Submission to the Murray Darling Royal Commission 2018

Introduction

My name is Ed Fessey and I am a Floodplain Grazier from Bullabelalie Station, near Weilmoringle on the Culgoa River, 110 km north west of Brewarrina in north west NSW.

My family has depended on the Culgoa for 3 generations and I am afraid to say that so far, each round of reform appears to leave us and our surrounding community with greater interval between flows, less duration of flows and far less beneficial flooding than before.

This submission has come about from my involvement in the reform process as a member of the Northern Basin Advisory Committee. The subsequent Northern Basin amendment was a political one, based not on good science or a glass half full which could have revolutionised future production and population diversity.

Instead, we got a non-transparent mess that will ensure more emptying out of communities and an even more stressed river system.

Comment and background

The first alarm bells in the Northern Basin started in ring in earnest in 1991 with the 1000 km algae bloom in the Barwon Darling. Large scale development in the Border, the Gwydir, the Namoi, the Macquarie and, to a lesser extent, the Condamine Balonne, had begun to show marked decreases in the duration, and marked increases in interval between flows.

This lead to the introduction of a Cap on development in January 1995. Queensland had successfully argued that they hadn't done enough development and said they would need until 2001 to reach Cap. Private storage in the Lower Balonne grew from 300 GL in 1995 to 1200 GL, during that time including the gazettal of the infamous Overland Flow Licences (OLF).

These licences were granted on the basis that if you had banked off floodplain to crop and store water, then you had forgone water over that bunded land. There were 3 components to the licence: the moisture required to fill up the moisture profile and daily evaporation - Part A - and the daily overland flow volume depending on the height of the flood - Part B. Part A is a fair assumption, but the volume required falls after the first day as the soil moisture profile is full – I am not sure the entitlement ever reflected that. Meanwhile, Part B assumed that any passing flow over that bunded country depending on depth belonged to that country, and therefore could be extracted.

This was the key issue in the Lower Balonne that meant that all other land that was flooded on the Floodplain was mutually excluded from having equity in that water that was previously passing flow at a particular point and formed either the conveyance water, the soil moisture profile, the evaporation effect and the passing flow effect for the floods progression and recession down the Floodplain.

Queensland at least tried to quantify the volumes of extractions off the Floodplain as well as the volume of water harvesting directly from the river. They did so by allowing access by event management, however the only problem was that most small to medium sized events were SO well managed that they failed to exist.

NSW never really tried to manage take from the river or the Floodplain, especially once you got out of regulated zones for water management. That's why we are where we are is because of poor resource allocation and even poorer management and compliance.

The Basin plan in its simplest form sought to acknowledge the allocated rights of individual licences, identify and purchase the most effective and transparent water for recovery, reduce key flow intervals, improve duration of flows, and improve longitudinal connectivity and where possible latitudinal activity.

Since 2012, the implementation of this goal has lost its way, and it accelerated out of control when Turnbull had to give Joyce the water portfolio in 2014 in order to remain Prime Minister. It became a race to the bottom in terms of rigour, transparency, accountability, disclosure of key information and to whom.

The MDBA board and its senior management appeared suddenly very willing to do whatever it took to give Joyce a reduction in the Northern Basin.

The failures in implementation stemmed from the following factors.

First, there was too much dependence on long model runs, and not enough willing understanding of the importance of low flows and the need to have flow event management.

Second, the gaming of SFI s (Specific Flow Indicators) - there was no low flow indicator in the Lower Balonne initially, and the denial of a need for a low flow indicator in the Barwon Darling. Ideally, the low flow should have 500 ML or 1000 ML per day not the 6000 ML per day which was put forward.

The gaming of the SFI meant that it was very likely that the Authority was aware of the implications of the difference between the publicly agreed draft 2012 Barwon Darling WSP and the much-changed access rules of the Gazetted 2012 BD WSP.

