



Mildura Rural City Council

File: 15/07/01
26 July 2018

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Dear Joanne

RESPONSE TO SOUTH AUSTRALIAN MURRAY-DARLING BASIN ROYAL COMMISSION

I refer to your letter dated 3 July 2018, following Mildura Rural City Council's meeting with Senior Counsel Commissioner Bret Walker (SC) regarding the Murray-Darling Basin Plan.

As requested, Mildura Rural City Council provides a written response detailing the concerns raised at this meeting and addressing the Commission's Issue Paper and Terms of Reference.

This response was endorsed by Council at its meeting held 25 July 2018. A copy of the associated report is also attached.

Yours sincerely

MARTIN HAWSON
GENERAL MANAGER COMMUNITY

MH/am

Enc: South Australian Murray-Darling Basin Royal Commission Response, MRCC Council Report; South Australian Murray- Darling Basin Royal Commission Mildura Rural City Council Response.



Mildura Rural City Council

South Australian Murray Darling Basin Royal Commission Response

26 July 2018

Introduction

Mildura Rural City Council is located in North West Victoria and forms part of the broader Sunraysia Community. Mildura is the Oldest Irrigation Settlement in Australia and is a major service centre for surrounding towns and communities including areas across the border into New South Wales.

Agriculture, Tourism, Retail and the Service sector are key components of the local economy.

Healthy rivers underpin human, economic, social and environmental wellbeing. Human health and the natural environment are closely linked: the health of human populations depends fundamentally on the quality of the environment in which we reside and on the capacity of the environment to provide goods and services.

Sunraysia is an innovative community willing to explore opportunities for the development of new industries to create a secure socioeconomic future. This will also assist in evolving existing industries which will need to integrate the sustainable use of water resources.

None of this will be possible if we do not have water security for our economic and social future.

South Australian Murray Darling Basin Royal Commission – MRCC Response

The following is an extract of some key points from Mildura Rural City Council's response to the South Australian Murray Darling Basin Royal Commission.

Local Government

Despite having no formal role in the institutional and governance arrangements for water, Local Government is well equipped to balance complex and often competing social, economic, and environmental needs within and across their municipalities. Local Government achieves this through legislated standards of discipline and governance and this might be a way of working through the planning issues in the future.

Local Government is intimately connected with the local area, the river, ecosystems, topographies, communities, industries and interests that make up the local basin environment.

Local Government has the skill and institutional capacity to inform policy development, has rich and established regional networks that offer an invaluable interface and is an effective resource for state and federal policy makers.

Local Government could play an increased role in the development, implementation and management of environmental water projects with a focus on ensuring the community is engaged and aware of the challenges, benefits and outcomes.

Water Ombudsman and Governance

There needs to be an increased level of public reporting, on the evaluation and outcomes of the use of water, readily available to the community. A transparent process that allows the community to view where water is being used, how much is used and the environmental / economic benefits, would provide a broader community understanding of the process and outcomes. There needs to be an increased level of confidence in the system and a commitment to ensuring appropriate monitoring and enforcement where appropriate.

Introduction of an independent body, such as a Water Ombudsman, that has the power to investigate environmental water issues, and more broadly, any water related issue across jurisdictions and state borders, would provide

increased community confidence and compliance in how water is used and managed by government bodies and licensed users.

Irrigation Expansion

The ongoing expansion of irrigated agriculture upstream from Mildura, on both sides of the Murray River, is a major concern to this community. When another drought occurs, it is our view that these developments will further magnify the issues, creating an environment where large irrigators with the financial capacity will survive, while smaller irrigators, unable to compete, will suffer significant hardship and decline. As a consequence, this would further weaken and destabilise the social and economic fabric of our community. This is no doubt a concern for all irrigation communities, particularly those downstream of the major developments.

Darling River

The impact of the current changes along the Lower Darling River are of particular interest within the region. Reduction in Lower Darling horticulture and the Broken Hill pipeline from the Murray (to source Broken Hill water from the Murray instead of the Darling/Menindee Lakes) raise serious questions for the future.

The Menindee Lakes project to reduce evaporation could see a significant reduction in water held at Menindee, with the water diverted for other purposes. These measures could result in less water reaching the Menindee Lakes and even when water may get there in a flood, it may allow water to make its way to the Murray far quicker than would naturally occur.

