



# **Submission to the Expert Panel on the**

## ***Review of the Water Act 2007***

**July, 2014**



## **Cotton Australia**

Cotton Australia is the key representative body for the Australian cotton growing industry. It helps the industry to work together to be world competitive and sustainable, and also tell the good news about the industry's achievements. Cotton Australia determines and drives the industry's strategic direction, retaining its strong focus on R&D, promoting the value of the industry, reporting on its environmental credibility, and implementing policy objectives in consultation with its stakeholders.

Cotton Australia works to ensure an environment conducive to efficient and sustainable cotton production. It has a key role in Best Management Practices (*MyBMP*), an environmental management program for growers. This work has seen a significant improvement in the environmental performance of the industry, with huge improvements in water use efficiency, significant reductions in pesticide use, and millions of dollars invested into R&D.

The Australian cotton industry directly employs thousands of Australians and this year will contribute over \$2 billion to the Australia economy.

Cotton Australia is a member of the National Farmers Federation (NFF), National Irrigators Council (NIC), Queensland Farmers Federation (QFF), and NSW Irrigators Council (NSWIC).

Cotton Australia welcomes the opportunity to provide this brief submission to the Expert Panel undertaking the Review of the Water Act 2007 for the Federal Government.

In addition to this submission, Cotton Australia has had an active involvement in the development of the submissions prepared by NFF, NIC, QFF and NSWIC.

While there is a strong alignment of views among these organisations, and Cotton Australia endorses their submission, if there is considered any inconsistency between the views expressed in the above submissions, and the submission of Cotton Australia, then the position expressed in the Cotton Australia submission is our position.

Cotton Australia would welcome the opportunity to present direct to the Expert Panel.

For further information or discussion on the content of this submission please contact Cotton Australia's National Water Policy Manager Michael Murray on



## **Review Terms of Reference**

- 1) A review of the *Water Act 2007* (the Act) will be carried out in 2014 in accordance with section 253 of the Act, which specifies the following mandatory terms of reference:
  - a) having regard to the extent to which water resource plans are in transition, the review will conduct an assessment of the extent to which:
    - i) the management objectives and outcomes of the Basin Plan are being met; and
    - (ii) long-term average sustainable diversion limits are being met; and
    - (iii) targets in the Basin Plan are being met; and
    - (iv) water trading is occurring effectively and efficiently; and
    - (v) other key elements of the Basin Plan are being implemented;
  - (b) an assessment of:
    - (i) the level of Basin-wide consistency in water charging regimes; and
    - (ii) the contribution made by those charging regimes to achieving the Basin water charging objectives;
  - (c) an assessment of the extent to which water is being used in higher value uses;
  - (d) an assessment of the progress in the implementation of improved water information systems, including the National Water Account.



- 2) In addition, the review will examine and report on:
  - a) the effectiveness of the Act in achieving its objects, as set out in section 3 of the Act; and
  - b) opportunities to reduce or simplify the regulatory and/or reporting burden while maintaining effective standards.
- 3) The review will also recommend appropriate future review points for the Act and Basin Plan, noting the 2019 implementation date of the Basin Plan.
- 4) The review will be undertaken in consultation with state and territory governments and stakeholders.

### **General Comments:**

Cotton Australia is concerned that to some extent this review is premature; in particular it believes that it is too early to make substantive informed comment on the matters covered in Section One (A) of the ToR.

While when the Act was passed in 2007, it may have seemed reasonable to have a comprehensive review in 2014, the roll-out of the Act, and its key product – The Murray Darling Basin Plan – has been significantly slower than originally anticipated.

However, Cotton Australia does believe that it is appropriate to take the opportunity to review the Act, and with it in place for seven years, consider any amendments which would improve its operation.

In writing this submission Cotton Australia has deliberately avoided trying to wordsmith amendments to the Act, but has sought to clearly articulate the intent of any proposed amendments.

### **Specific Comments**

#### ***1 (a) i - The management objectives and outcomes of the Basin Plan are being met***

With the Sustainable Diversion Limits not fully operational it is too early to determine whether the objectives have been met.

However, over the life of the Act there has been considerable, and to a greater or lesser extent, unresolved debate as to whether the Act provides equal weight to environmental, social, and



economic outcomes, or whether it gives precedence to environmental outcomes, and the optimization of social and economic outcomes, are only considered within the context of achieving the environmental outcomes.

Cotton Australia supports an Act that provides for a truly “balanced” plan, and believes Section 3 should be amended so that it unequivocally states that the Basin Water Resources must be managed in a manner that takes into account social, economic and environmental outcomes equally.

Cotton Australia recommends that the Act be amended so that (f) can be achieved. Currently, the Act, while giving lip service to a broad approach to natural resource management, focuses entirely on a hydrological solution. Both the Act and the Basin Plan should genuinely provide for a fully integrated approach to natural resource management.

***(ii) long-term average sustainable diversion limits are being met***

It is too early to provide comment on this, as the new SDL’s do not need to be in place till 2019, and in most catchments they have only been partially achieved. However, as the process for meeting the new SDL’s is through the acquisition of entitlement, as long as the entitlement is acquired, the new SDLs should be automatically met.

***(iii) targets in the Basin Plan are being met***

One again it is too early to determine. However, it is worth noting that currently there is far too much duplication between the role of the Murray-Darling Basin Authority (MDBA) and the Commonwealth Environmental Water Holder (CEWH).