The proposal to offer to buy back, low flow licence in the Intersecting Streams and the Barwon Darling was butchered by Kevin Humphries, Barnaby Joyce and urged on by the big irrigators in the Barwon Darling who had successfully advocated the switch-a-roo of the 2012 WSP. This was despite many small licence holders having voted for an opportunity to do so at a public MDBA sponsored Northern Basin Advisory Committee meeting in Brewarrina in 2014. This proposal would have helped protect low flows in key parts of the lower reaches of the Northern Basin.

The unmeasured impact of Floodplain take in the NSW part of the northern Basin was partly revealed by a study undertaken by Western Lands Management of Dubbo and presented to NBAC at the Narrabri meeting. At that stage, a number of 260 GL of Floodplain take was indicated in the Gwydir valley. The implications of this were telling - it meant that not all the take was measured, and it was evident that Government as a whole was not revealing all the information.

Other issues began to appear, such as unanswered questions of how much water and specific evidence of recovery in the Northern Basin infrastructure programme in both QLD and NSW. The rules were relaxed and there was no oversight of the agreements nor the outcomes.

NBAC asked a lot of very detailed questions about the modelling process, including source data, assumptions used, the Cap reporting process and the issue of reliability to name a few key subjects. The more questions asked, the less the Authority wanted to engage or reveal in detail. By the time that it was very evident to the balanced members of NBAC that the implementation process was going to be a mess, NBAC had to report in late 2016.

The purchases of Tandou, Eastern Ag, and the Warrego water were clearly opportunities to recover water where there was little or no transparency of where the flow benefits would appear, the only benefit really appeared in a reduction of the recovery number, leaving a legacy issue for the future in declining actual flow outcomes in mostly low flow years.

In the case of the Tandou purchase, it is now apparent that Webster's were well aware of the impacts on flows below Bourke. Webster's purchased Tandou in 2015 for $30 m, and then went and offered Tandou to the Feds for $78 m – an offer which the Feds accepted. The due diligence around this deal does not appear to be rigorous, two valuations came in at the $30 m mark, and one came in at $78 m. There appears to be no modelling comparison between the draft and gazetted 2012 BD WSP which would have shown a big decline in flows below Bourke. The MDBA say that they have run the model comparison and say there is little difference.

What the MDBA did not say is that they did not take into account the 57 GL of Cap credits they created to balance the Cap reporting caused by over extraction, and they did not acknowledge that they did not model the following significant impacts, particularly, the ability to access inter reach transfers and temporary trade. The assumptions in terms of on farm storage around Bourke particularly have increased and that will cause increase in take over time.

The Eastern Ag purchase - particularly the Kiora Overland Flow licences - are likely to trigger pump access flow windows further downstream; considering that Eastern Ag's other property, and Cubbie, straddle the Lower Balonne Floodplain just below Dirranbandi, waiting to capture any increased flows that fall into those properties access windows and that they have airspace in their storages.

The Warrego purchase was purely an opportunity to offset the need for recovery in the Border system. Throughout the entire Northern Basin Review, the MDBA line was that no recovery was needed in the Warrego. The locals called it goanna water - the only time you would get it was when the flood was big enough to put the goannas put up a coolabah tree .

Interestingly, Cubbie has not participated in any water recovery under its current ownership. There is a map of Cubbie doing the rounds, which shows planned new works and storages - this must mean that they think that there will be extra water in the system.

Cubbie was sold to Shandong Ruyi in June 2013, with 20% to Lempriere Aust to satisfy FIRB requirements. That enterprise had 2 years to divest 50%, which it could not do due to no Australian corporate interest. The FIRB granted a further 3 years which falls due in October 2018. Roger Fletcher, a well-respected Australian agribusiness man, took over

Lempriere stake in 2016, when CS Agriculture took over Lempriere. Fletcher has been on the Board of CS Ag since 2013 and they are the operating company of Shandong Ruyi.