This also has significant implications for the environment (i.e. the Menindee Lakes, the Lower Darling, the Darling Ana branch), and the Murray downstream of Wentworth, which has flora and fauna that 'evolved' under a flow regime, including input from both the Northern Basin (Barwon-Darling system) and the southern rivers (Murray, Murrumbidgee, Goulburn etc).

These measures would also potentially facilitate northern NSW irrigators to carry on extracting at the current (or even increased) levels, because if NSW allow the water to get to Menindee Lakes it becomes 'shared' with other states.

Reduced flows from the Darling would potentially impact licence holders in the South (NSW Murray and Murrumbidgee, VIC Murray, Goulburn etc.) because South Australian entitlements may have to come from these places instead of the Menindee Lakes.

Horticultural Sustainability

The following information was requested by the South Australian Murray Darling Basin Royal Commission during their visit to Mildura. This outlines recent processes relating to planning scheme amendments and subsequent strategic investigations.

Mildura Older Irrigation Area and Planning Scheme Amendment C89

During the process of Council's deliberations regarding the planning future for the Mildura Older Irrigation Area (MOIA) in the recent Planning Scheme Amendment C89, Council separately resolved to prepare a detailed scoping study for preparation of a subsequent strategy.

Council is seeking to investigate innovative solutions to create a positive environment which supports and develops land for sustainable horticulture purposes within the older irrigation areas and commissioned preparation of the Horticultural Sustainability Development Strategy Scoping Study.

The purpose of the Scoping Study was to consider economic, social and environmental drivers beyond the scope of the amendment, to capitalise upon the irrigation infrastructure investment arising from the Sunraysia Modernisation Project (SMP) by Lower Murray Water and to enable formulation of options to deliver sustainable horticulture development within the MOIA.

While the way forward for that work is under consideration, in the light of the various investigations and inquiries with respect to the Murray Darling Basin Plan (MDBP) and water related issues, a response is required of Council.

In order to clarify and understand what is really happening and how it affects MRCC and surrounds, a number of questions have been raised due to the complicated nature of the issue involving many varied interests and competing motives with political complications.

This document provides preliminary identification of areas of concern which require further investigation in order to confirm a detailed response regarding water related issues.

Preliminary Findings – Background Investigation

This preliminary strategic investigation undertaken by Council identified the key areas for investigation for matters relating to water and infrastructure along with those pertaining to planning status, environment and land capability, social and demographic, economic and market outlook categories.

Key focus areas relating to water and infrastructure include as follows:

- Engaging with the relevant water authority to assist in compiling available information and trends on water use and trade specifically for the irrigation districts comprising the MOIA.
- Utilise maps to overlay land and water use with irrigation infrastructure capacity to aid in strategic development decisions and, where appropriate, strategic retirement.
- Developing options to facilitate trade of Delivery Shares (DS) and look at innovative ways to leverage new water trade mechanisms, such as water forwards and leasing arrangements, to encourage trade of unutilised Annual Use Limits in the MOIA and improve water security for irrigators in the MOIA.
- Developing scenarios to consider the range of potential impacts on water availability and price from external factors, including climate change and competing uses from new development occurring outside the MOIA.

All MRCC strategic work to date has confirmed that continued successful sustainable horticulture production is central to the short and medium term outcomes for the MOIA and in turn, given the level of significance coupled with no identified alternatives, to MRCC fortunes in general. Maximising the sustainable horticultural development of the MOIA needs to be considered in tandem to maximising the horticultural opportunities outside the older area, for the overall best interests of MRCC. External impacts have the potential to determine significant aspects of MRCC's future prospects if they remain without mitigation or guidance. The relatively few focus areas are somewhat limited by the willingness of other parties to participate. A range of external impacts generating significant areas of concern with respect to water related issues require an appropriate consolidated response with regard to the extent to which these accord with MRCC best interests.

Areas of Concern

A simple, non-exhaustive, non-academic preliminary assessment of areas of immediate concern which have been identified to have no confirmed response and which pose a risk to Council without further investigation, is included below.

