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BRIEFING PAPER

Debasing the Basin Plan

Victoria's pivotal role undermining Australia's effort to save the Murray-Darling

Image: 2023 fish kills. Photo: Otis Filley

Since the Murray-Darling Basin Plan was first implemented in 2012, the Victorian government has consistently preferred to 'go it alone' on water policy and prioritised costly and ineffective efficiency projects resulting in the inability of the Plan to meet its water targets.

Even after the federal government has warned of a significant delay to the Basin Plan, raising concerns not enough water would be recovered ahead of a future drought, the Andrews Government continues to oppose water buybacks from willing sellers, the more economically and environmentally effective way to return water to our rivers.

The report highlights five ways that successive Victorian governments have undermined national water policy over the last 16 years:

- Holding the Commonwealth to ransom over the original Water Act
- Proposing irrigation upgrade schemes as an alternative to genuine water recovery
- Reducing the amount of environmental water in the Basin Plan
- Instigating an 'offsets' scheme to further reduce environmental water
- Pushing for an unworkable socio-economic test, making it impossible to recover the remaining 450 GL of water for the environment

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EXECUTIVE SUMMARY

In 2007, at the peak of the Millennium Drought, then Prime Minister John Howard moved to assume responsibility for the deteriorating health of the Murray-Darling Basin (the Basin). Introducing a plan that eventually resulted in the federal Water Act and Murray-Darling Basin Plan 2012 (Basin Plan), he stated:

> *This is the [federal government] assuming responsibility for a problem created by the states. We are willing to address the chronic over-allocation of water in the Basin and to carry the entire cost of doing so… All parties must recognise that the old way of managing the Murray-Darling Basin has reached its use-by date. The tyranny of incrementalism and the lowest-common denominator must end.*[1]

The Water Act aims to protect and restore the Basin in the national interest,[2] and what's at stake is enormous. Extending well beyond the channel of the two rivers, the Basin consists of 77,000 kilometres of rivers and streams covering more than 14% of the Australian continent. It contains over 5.8 million hectares of wetland ecosystems, several of which are afforded protection under international law.[3] In Victoria alone there are 140 threatened species that depend on environmental flows in the Murray-Darling Basin.[4] These ecosystems adapted to the cycle of drought and flooding rains over millennia, attracting migratory birds that travel from as far as Siberia to stop and feed in these crucial wetlands.

It is landscape that more than 40 First Nations have cared for over tens of thousands of years, and in that time did not damage the Basin in the way that colonists and settlers have in the last 250. More than three million people now live in and rely on the Basin for their livelihoods, and millions more are connected to the rivers and wetlands through tourism and outdoor recreation. But decades of mismanagement and taking too much water has resulted in rivers running dry, toxic algae blooms, blackwater events and massive fish kills, attracting international attention for all the wrong reasons.

The Water Act and Basin Plan sought to correct decades of historic over-extraction of water and ensuing environmental damage. But as was announced in late-July 2023, the water recovery target for the environment is unlikely to be achieved by the June 2024 deadline.[5] The federal Environment Minister warned that by next year the Plan will be 750 gigalitres short – one and a half times the volume of Sydney Harbour – and this could have devastating consequences for fish, birds and communities during the next drought.

While scandals, such as alleged water theft and floodplain harvesting in NSW, have focused the media's attention on the northern Basin, successive Victorian governments have played a pivotal role in the failure of the Basin Plan being achieved. This report examines the role of Victorian governments in the development and implementation of the Basin Plan over the last 16 years.

The report finds:

- The Bracks and Brumby governments delayed the implementation of the Water Act and fundamentally curtailed its powers. (Section 1)
- Successive Victorian governments promoted unproven 'water saving' infrastructure to the detriment of genuine alternatives. (Section 2)
- Successive Victorian governments undermined science-based targets for river health, promoting a steady reduction in the volume of water to be returned from irrigators to the environment. (Section 3)
- The Baillieu Government instigated a novel 'offset' scheme to further reduce environmental water. The program has been championed by successive Victorian governments. (Section 4)
- Since it was elected the Andrews Government has advocated for an unworkable 'socio-economic test', dramatically limiting the ability of collaborative state and federal governments to recover the remaining 450 GL of water for the environment. (Section 5)

Each of these policy positions have undermined the ability of other state and federal governments to

implement the Basin Plan and achieve the objectives of the Water Act.[6] While they have their origin in successive Labor and Coalition governments, the positions remain core Andrews Government policy.

