traders. We live with risk of a High Court challenge by one of those groups to the Basin Plan itself. On my layperson’s reading of SARC—led by a Royal Commissioner respected as an eminent constitutional jurist—such a challenge is likely to succeed. My hesitation is surely shared with some people buying and selling water. Your Inquiry could unwittingly trigger a High Court decision that would render your own deliberations redundant and return Australia to our policy confusion in the depths of the Millennium Drought.

I ask that your Inquiry take legal advice and report on whether the 2012 Basin Plan meets the legal requirements of the 2007 Water Act.

Estuary collapse

It is both sad and significant that the only public meeting to be held in the vicinity of the Murray-Darling estuary was scheduled for Murray Bridge at 12 pm on 29th November, leaving attendees only hours to absorb content and respond within the deadline for public submissions. It is a tragedy of geography that the river finally enters the ocean in an area of relatively low population and political power. As people of the Lower Darling will bitterly attest, “a river dies from its mouth” and Australia will develop a coherent management plan for the river system only after we have centred our thinking at the end of the system, where signals of unsustainability register soonest and clearest. Your Inquiry appears to passively accept governance structure and philosophy that are at odds with the physical realities of the Basin.

To return to the sheep yard analogy. A wise farmer, from position ahead of a mob of sheep and using the natural instinct of working dogs to bring prey to their pack leader, will coax the mob in the desired direction. A less enlightened neighbour, in a cloud of dust and obscenities, will zigzag a ute from one side of the paddock in a demented effort to push bewildered animals towards the yard. Which method better illustrates how we manage the Murray-Darling?

The water market is constrained by a possibility of ecological collapse in the Murray Mouth estuary equivalent to that currently experienced in the Lower Darling. Political and legal consequences—anticipated at Federation and with repercussions under international law for major environmental treaties—would be severe. This threat is surely a factor in the water market.

I ask that your Inquiry, under the essential topic of climate change, report on likely market consequences of ecological collapse in the Murray Mouth estuary.

Salt export

Towards the end of the twentieth century salinity was considered the greatest threat to Basin prosperity. A major study commissioned by the Murray-Darling Basin Ministerial Council calculated that the annual salt export load for the Basin would double to four million tonnes by 2100² because of water table 'mounding' beneath shallow-rooted irrigation plantings. If salt mobilisation does increase as predicted, the water market will be disrupted by one or more of the available responses:

- Increased allocation of environmental water to carry salt (and agricultural runoff) through the Murray Mouth.
- Expansion of current salt mitigation efforts. Salt is extracted from the river channel and trucked or pumped a comparatively short distance. It remains in the Basin.
- New technologies to achieve salt export from the Basin.
- Loss of agricultural productivity to rising salinity.

I ask that your Inquiry report on likely market impacts of managing Basin salinity to 2100

The points that I have raised do not align with the specified terms of reference for your Inquiry. But nor they fit into those listed as out of scope. The history of Basin governance is littered with initiatives that have proved futile and often harmful because of a failure to recognise nature's limits. I do hope that your Inquiry does better.

I repeat my thanks for the invitation to make a submission.

Yours faithfully,

Chris Bagley

A snapshot of my personal background.

- Member of SA Department of Environment and Water's CLLMM Community Advisory Panel. (CLLMM: Coorong Lower Lakes and Murray Mouth). CAP leads local community interaction with the government agencies responsible for management of CLLMM Ramsar site (primarily DEW, Commonwealth Environmental Water Office and Murray Darling Basin Authority).
- Committee member Milang Agricultural Bureau, Milang & District Community Association
- Our dry-land farm— five kilometres from Milang, the only town on Lake Alexandrina—has been in my family since European settlement. We have never irrigated.
- The history of Milang, from a major river port in rip-roaring colonial days through dairy farming to a genteel decline has charted the 'creative destruction' of technological and market changes (SARC, page 31). Our major community effort today nicely tracks our history: restoration of the Milang Lakeside Butter Factory, built in 1893, as an eco-tourism precinct.

² The Salinity Audit of the Murray-Darling Basin, a 100-Year Perspective, Murray-Darling Basin Ministerial Council, ISBN 1 875209 85 9. Page 7