Federal Policy

Murray Darling Basin (MDB)/Murray Darling Basin Plan (MDBP):

- The Plan is not federally legislated and relies on agreement from states.
- There are two aspects inherent to the best interests for MRCC arising from the ‘balance’ as prescribed by the MDBP regarding the level of irrigation vs environmental water:
 - *Maximised outcomes for sustainable horticultural production;*
 - *Healthy and flourishing river environs.*
- *Maximised outcomes for sustainable horticultural production;*

When the Plan was released anecdotal observation indicated that the consequences and negative impacts of the outcomes were less for Mildura than upstream areas, both within NSW in the northern and southern basin and within the Goulburn-Murray in Victoria. This observation did not emerge in the public reaction to the Plan however, with little noticeable public debate regarding the impacts for Mildura in detail. Instead, a relatively polarised debate mirrored the ‘burning of the basin plan’ approach as in Griffith. The inherent risks regarding the success of the Basin Plan’s intended roll-out, in order for those lesser impacts to be realised, now remains (ie in simple terms, if the impacts were less for Mildura in the overall context of the Plan, then they must be greater for other areas and any lessening of impacts for those other areas could increase the impact for Mildura if the remaining available water were to be secured upstream).
- *Healthy and flourishing river environs;*

The second aspect, and its importance for Mildura, did not emerge strongly in the polarisation of the public debate in the Mildura context, overtly symbolised by the ‘burning of the basin plan’ in Griffith as above.

- The recent (unsuccessful) proposed 70GL adjustment in the Northern Basin was followed by a further successful 605GL adjustment across the Southern Basin proposed in May 2018 with, as stated, no further water to be taken out of the Southern Basin (web MDB Authority [MDBA]).

Area of Concern: *continued re-adjustments to the Plan as a result of political pressures require ongoing analysis to determine if they accord with the best interests of MRCC, with respect to either maximised outcomes for sustainable horticultural production, or healthy and flourishing river environs, notwithstanding the environmental benefits accruing from the SDL works (web MCMA). This is necessary to justify either MRCC support or active resistance. This is exacerbated in the absence of consolidated strategic guidance to the contrary.*

- The Barmah Choke provides physical constraints on the delivery of water by restricting the flow of the Murray to around 10,000ML per day (the lowest flow in any stretch). A default trade restriction is in place at the Choke to deliver a trade balance which requires that trade downstream of the Choke may only occur when there is sufficient matching trade capacity available in the opposite direction. This means that people upstream of the Choke can sell water to buyers downstream of the Choke, but only if the same or greater volume of water has been transferred from downstream to upstream of the Choke first. (web MDBA).

Area of Concern: *Additional pressure for available water to head upstream and with consequential risk of supply issues during heatwave or drought conditions. Heightened concern arising from Lower Murray irrigators' demand peaking at 7,000ML per day during recent heatwave conditions is coupled with existing increased irrigation demand anticipated from continued growth in permanent plantings (mostly almonds), of which 4500ha were planted last winter and another 15,500ha due to go in over next five years. This is in conjunction with diminished contribution from the Murrumbidgee River as a consequence of mainly cotton irrigation development and uncertainty regarding the impact of NSW intended de-commissioning of two Menindee Lakes. (Weekly Times March 2018). These risks are exacerbated in the absence of consolidated strategies to the contrary.*

- Recent changes to NSW policy allowing conversion of existing leasehold land (ie Western Lands) to freehold is coming into force in 2018. This will enable potential change of purpose restriction, currently applying to a significant area of existing leasehold land to be removed, allowing additional irrigation development (web NSW Department of Industry).

Area of Concern: *Given the area of land involved, the risk of even greater impact and further to that as for the Barmah Choke above.*

- Queensland continues to permit tree clearing at a rate reaching 395,000ha state-wide in 2015-16, including a significant portion within the upper reaches of the MDB catchment (web The Guardian October 2017).

Area of Concern: *Given that substantial areas of clearing has continued within the MDB catchment, there is a risk that the impacts on downstream water users will generally increase as a result.*

Victorian State Policy

Victorian State Policy, with respect to the MDBP, evidenced primarily as follows:

- *Social and economic impacts of the Basin Plan in Victoria 2017* (web DEWLP): The report identified some impacts relevant to Mildura but the majority centred upstream.