The Murray-Darling Basin Authority has already confirmed the Basin Plan will not be implemented by its June 2024 deadline.[7] If current Victorian policy remains unchanged, it is doubtful that remaining water will be recovered for the environment and beneficial outcomes for the wider floodplain are unlikely to be achieved. This risks significant waste of public funds and the survival of the Basin as climate change worsens and as we head into the next drought.

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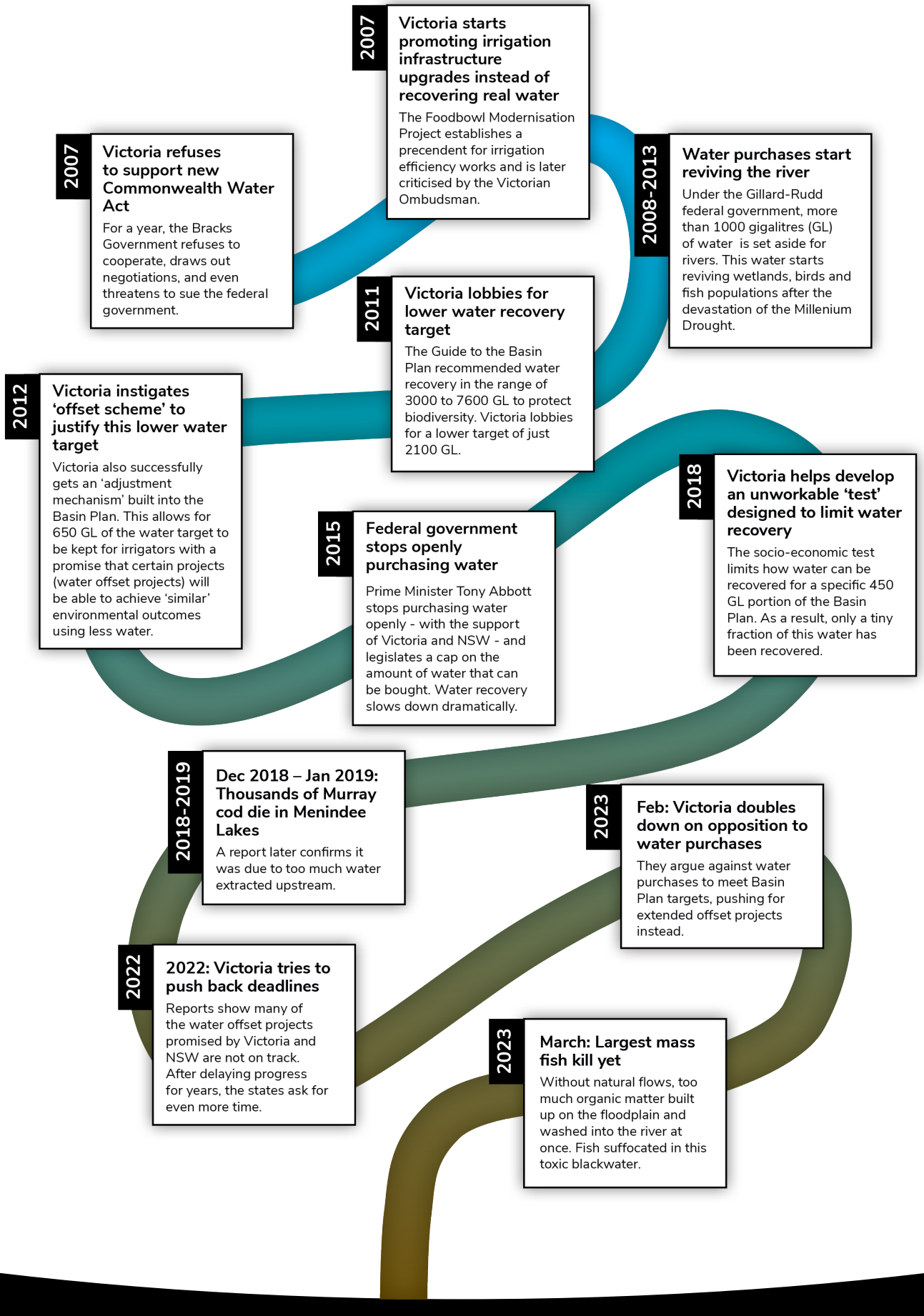
TIMELINE: VICTORIA'S DISRUPTIONS TO THE BASIN PLAN



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1: DELAYING AND CURTAILING THE WATER ACT

The Victorian government has championed large irrigation development since the early 1880s. Following a period of severe drought, and decades of forcible displacement of First Nations, the state led a large-scale effort to dramatically reconfigure the landscape with reservoirs, weirs and channels.