It is clear from the previous attempts to sell Cubbie - as either a whole or to satisfy the FIRB requirements - that the vast majority of the institutions and high net worth individuals are staying well clear of this opportunity as an investment for two reasons. First, there are long term triple bottom line social licence issues and second, the highly variable, infrequency of flows can lead to either a huge windfall if the flows are big enough or more likely, a long interval of a non-performing asset.

There is an opportunity for jointly discovered, mutually agreed strategic purchase of some of Cubbies water entitlement to meet FIRB requirements. There is also a real need across the Basin to consider the wisdom of allowing any foreign investment directly into any of our key assets such as water. We absolutely need foreign investment, but under our terms. If we don't, then we will end up having key assets in foreign hands and the real prospect of having our own producers and consumers put to the sword due to foreign influence on our domestic water policies, just for example.

The MDBA uncovered at least two interesting compliance issues during the Northern Basin Review. One study internally called 'the Sum of the Tribs' report, which was presented to a working group of NBAC in June 2016. This showed how the duration of flows in the Barwon Darling had dropped noticeably since the early 2000s and it was able to identify where the reach where the water went missing. The other study of socio-economic issues in the Lower Balonne during the period from 2000 to 2009 revealed that the actual water take and production levels exceeded the licensed take.

Key issues moving forward

All the 114-year modelling in the northern Basin is now 10 years old and fails to reflect the actual flows.

Before any new modelling is done, the following issues have to be addressed to provide the basis for the models:

1. All private storages will have to be re-surveyed as will all Floodplain diversion banks etc. All Floodplain interceptions have to be identified and measured.

2. All farms that have had Infrastructure funding to be audited, to see measure how the funding has proven to recover water. Cases like Norman Farming are the exception but there are many others on a smaller scale.

3. The assumptions in the models have to be re-evaluated, in terms of changed irrigator behaviour, reduced inflows in the catchments due to passive active interceptions from deeper and more on farm dams and zero till farming, for example.

4. The Cap system, due to a lack of compliance and a willingness and or necessity by the MDBA to make up numbers to hide the over extraction, should be audited against actual end of system flows. All pumps above say 100 to 150 mm have to be metered, period.

5. The Tandou, Warrego and Eastern Ag purchases need to be audited for transparency and value of the deal, and also for the effective value of water recovered.

6. Low flow and event-based management needs to be a priority for all the downstream parts of the Northern Basin.

The Board of the MDBA will have to have further capacity in its membership to include strong corporate governance, and strong actuarial and engineering analytical skills. It should also answer to the Commonwealth and the States need to have a far stronger requirement to conform to the required outcomes of the Basin Plan.

In each valley, the MDBA needs to resource water networks groups to identify the issues and solutions, bring agreed pathways and solutions to the table, and allow the recommendations to be implemented.

Summary comment
The shifting ground of how water is measured, managed and accessed will dramatically undermine the value of water licences. This is particularly evident when the lack of transparent business cases for supply measures is considered. This uncertainty of what water is really in the system will only favour well resourced, corporate-style investors who don't rely as much on the mortgage value of their licence as smaller family irrigators.

This has, and will have, increasingly detrimental structural impacts on Basin communities in terms of geographic and demographic crop diversity. So much for the concerns to build and improve the productive capacity of the so-called "weather board and iron" parts of the agricultural community.

The only way that this will change is from the discovery and recommendations of a Commonwealth Royal Commission. Anything less will cost more in the long run.

Australia's key asset is our clean and green image, we are limited in our current production due to highly variable flows and have been trying to grow productive wealth via public and private subversive ways at the broader expense to many other stakeholders including stock and domestic users, towns, tourism, culture and the environment.

Our future lies in an accountable, transparent and jointly discovered limit through a range of flow volumes. We must also consider the productive capacity required for the predicted 2050 population of approximately 60 million people - we are not going to have that sort of capacity nor environment if we don't have a Basin run on fact.

Our future development in the Basin will be in more innovative and intensive agriculture and horticulture that will grow in value due to proven providence. This will create greater value for produce in the longer run, whilst still leaving an acceptable, environment to live in.

Thank you
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