Area of Concern: *There is a risk that the impacts for MRCC may increase if the impacts for others upstream are reduced.*

- Goulburn-Murray Irrigation District (GMID): State government and Commonwealth funding (\$2 billion) for modernisation through Northern Victorian Irrigation NVIRP (comprising 6 LGAs). The project site area is defined as Victoria's 'Food-bowl' and includes other assistance measures (web Victoria's Food-bowl). MRCC is not one of the LGAs.

Area of Concern: *Failure to reference Mildura as part of the 'food bowl' is a significant omission that reduces our strategic position. Policy imbalance in MRCC re planning policy in MOIA, providing restrictions to development of dwellings only, without positive strategic direction.*

Risk of potential for MRCC to miss out on additional funding or development initiatives through lack of accordance with consolidated strategic guidance.

Salinity Impact Zoning

- High/Medium salinity impact zones: In accordance with the *Victorian Water Act 1989* Salinity Impact Zones are identified for the Murray River irrigation corridor. The only High Impact Zone (HIZ) exists in MRCC covering the majority of the existing MOIA and further upstream to between Red Cliffs and Nangiloc. The highest of the Low Impact Zones (L4) continues upstream from this point to the adjoining Hattah-Kulkyne National Park. In turn, lower impact zones (L3, L2) continue upstream from Hattah-Kulkyne to Nyah West but no further. All of the hinterland along this entire stretch of river from the SA border is identified in the lowest impact zone (L1).
- *Policies for Managing Water-use Licences in Salinity Impact Zones* under the Water Act, include progressively increasing charges where water is traded into an identified Low Impact Zone from a lower impact zone but not vice versa. In the case of the High Impact Zone, the annual use limit for the land within the HIZ is capped at the level that existed immediately prior to the delegate granting or varying the water-use licence, which means once water is traded out of the HIZ it cannot be traded back. (web DEWLP).
- This approach differs to that applied by the South Australia Salinity Zoning Policy and its Water Use Efficiency Policy where calculations based on allowing only 15 percent past the root zone determine the maximum volume to be applied to the land. A recent revision has removed differences between high and low impact zone (web Natural Resources SA Murray-Darling Basin).
- It is not clear whether any similar controls are being implemented in NSW.

Area of Concern: *It seems MRCC outcomes are different to elsewhere in both Victoria and the other states.*

The combination of progressively reducing the cap for the HIZ and the application of progressively increasing charges for all the other zones

amounts to an ‘extinction policy’ for horticultural irrigation for not only the MOIA but for the majority of existing MRCC horticultural areas.

The lack of consistency indicates that there is a risk of continued disadvantage to the MRCC in the absence of a re-examination of the fundamental basis of technical analysis undertaken in the 1990s and the appropriateness of the existing policy in conjunction with a consolidated strategic approach aligned with MRCC best interests.

In the immediate term this could look to secure Annual Use Licences (AULs) from leaving the existing areas to greenfield sites.

Victorian State Authorities – Lower Murray Water (LMW)

LMW customer base extends to Gannawarra. LMW issues with respect to the MDBP and MRCC includes the following:

- SMP Project Funding of \$103 million Commonwealth and \$17 million LMW (web LMW SMP).

Area of Concern: *SMP is significant, but has relatively minimal direct State support evident in comparison to GMID.*

- Sunraysia Rejuvenation Project (SRP): Project funded for two years by Department of Environment, Land, Water and Planning (DELWP) for Project Director role and provided free advice and assistance for landholders to amalgamate, re-develop, expand or sell their property. This role was supported by MRCC. (web RDV).

Area of Concern: *Support will not be ongoing beyond the initial two years which ended in June 2018. It is not clear why this support is no longer forthcoming, with the measure of success yet to be released.*

Instead of increasing the efforts, this leaves no initiatives in place that pursue MRCC best interests in this regard.

- SMP2: When Stage 2 of the modernisation project (National Water Infrastructure Development Fund [NWIDF]) was announced in 2016 it was confirmed that it was to be for a business case for new irrigation development, outside the existing LMW infrastructure framework. Following the consultation and further examination arising from the EOI, however, the update published in April 2017 confirmed as follows:

“Our preferred approach is for incremental development utilising existing spare capacity within LMW infrastructure” (web LMW SMP2).