The Murray's Victorian tributaries have been intensely developed to support expanding irrigation, with major headwater storages, locks, weirs and other impoundments. This 'river regulation' not only facilitated over-extraction of water, it also changed rivers profoundly by reversing seasonal patterns, depriving wetlands and floodplains of water, and seriously degrading the habitat of native species that depend on freshwater flows for their survival.[8]

Concern about over-extraction of water for irrigation was one of the key reasons that the Murray-Darling Basin Cap was introduced in the 1990s. During the Millennium Drought, then-Prime Minister John Howard's intervention attempted to take a step further. At a National Press Club address in January 2007, Howard announced his intention to request that the Basin states – Victoria, New South Wales, Queensland, and South Australia – give their Constitutional power to make laws about water use in the Murray-Darling to the federal government so it could take over management of the Basin.

In his address, Howard stated:

> *We could muddle through [the drought] as the states have been doing … but, frankly, that gets us nowhere.*[9]

Historically, states had protected their Constitutional power to control water resources. But acknowledging the deteriorating health of the Basin, each government – except Victoria – agreed to Howard's proposal that they refer their powers by April 2007. This collective decision is particularly notable for its bipartisanship, as each Basin State was led by a Labor at the time.[10]

The Bracks Government in Victoria, however, responded combatively. Ignoring deadlines, the state did not join the inter-state agreement until March the following year.[11] In the interim, the Victorian government:

- Released a counter-proposal for water management, rejected by Howard as 'business as usual'.[12]
- Insisted state demands be met before talks could begin.[13]
- Threatened to sue the federal government for incursion of powers.[14]
- Consistently framed the agreement as an attempt to 'take over' Victoria's water.[15]
- Ignored then-opposition leader Kevin Rudd's urging to cooperate.[16]

This was a critical juncture in defining Victoria's approach to the Basin Plan. Notably, the state consistently pushed for the right to maintain an unaltered water share – contrary to the intention behind the Water Act.[17] The Victorian government's obdurate approach, at the cost of collaborative water management, put the state in a position to exact notable concessions from the agreement. It forced the federal government into a deal allowing direct input into the Basin Plan.[18] The state also leveraged its participation on the promise of funding from the federal government: advancing a controversial $1 billion irrigation modernisation project.[19]

The agreement eventually achieved was for the states to limit the powers they would refer to the federal government to make laws and management plans for the Basin (limited referral).[20] As a result, the Water Act does not have the wide scope envisaged by the former Primer Minister's speech.[21]

The limited agreement also made it easier for a Basin state to revoke its referral.[22] This 'nuclear option' whereby a Basin State might revoke its referral to the federal government was a result of Victoria's approach to the agreement. And it has been consistently invoked by subsequent governments to influence Basin Plan implementation. This includes the Andrews Government during federal parliament debate to disallow amendments related to the unproven offset program in February 2018 (see Section 4) and repeated threats from the NSW government in 2016, 2018 and 2019.[23] [24] [25]

In summary, the reforms envisaged during the early years of the Water Act did not eventuate. The

Victorian government used the opportunity to negotiate concessions and limit the scope of the Water Act's powers. Those limitations provided a new set of tactics: legal shortcomings which Victoria and NSW exploited as levers for strategic political intervention in the years to come.

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2: PROMOTING UNPROVEN WATER-SAVING INFRASTRUCTURE

The Water Act is grounded in a general consensus: the rivers of the Basin had been over-allocated. Too much water was being taken from the river and water users needed to take less.

When the Act was signed into law, the levers to reach a more sustainable limit were still open for interrogation. Options included on-farm infrastructure to more efficiently use water as well as targeted, strategic rationalisation through irrigation authorities. This might entail contracting channel networks by closing down parts of the distribution system while modernising the 'backbone,' or abandoning some assets altogether. Critically, water would also be purchased by the federal government from those who willingly put all or part of their share onto the market.

In 2007, while other states had agreed to the vision for the Water Act, the Victorian government was holding out for an altered arrangement. Within the water department, a proposal for major irrigation infrastructure works was in development.

The proposal, *Our Water Our Future*, unveiled a $4.9 billion plan for major water infrastructure projects to boost water supply.[26] The centrepiece was the $1 billion Foodbowl Modernisation Project to modernise irrigation infrastructure in the Goulburn Murray region. It included re-lining irrigation channels to reduce water seepage, constructing pipelines to replace irrigation channels and automating channel gates for better control and measurement of water flow.[27]

The Foodbowl Modernisation Project is illustrative of 'path dependency' within the Victorian government. Path dependence describes how decisions constrain events, processes or decisions to come.