Cotton Australia contends that the Act should be amended so that the CEWH holds and manages all environmental water on behalf of the Commonwealth, including the Living Murray Water, and that the MDBA only sets very high level environmental targets, with the CEWH developing specific targets, determining annual and seasonal environmental watering plans, and managing the delivery of environmental water in conjunction with State and regional bodies.

***(iv) water trading is occurring effectively and efficiently***

Before the advent of the Water Act and Basin Plan, Australia had a rapidly developing water market. It is very hard to separate what improvements have occurred in the market as a direct result of the Act, and what developments in the market were occurring naturally. Cotton Australia would suggest that there is little, to no evidence of any improvement in the water market in the Northern Basin that could be attributed to the Act.



While the National Water Accounts may provide a useful repository of historical information, its lack of timeliness, provides no enhancement to the water market.

The recently introduced Water Trading Rules, including mandatory reporting of price information should help in making the market transparent.

**(v) other key elements of the Basin Plan are being implemented**

Cotton Australia is generally supportive of the work of the CEHW, but believes section 106 severely limits the ability of the CEHW to optimize the environmental benefits from the utilization of the Commonwealth water holdings.

Cotton Australia recommends that Section 106 be amended so that the CEHW has complete discretion as to when to trade water, and have the ability to use the proceeds of trade in a manner that optimizes environmental outcomes within the Basin.

Cotton Australia supports the practice of the government ‘bridging the gap’ through market acquisition of entitlement or through the offering of voluntary water use efficiency programs.

It does not support any action by the Commonwealth that reduces the reliability of irrigators’ entitlement.

It therefore recommends that Part 2 Division 4 Subdivision B be significantly amended so it is enshrined in the Act that any loss of entitlement or reliability suffered by an entitlement holder due to the Act is fully compensable, at market price or better.

Cotton Australia is of the view that the Risk Assignment Framework is now redundant, the Commonwealth has established precedence for full market based compensation, and the Basin Plan precludes any action that would lead to loss of reliability, so it is timely that the Act be amended to fully reflect this reality.

Cotton Australia is aware of some criticism that the MDBA has not used the Basin Community Committee to its fullest potential, and some members of that committee and outside observers have concluded that in many instances its advice has been largely ignored.

Cotton Australia is aware that there would be a range of views on how effective the committee has been allowed to be, but considers its value could be greatly enhanced if Section 202 is amended so that the MDBA is required to take account of the committee’s advice, and publicly report on the action it takes based on that advice.



**(b) an assessment of:**

**(i) the level of Basin-wide consistency in water charging regimes**

Too early to assess as only NSW's State Water has gone through the Australian Competition and Consumer Commission process.

**(ii) the contribution made by those charging regimes to achieving the Basin water charging objectives**

As above

**(c) an assessment of the extent to which water is being used in higher value uses**

It is hard to see how any provision in the Act would directly drive water to the highest value use. As discussed earlier there has been continued natural development of the water market, and that has certainly helped water move across uses and commodities.

In terms of making an assessment a whole range of seasonal and market conditions would have far more impact on the movement of water.

However, what is abundantly clear is the Act and the Basin Plan has shifted very large quantities of water from productive use to environmental use, and therefore the total productive capacity of the basin water resources was greater before the introduction of this Act than what it is today.

**(d) an assessment of the progress in the implementation of improved water information systems, including the National Water Account.**

Cotton Australia questions who the information contained in the National Water Accounts is directed at.

Information that is over 12 months old when it is released serves no purpose to an irrigator or a water market participant. The accounts may represent a useful source of historical data for a whole range of analysis, but Cotton Australia sees little value in it has a mechanism to improve water trade.

**2) In addition, the review will examine and report on:**

**a) the effectiveness of the Act in achieving its objects, as set out in section 3 of the Act;**

As discussed earlier Cotton Australia believes this review represents a timely opportunity for the Act to be amended so that it unequivocally states that the Basin's water resources must be



managed in a manner that give equal consideration to environmental, social and economic outcomes.

Considerable time can be spent arguing whether the Basin Plan does this or not, and without full knowledge of the decision process undertaken by the MDBA Board, it is impossible to determine.

However, what is clear, given the number of legal opinions that have been requested by both the Minister and the MDBA on this issue, is that there is considerable uncertainty as to whether there is a legal requirement to provide this equal consideration.

**b) opportunities to reduce or simplify the regulatory and/or reporting burden while maintaining effective standards.**

Cotton Australia is of the view that the current Act and Basin Plan leads to considerable duplication between Commonwealth agencies and as discussed earlier recommends that all Commonwealth water should be held and managed by the CEWH. The Authority should be limited to setting only broad environmental objectives in the Basin Plan, and the CEWH should be responsible for setting specific targets, developing watering plans, managing releases and reporting on outcomes. The CEWH's role should be done in close conjunction with State and regional environmental water managers, who in many instances may be empowered by the CEWH to manage the Commonwealth's water.

With this separation the MDBA could be responsible for auditing the CEWH's performance against the high level objectives set by the Authority.

**3) The review will also recommend appropriate future review points for the Act and Basin Plan, noting the 2019 implementation date of the Basin Plan.**

Cotton Australia supports 10 year reviews of the Basin Plan, which would mean the first review would have to be completed prior to the end of 2029.

**Submission ends**