- The recent announcement in June 2018 confirms the \$3M funding received is to be utilised to allow additional land to access the existing modernised network (web LMW SMP2).

Area of Concern: *This approach is now clearly intended to be potentially at the expense of a fully productive MOIA and does not expand MRCC benefits by securing water into the district, but is consistent with the discontinuation of the SRP.*

It therefore entrenches the risk of relative disadvantage for MRCC in terms of both existing growers and future horticulture development both within and external to the MOIA in terms of both access to funds and the supply/availability of water. The NWIDF boasted funds totalling \$580M from which LMW were granted \$1.7M to undertake the business case from which they received only \$3M in funds.

Victorian State Authorities – Mallee Catchment Management Authority (MCMA)

- MCMA customer base extends to Gannawarra, and while it is structured to receive local input and guidance as constituted, it is ultimately bound by State policy with respect to commitments and obligations arising from the MDB agreement regarding salinity.

Area of Concern: *The strategic basis and technical veracity of the policy and controls regarding salinity were determined in the 1990s and remain unchallenged. Without consolidated strategic work seeking MRCC best interests there is a risk of enduring residual disadvantage.*

Advocacy

- Murray Darling Association (MDA) comprises 12 regions covering virtually the entire MDB (web MDA). Further sub-regional associations, whether or not State-based, are convened and provide response in the context of the MDBP which as stated earlier, is not federally legislated and requires agreement from states.

Area of Concern: *Given the nature of membership, the vast majority of members would be considered direct competitors on this issue and as a consequence, common advocacy goals will have little relevance to the best interests of MRCC.*

The risk of enduring disadvantage, due to lack of confirmed response in a contested environment, was highlighted in the recent injunction by the federal government to stop the staff members of the MDBA from giving evidence at the South Australian Royal Commission into the Murray-Darling (web the guardian 14 June 2018).

Summary

The non-exhaustive nature of the Horticultural Sustainability Assessment and the extent of the areas of concern identified, renders the need for further action by Council ultimately compelling. The risk of a “do-nothing” approach is considered too great.

The matters raised should form the basis and focus of further work, through Council’s own undertaking, while fully engaging with all key stakeholders.

The further work would seek to establish clear policy direction based on an agreed vision and implementation strategies to enable MRCC to more effectively promote and pursue its own best interests.

Somebody needs to be banging the drum on this issue before MRCC best interests are literally sold down the river.

There must be mechanisms introduced that improve the management of our water resources, providing appropriate transparency and confidence in regard to how our water resources are managed. The introduction of an independent water ombudsman with the appropriate powers across all jurisdictions would ensure there are appropriate controls in place should issues arise that require independent scrutiny, investigation and determination.

There must be independent scrutiny that considers the best interests of all parties, ensuring transparency and compliance with existing legislation and agreements.

Expansion of irrigation activities throughout the Murray Darling Basin and in particular above Mildura must be considered in accordance with the variation in water availability due to drought and the potential impacts upon permanent plantings.

Water security and the prosperity of our community are dependent on the outcomes of the implementation of the Murray Darling Basin Plan.

We have had first-hand experience of the impact of low water allocations upon our community during the 2007-09 drought with 30 percent water allocations. Evidence suggests if this was to occur again the impacts would be more devastating and far reaching.

South Australian Murray Darling Basin Royal Commission – MRCC Response

Government have a responsibility to ensure the sustainability of our community and the fair and equitable distribution of resources.

14.4 SOUTH AUSTRALIAN MURRAY DARLING-BASIN ROYAL COMMISSION: MILDURA RURAL CITY COUNCIL RESPONSE

File Number: C-13023 15/07/01
Officer: General Manager Community

1. Summary

The purpose of this report is to present a response to the South Australian Murray Darling-Basin Royal Commission into water for endorsement. The response is a follow on from a meeting held with the Commissioner and his representatives.

2. Recommendation

That Council endorse the response to the South Australian Murray Darling-Basin Royal Commission into water.

3. Background

The South Australian Government are undertaking a Royal Commission into water to investigate the operations and effectiveness of the Murray-Darling Basin Plan, including to what level the plan is being complied with.

A meeting was held on 24 May 2018 with Senior Counsel Commissioner, Bret Walker to discuss Mildura Rural City Council's (Council) concerns with the Murray-Darling Basin Plan and present a response to the Commission's terms of reference and issue papers (attached to this report).