With respect to irrigation infrastructure upgrades, it is well-documented that if investments do not meet basic cost-benefit criteria for water saving they delay the adjustment irrigation areas will inevitably face. In other words, they can lead to 'gold plating' assets that may subsequently become stranded while perpetuating a dependence on increasing external support – imposing substantial costs elsewhere.[28] In effect, infrastructure investment may create an imperative to sustain the viability of those assets while perhaps neglecting more difficult, structural reforms.

Further, the Foodbowl Modernisation Project arrived at a critical juncture. Despite the collaborative, science-based approach for considered water recovery across the Basin, Victoria was defining a more limited approach beforehand.

The Foodbowl Modernisation Project had emerged despite advice from the Victorian Department of Treasury and Finance that it did not have a feasibility plan and shouldn't be progressed until a full business case was undertaken.[29] These concerns were reflected in the Victorian Auditor General's findings that verification of anticipated water savings and cost assumptions had been lacking or superficial.[30]

Economists have described the projects as an egregious subsidy to irrigators at a huge loss to Australians because it is 'such an expensive way to solve a problem'.[31] Experts have confirmed there was no evidence of significant water savings[32] and discounted claims that the project would ensure food security as an 'absolute furphy'.[33]

A 2011 investigation by the Victorian Ombudsman outlined the Foodbowl Modernisation Project's failures comprehensively, finding:

- It lacked sufficient planning and evaluation.[34]
- It was undermined by governance issues such as conflict of interest and poor transparency.[35] At least one senior officer provided inappropriate assistance to a private company and failed to declare gifts.[36]
- Definitions of 'water savings' included situations where water wasn't 'lost' in the first place.[37]
- A single company was awarded a $77.2 million contract without a tender process. The Victorian government had in effect facilitated the company's dominant position as the sole supplier of channel automation technology.[38]

While the Victorian government disparaged the national plan to protect the Basin as 'back of the envelope',[39] it was progressing an unproven water

saving program of significant scale at significant public expense.

Since the Foodbowl Modernisation Project, the Victorian government has consistently prioritised efficiency measures to the detriment of alternatives for water recovery. Subsequent projects have exhibited consistent flaws:

- Efficiency projects are very slow, with some off-farm projects taking more than 14 years to complete.[40]
- Infrastructure upgrades push up the price of water as beneficiaries have higher returns per megalitre and consequently more buying power. The step-up in demand is estimated to have increased water use across participating farms by 23%, increasing prices more than a program focused on purchases would have.[41]
- Efficiency projects are relatively fruitless in terms of job creation. Victoria University modelling found that 'each dollar spent on human services creates four times as many jobs within the Basin as infrastructure upgrades spending'.[42]
- Projects are vastly more expensive than water purchases, at least 2.5 times higher than buying it directly.[43] And if the volume of water actually returned to the environment is as low as some studies suggest, they could be 25 times more expensive.[44]

These consequences had been credibly anticipated by 2010. The Productivity Commission recognised that infrastructure upgrades are generally not cost-effective, pointing to projects financed under The Living Murray initiative which cost nearly 40% more than market-based measures. The report also acknowledged the likelihood that most of the 'low hanging fruit' had already been picked, meaning future projects would be even less cost-effective.[45]

From the development of the Foodbowl Modernisation Project onwards, the following sections detail how the Victorian government has undermined proven, effective alternatives for water recovery. Perhaps more significantly, the Victorian government has created path dependency in Basin-wide water recovery – 'gold-plating' infrastructure that risks becoming stranded in a hotter, drier climate; creating an institutional environment biased toward infrastructure-based pathways; and prolonging the current state of over-extraction at growing taxpayer cost and ecological risk.

3: PROMOTING LOWER WATER TARGETS

The overarching emphasis of the Water Act and Basin Plan is on the cooperation of Basin states and federal government to manage water use in the Basin, in the national interest, so that Australia's international legal obligations to wetlands are implemented and the ecosystems that depend on water in the Basin are protected, restored, and its biodiversity conserved.[46] [47]

The way the Basin Plan purports to achieve this is by recovering 2750 GL (billion litres) to reach a reduced Basin-wide limit on water extraction, and 450 GL to deliver critical environmental outcomes.

This approach recognises that protecting and restoring freshwater ecosystems depends on restoring variable flows – including regular, smaller floods in winter and spring that provide connectivity and diversity in riverine landscapes. In a highly modified system regulated with dams and weirs, restoring connectivity does not entail a complete return to a natural flow regime but instead, an approach that has been referred to as the 'designer flows paradigm.' In simple terms, this means that components of natural flow variability – like flood duration at a certain time of year – are 'assembled' through the strategic use of environmental water.[48]

The definition of environmental flows was initially based on the requirement for minimum low flows, but now includes a number of strategies for active management. For example, water that has been set aside for the environment can be used to augment other releases from dams to create more-variable 'pulses,' or it may be 'piggy-backed' on top of natural stream flows to mimic larger natural events.[49]

The Water Act reflects this understanding: that when rivers are grossly over-allocated, there is a gap in the volume of water needed to maintain wetlands and rivers. Closing this gap entails simultaneously dialling back extraction from the historic baseline and protecting that water for environmental use. This water reserve can be used toward achieving the passive components of a flow regime, like minimum flows, and more active management strategies, like those above to mimic the timing, duration and frequency of natural floods.

The Victorian government's intervention in water policy has not only focused on limiting the methods of water recovery as described above, but also reducing overall water recovery targets. This has been described as the step-down effect, the 'steady reduction in the volume of water to be returned from irrigators to the environment'.[50]

In setting the water recovery target, the Murray-Darling Basin Authority and federal Water Minister are required to act on the basis of the best available scientific knowledge.[51]

Following the passage of the Water Act, the Guide to the proposed Basin Plan (2010) (the Guide) provided initial direction. The Guide recommended water recovery in the range of 3000-7600 GL to protect biodiversity.[52] The lower bound represents a 'high-uncertainty target' – the boundary 'beyond which there is a high likelihood that objects and targets will not be achieved'.[53]

But already, the MDBA had limited the scenarios considered to 3000-4000 GL on the assumption that socio-economic effects might 'outweigh the additional environmental benefits'.[54] Two months following the release of the Guide, the MDBA had initiated meetings with consultants KPMG to commission a 'quick and dirty' economic analysis, ostensibly to rule out 4000 GL of water recovery.[55] [56] By March 2011, the MDBA was advised that 'lines of evidence could be used to support a reduction in diversions to achieve an ESLT of 2800 or even 2600 GL'.[57] (ESLT stands for Environmentally Sustainable Level of Take, i.e. how much water could be taken without having an adverse environmental impact.)

Throughout negotiations leading up to the enactment of the Basin Plan, the Victorian government's adamant insistence on a substantially reduced, arbitrary 2100 GL water recovery target played a critical role in the overall step-down.[58] [59]

By April 2011, federal government officials were meeting with Victorian representatives seeking agreement on an improved, but nonetheless arbitrary, recovery figure of 2200 or 2400 GL.[60] The MDBA's report on a proposed limit reflected these negotiations, testing only three nominated options: 2400, 2800 and 3200 GL per year.[61] In June, the CSIRO was invited to review the report. Their conclusion stated that a 2800 GL target, even in the

absence of climate change, would not meet required ecological targets.[62] [63] Nevertheless, the MDBA proceeded with revised modelling and a further reduction to 2750 GL.

However even this 2750 GL, less than half the original 7600 GL target, was rejected by the Victorian government.[64] In May 2012, the Victorian government commissioned a consultancy to run the Guide's model again – with notable omissions, skewing the results [65] – to justify the preferred 2100 GL Plan.[66]

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4: INSTIGATING AN 'OFFSET' SCHEME TO ACHIEVE REDUCED WATER TARGETS

Victoria's preferred 2100 GL target proved far below what any model could justify. Achieving it required the invention of a novel offset scheme, delivering 'environmental water equivalents'. This scheme is named the Sustainable Diversion Limit Adjustment Mechanism (SDLAM) and state governments are responsible for delivering these projects.[67]

Before the development of the proposed Basin Plan, 'environmental works and measures' was effective shorthand for the infrastructure, provisions and river operations needed to optimise the use of environmental water. The purpose was to deliver this water to certain wetlands which, due to over a century of development on the floodplain, would prove challenging to reach with more natural overbank flow events.

By 2009, however, Victoria was developing a novel reinterpretation of the concept. Rather than merely achieving benefits from the water set aside for the environment, structural works were proposed as a substitute for recovering water in the first place.[68] The water department committed to developing a prospectus that would encourage the federal government to redirect funding toward these works and measures.

By December 2010, works that had recently been seen as 'complementary' to environmental water were increasingly reconceptualised as 'offsets'. This was a fundamental shift. Before this change, the works could have played a role enhancing the environmental outcomes from a Basin Plan that did not set aside enough water for rivers. Instead, the Victorian government decided to harness that innovation and put it to the task of *further reducing* the amount of water for the environment. A potential positive was turned into a negative.