Council has now been invited to provide a written response to reinforce the points discussed at this meeting and request for further information.

4. Consultation Proposed/Undertaken

The response does not include a consultative process however, this is not the intended purpose of the document, nor is it intended to be a research paper, position paper or a formal Council position.

The document has been drafted to reflect the discussion and views of Councillors and Officers present at the meeting, which is what has been requested by the Commission.

5. Discussion

Council's response is a summary of the issues discussed at the meeting with the Royal Commission and is aimed to raise issues of concern. It also sets out some of the work Council has been undertaking and the link to the water issue as a vital part of the sustainability of our community.

The response is not an exhaustive strategic paper, nor is it a formal position of Council regarding water or the basin plan. Rather it raises concerns for the Authority to consider. The concepts discussed in this paper are derived from observations, strategic planning work undertaken over many years and general informal feedback from the community. Council does not proclaim to be an exhaustive "expert" on these matters, nor has the paper gone through a formal consultation process. Thus the

Council is not forming a formal position on these matters, rather bringing these issues to the surface so that they can be further researched and further discussed (Horticultural Sustainability Development Strategy).

The context in which the response needs to be read is that of a very concerned stakeholder who wants to ensure these matters are addressed. As a key stakeholder Council is concerned with the outcomes of the Murray-Darling Basin Plan and how the plan's current and future decisions are impacting on this community. It therefore wants to ensure that the authorities responsible are cognisant of these issues and is actively working on the issues to ensure that they will not have an adverse effect on our community.

The response also presents the unique situation Mildura faces in regard to water and how any changes to the availability of high-security water can affect the economic and social well-being of the community. During the 2009-11 drought this community experienced first-hand the impact of water restrictions and the devastating effect this can have on a community that is intrinsically dependant on this commodity.

The key themes this response covers include:

- Governance
- Transparency
- Community Engagement
- Planning; local and strategic.

The response draws attention to "issues of concern" that hopefully resonate with other findings of the Royal Commission. We are relying on governments to act in the best interests of our community and to ensure that there is a level of good governance that responds to well developed science, data and research to make the best possible decisions around this vital resource. Some of our observations suggest that this is not necessarily translating on the ground.

This response aims to draw these issues to the attention of government to look after the long term interests of our community.

The response does suggest some additional strategic work that Council needs to consider undertaking, particularly around the longer term future of agriculture. However the vital ingredient is the future use of water and how we plan to operate in striking the right balance economically, socially and environmentally.

6. Time Frame

The Commission has written to Mildura Rural City Council requesting a written response as soon as possible.

7. Strategic Plan Links

This report relates to the Community and Council Plan in the Key Result Areas:

1.3 Community Health and Wellbeing

Goals to be achieved:

- high levels of community health and wellbeing.

2.1 Environmental Sustainability

Goals to be achieved:

- a healthy and sustainable environment; and
- conserve natural resources.

4.1 Leadership and Representation

Goals to be achieved:

- effectively respond to the interests of our community.

8. Asset Management Policy/Plan Alignment

There are no asset management policy/plan implications associated with this report.

9. Implications

Policy

There are no specific policy implications associated with this report.

Legal/Statutory

There are no legal/statutory implications associated with this report.

Financial

There are no direct financial implications associated with this report.

Environmental

Local government have a responsibility to ensure the sustainability of their respective communities and the fair and equitable distribution of resources.

Water security and the prosperity of our community are dependent on the outcomes of the implementation of the Murray Darling Basin Plan.

Social

Despite having no formal role in the institutional and governance arrangements for water, local government has a responsibility to ensure it is responsive to issues or decisions that could have an adverse effect its community.

Economic

Without access to dependent levels of water, our level of sustainability commercially, socially and environmentally is significantly diminished.

10. Risk Assessment

By adopting the recommendation, Council will not be exposed to any significant risk.

11. Conflicts of Interest

No conflicts of interest were declared during the preparation of this report.

Attachments

- 1** Response to South Australian Murray Darling-Basin Royal Commission
- 2** MDBRC Terms of Reference
- 3** MDBRC Issues Paper 1
- 4** MDBRC Issues Paper 2