Early suggestions for a new offset scheme appeared in submissions to the Inquiry into the impact of the Murray-Darling Basin Plan in Regional Australia (Windsor Inquiry). The Victorian Farmers Federation calculated water savings for several projects in development by the Victorian government noting the 'potential to achieve environmental outcomes with less water is clearly demonstrated and should be explored by the MDBA prior to establishing a reduction in the [limit on water take]'.[69] The Southern Riverina Irrigators also promoted the idea, citing an unpublished report by the Victorian department.[70]

These suggestions were taken on board in the Windsor Inquiry's May 2011 final report, which noted that the government has not been pursuing environmental works and measures because they 'do not result in water that can be transferred' to the federal government to produce pulses for the environment's benefit.[71] But it considers that these projects might be explored before reducing water extraction to a sustainable limit,[72] and that they may 'recover water that could ultimately contribute to offsetting any future [limit]'.[73]

When Basin water ministers met that month, a suite of potential projects were proposed with the federal government providing $3.2 million to deliver feasibility investigations.[74] [75]

Within a year, the novel concept of offsets had crystalised into 'environmental water equivalents.' Several submissions to the proposed Basin Plan in April 2012 contained equations illustrating the potential to incorporate 'environmental outcomes using non-water means.' The National Farmers Federation provided one such equation incorporating environmental works and measures.[76] The Victorian Farmers Federation and Victorian government provided matching equations, suggesting a degree of collaboration.[77] [78]

The Victorian government continually pushed the boundaries of the concept, urging for the incorporation of works completed years earlier through The Living Murray initiative – despite the fact they had already been factored into the baseline conditions that water targets were measured against.[79]

In July 2012, then-Victorian Water Minster Peter Walsh announced the proposed Basin Plan had reached a consensus. The newfound agreement reflected 'the fact that up to 650 gigalitres of environmental outcomes could be achieved through those environmental offsets'.[80]

The proposed 650 GL figure is notable. Importantly, it reduced water recovery targets from 2750 GL to

Victoria's preferred 2100 GL figure. Water recovery had begun in 2007-2008 under the Federal government's Restoring the Balance program. It was a 'no regrets' approach in anticipation of the Basin Plan. By 2012, 2100 GL had nearly already been met. The Victorian government was effectively advocating for little additional water recovery from that point onwards and seeking a way to justify it.

But it is also concerning given the maximum adjustment through offsets permissible in the Water Act was set at 5% of the Basin-wide limit – or 543 GL. The discrepancy between the legal limit and the 650 GL agreement remains unexplained.[81]

In practice, how equivalent environmental outcomes were to be achieved with less environmental water was not explained at the time and still remains little more than an ambit claim. The South Australian Royal Commission into the Murray-Darling Basin Plan (the Royal Commission) described the approach as 'experimental and unprecedented' with 'alarming shortcomings'.[82] The approach seems to be the only one of this kind in existence and 'remains untested, lacks on-ground validation and is based on ecological modelling that relies on generalised and hypothetical assumptions'.[83]

There has been minimal progress over the past decade and the majority of these projects remain incomplete. Their development has been beleaguered by delays. Many have progressed without consideration of Traditional Owner views, aspirations or even genuine consultation.[84] Some Traditional Owners have raised concerns about the Victorian projects that are 'being planned on First Nation's Country without our consent' and 'will entail major and lasting alterations to some of our most sensitive areas of Country'.[85]

Nevertheless, the offset mechanism has remained critical to Victoria's participation in the Basin Plan. Perhaps most visibly, the Andrews Government threatened to abandon the Basin Plan for an 'alternative arrangement' during Parliamentary discussion of disallowing the offset – a manoeuvre perceived as an attempt to 'blackmail' the Senate.[86] [87] The Andrews Government has continued deploying the offset proposal as a lever to delay water recovery deadlines.[88]

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5: IMPLEMENTING AN UNWORKABLE SOCIO-ECONOMIC TEST

With the implementation of the offset scheme at the outset of the Basin Plan, the target for real water recovery was assumed to be 2100 GL. But water recovery was still required to deliver the additional 450 GL target that would achieve significantly improved environmental benefits – most notably for the Coorong but also for two internationally significant wetlands in the Victorian stretch of the Murray: Gunbower Forest and Hattah Lakes.[89]

By 2015, Victoria was supporting a cap on the most cost-effective mechanism for water recovery: straightforward water purchases from willing sellers.[90] This dramatically reduced the amount of water that could be recovered toward overall targets at a reasonable cost.

Limiting options for the 450 GL target in particular required additional intervention. The 450 GL was to be achieved through water saving infrastructure. But this is limited in legislation by socio-economic criteria: efficiency projects must achieve neutral or improved socio-economic outcomes. Under the original test, participation of water users in the projects on their farm or on the channel system was considered sufficient.[91] That is, it is assumed that irrigators and irrigation entities wouldn't accept funds for infrastructure upgrades that left them worse off.

In 2016, the 450 GL became a critical focus for the irrigation lobby. The Goulburn-Murray Irrigation District (GMID) Leadership Group was established the previous year to advocate for the dairy, horticulture and cropping industries in northern Victoria.[92] Following their first summit, which Victoria's then-Water Minister Lisa Neville attended, the lobby group engaged consultants to assess the socio-economic impacts of water recovery on the region.[93] [94] While the analysis was disparaged by economists, the Victorian government used it to place additional barriers on 450 GL water recovery, including abandoning on-farm works as a component of the program.[95]

The Victorian government's *Water for Victoria* report released that month, affirmed with regard to the 450 GL that the government 'does not support further recovery of water above the 2750 gigalitre target unless it can be demonstrated that the criteria for neutral or positive socio-economic effects has been rigorously applied'.[96] The government also committed to undertaking its own socio-economic analysis to ensure neutral or positive social and economic impacts. The report exhibited similar analytical shortcomings to the GMID Leadership Group report, highlighting 'foregone production' on an erroneous assumption that water use is proportional to production.

This analysis can be useful for policymaking, so far as it opens discussion or points to new directions for necessary research. But it is important to recognise that the justification for this research – that it was required to ensure neutral or positive socio-economic effects – has been disingenuous. With this new body of research, the Victorian government was beginning to consolidate the components of a new, much more stringent socio-economic criteria. The original criteria for socio-economic impacts only required willing participation from irrigators, trusting farmers to assess their own interests. But what Victoria was starting to propose was so rigid as to be unworkable. The Victorian Water Minister, and soon the federal Nationals, began operating on new, assumed criteria that meant no water recovery would go ahead if it had any negative economic outcomes, however indirect.[97]

In 2017, Basin water ministers commissioned the accounting firm Ernst & Young to undertake an analysis of the potential socio-economic impacts from recovering 450 GL. But the question of the validity of the 450 GL – as a core part of the Plan or as an unlikely possibility – was ongoing. Following a contentious meeting of water ministers, Lisa Neville remarked of the South Australian Minister's insistence on the volume of water: 'Today South Australia pretty much tried to hold hostage or blackmail the NSW and Victorian communities.' South Australia replied: 'Today just confirmed our deep suspicion that NSW and Victoria never planned to deliver on the 450 gigalitres plan.'[98]

The final report from Ernst and Young, published in January 2018, concluded the 450 GL 'can likely be recovered from water efficiency projects on a neutral or positive socio-economic basis,' and identified several hundred gigalitres of potential water savings.[99]

While efforts to recover the 450 GL were delayed awaiting the production of the report, its findings were ultimately ignored by the federal and Victorian governments.[100] The following month, Minister Neville misleadingly reported to the Victorian parliament: 'This is a 2750 [GL] plan, with the additional water to be delivered only in a scenario where it is done in a neutral or better socio-economic way. It cannot be done … It will kill off these communities'.[101]

The Victorian government changed tack shortly thereafter: with strong evidence supporting the delivery of the 450 GL within the existing socio-economic criteria, the government led the charge to determine new socio-economic criteria.[102] The new criteria provided that water recovery must not impact irrigation jobs now or into the future, increase the price of water and proceed with community support.[103]

This criteria reads as ostensibly practical. However, the Royal Commission found that :

- The requirement that projects do not negatively impact regional jobs is 'broad and uncertain.' It could be taken to mean that any loss of jobs could halt a project.[104]
- The requirement that projects must not directly increase the price of water 'defies economic logic'.[105]
- It is so impractical and so unlikely to permit water recovery that 'it has a negligible chance' of recovering the 450 GL.[106]
- Taxpayers have stumped up for the extravagant costs of projects that have been described as 'an improvident policy choice by Government.'[107]

The Royal Commission referred to the underlying state scheme under which efficiency measures are approved, in combination with Commonwealth schemes under which efficiency measures are funded, as a 'quintessential example of a sorry lack of accountability and transparency'.[108]

Expert review of socio-economic analysis the Victorian government has relied on to justify the rigid socio-economic criteria has been highly critical. It has found the assumptions underpinning the analyses to be fundamentally inconsistent with economic principles and realities of farm operations.[109]

Criticisms of report methodology include:

- False assumptions are made regarding a proportionate relationship between water use and farm production. In practice, farmers adapt to lower system-wide water availability by changing their business model. Farm land value (price per hectare) and total value of horticulture have grown significantly in the last decade, despite reduced water availability for irrigation.[110] [111]
- Positive economic impacts of water purchases are ignored, such as community spending, with multiplier effects.
- The negative impacts of irrigation infrastructure subsidies, driving up the price of water and perpetuating 'subsidy capture', are ignored. Governments are lobbied to pay for projects that benefit participants but do not necessarily deliver net benefits to society.

This new socio-economic test also completely ignores the impacts of failing to recover water. The 450 GL is needed for maintaining key wetlands as a refuge for threatened species during drought, improving the health of fish and bird habitats, inundating large sections of river red gum forests, controlling salinity and protecting sites across the Basin that have high spiritual and cultural significance for Traditional Owners.[112] The loss of these isn't counted. The test only looks at one side of the equation, similar to fossil fuel companies arguing that cutting emissions is too expensive while ignoring the much larger costs of climate damage.

CONCLUSION

The Murray-Darling Basin Authority recently acknowledged that the Basin Plan won't be implemented by its June 2024 deadline,[113] raising the question of why so little has been achieved. Environment Minister Tanya Plibersek has blamed the previous Coalition government for this failure,[114] and media reports often point to previous scandals in NSW – ranging from floodplain harvesting and alleged water theft to well overdue water resource plans. Until now, Victoria's significant role in sabotaging the Basin Plan has been missing from this story.

The evidence presented above shows how successive Victorian governments have undermined national water policy in critical ways.

First, by delaying and curtailing the Water Act. Victoria's approach to negotiations prolonged the coordinated response to restoring freshwater ecosystems, aimed toward limiting the scope of the Water Act and achieving concessions for controversial infrastructure projects. Had Victoria joined other Basin states in the initial agreement proposed, Basin Plan implementation may not have been plagued by threats of revoked participation.

Second, by proposing irrigation infrastructure schemes as a substitute for proven alternatives to recover water. Water efficiency infrastructure has diverted significant public resources towards projects with insufficient evaluation and negligible water savings. They have been justified by dubious claims of socio-economic value. This has come at the expense of water for the environment and more-effective job creation programs.

Third, by promoting lower water saving targets. While water recovery targets are meant to be based on the best available scientific knowledge, the Victorian government consistently pushed for an arbitrary 2100 GL water recovery figure — matching the progress that had been largely already delivered. The Royal Commission described the resulting target as 'gross negligence,' and 'a slight on all those who live outside the Basin … that includes at least everyone who pays tax' including 'the residents who live and work there.'[115]

Fourth, by instigating an unproven offset scheme to validate the reduced water target. Previously, infrastructure works were considered complementary measures designed to make the most of environmental water by helping it reach wetlands and floodplains. Under this new conception, the works became a *substitute* for environmental water.

The notion that equivalent environmental outcomes can be achieved with less water still remains little more than an ambit claim. The approach remains untested, lacks on-ground validation, and is based on generalised, hypothetical assumptions. It has progressed, in many instances, without material concern for Traditional Owner views, aspirations or even genuine consultation. The absence of substantive alternatives assessments reflects the projects origins — rather than adaptive watering schemes for a drying climate, they are 'offsets' intended to reduce water recovery targets as much as permissible.

Fifth, by implementing an unworkable socio-economic test. The implementation of the Basin Plan was initially bound by socio-economic criteria which ultimately trusted irrigators to understand their own financial interests: participation in water-saving infrastructure schemes was sufficient for neutral or improved socio-economic outcomes. Despite the findings of expensive, lengthy reports commissioned by Basin water ministers, Victoria led the development of rigid socio-economic criteria that makes sufficient water recovery almost impossible.

This report has outlined a history of successive Victorian government tactics which have resulted in undermining coordinated water policy and denying vital water for the environment on a national scale. The failure to recover water under the Basin Plan by the legislated timeframe – recently acknowledged by the Murray-Darling Basin Authority – is a consequence of state governments, particularly Victoria, deliberately working against the nation's interests.

From John Howard to the Royal Commission,[116] political leaders and legal experts have warned that all Basin governments must cooperate to manage the water in the Murray-Darling sustainably. This is particularly crucial as climate change worsens and there is increased risk of prolonged and severe

drought. Victoria has played a significant role in undermining past attempts to recover water to benefit Australia's largest and most important river system. Now is the time for the Andrews Government to change tack and make a more positive contribution to national water policy, before it's too late.

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