

# A Hollywood Ending?

## The Menindee Lakes Option 7 proposal

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*Stakeholders in the Lower Darling are strongly opposed to proposed changes to the Menindee Lakes. Local member Kevin Humphries has proposed a new 'Option 7' for the Lakes, aiming to deliver more water and local jobs. Unfortunately, Option 7 would require changes to legislation, agreements and infrastructure.*

Maryanne Slattery  
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December 2018

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# Summary

Communities in the Lower Darling are opposed to the Menindee Lakes Water Saving Project. This project is a major component of recent changes to the Murray Darling Basin Plan, which affect the entire Basin. All options so far proposed for the Project would have significant social, economic and environmental impacts on Lower Darling communities.

With both NSW and federal elections to be held in coming months, former NSW Water Minister and state Member for Barwon Kevin Humphries has proposed an 'Option 7' for the Menindee Lakes Water Saving Project. This proposal claims to support the local irrigation industry and other lake stakeholders through changes to the administration of the Lakes and infrastructure investment. Current Water Minister Nial Blair has undertaken to look into the proposal, although this may take some months, possibly until after the elections.

Under the proposed Option 7, control of Lake Menindee would be given from the Murray Darling Basin Authority (MDBA) to NSW. Lake Cawndilla would be largely controlled by the MDBA and it alone would provide downstream water requirements. Substantial changes to water infrastructure are also required, which might not even be feasible.

While this proposal sounds appealing, it faces major administrative, political and practical hurdles. While the proposal is new to many stakeholders, in fact Mr Humphries has made a similar proposal before. It is unclear whether analysis of the proposal already exists.

Under our reading of the proposal, Option 7 will require a renegotiation of the Murray Darling Basin Agreement, which would require consensus of all Basin governments. It will reduce Victoria's share of water in Menindee Lakes, making it more difficult for Victoria to fulfil its obligations to South Australia. Similarly, the proposal will reduce the amount of water going from Menindee Lakes to NSW's commitment to South Australia. This reduction would need to be made up by irrigators in the NSW Murray.

Option 7 suggests that if Lake Menindee had been controlled by NSW it would not have been drained by MDBA in 2013 and 2016/17, bringing detrimental impacts to the local community. This ignores the fact that NSW could have prevented the draining of the lakes under existing arrangements. It therefore unclear why transferring control of Lake Menindee would change the draw down strategy used by MDBA.

In June 2018 the Basin Plan was amended, and the Menindee Lakes Water Savings Project enabled an increase in the amount of water that can be diverted by irrigators in the Murrumbidgee and Goulburn valleys by 106GL. If Option 7 reduces these savings, NSW will be required to recover the savings shortfall through water recovery under the Basin Plan. This will also require a future amendment to the Basin Plan to decrease the Sustainable Diversion Limit (SDL) in the Murrumbidgee and Goulburn Valleys by the savings shortfall amount. Such an outcome is likely to receive significant criticism in those valleys.

Option 7 would reverse the direction of Penellco Channel to deliver water from Lake Cawndilla to the Lower Darling River. This channel is owned by and located on land owned by major agribusiness Webster Ltd. It is unclear whether the feasibility, legality or cost of this has been assessed.

There is a real risk that the NSW and Commonwealth governments will delay negotiations for water buy backs and compensation while they undertake assessments and consultation on Option 7. This could delay any structural adjustment packages for several years.

Concern for the communities of the Lower Darling is long-overdue. However, Option 7 is unlikely to improve their situation. Stakeholders should consider the following questions raised in this report:

- Q 1. Has Option 7 been considered in any other analysis of options for Menindee Lakes?
  - a. If so, can the modelling for that option be published?
  - b. If so, can the analysis for that option be published?
  - c. If not, why not?
- Q 2. Has there been any discussion with Victoria about option 7?
- Q 3. Has there been an assessment of the impact of option 7 on State shares?
- Q 4. Will Menindee Lakes under NSW control be used to meet NSW's commitment to South Australia's water entitlement?
  - a. If not, that commitment will need to be met from the NSW Murray. What is the impact on the reliability of NSW Murray high and general security water licences?
  - b. If yes, releases from Menindee Lakes will still be required to meet NSW's commitment to South Australia. What is the modelled difference in lake levels between MDBA and NSW control of Menindee Lakes?
- Q 5. Did the Basin Officials Committee direct MDBA releases for any part of the 2013 or 2016/17 draw down of Menindee Lakes?

- Q 6. Did NSW dissent to MDBA about the 2013 or 2016/17 draw down of Menindee Lakes, either through an inter-jurisdictional committee or directly to the MDBA?
- Q 7. Have Murrumbidgee and Goulburn irrigators been advised that the 106GL SDL adjustment will not be achieved under Option 7?
- Q 8. Has there been any survey work to assess the feasibility of:
- a. Reversing the direction of Penellco Channel?
  - b. Enlarging the channel capacity of Penellco Channel and the Darling River delivery point?
- Q 9. Has Option 7 been discussed with Webster Ltd?
- Q 10. Will there be a financial inducement to Webster Ltd to reconfigure Penellco channel?
- Q 11. Will there be a financial inducement to Webster Ltd for the ongoing use of Penellco channel?
- Q 12. Will the government continue to negotiate buy back and structural adjustment packages with water licence holders while they assess Option 7?

# Introduction

The story of Menindee Lakes and the Lower Darling could be straight out of a Hollywood movie. For many years, Menindee Lakes was a charmed place. A vast natural lake system in western New South Wales (NSW) that were engineered in the late 1950s to keep water in the lakes for longer and regulate flows along the Lower Darling and into South Australia. A small irrigation community flourished, huge tracts of water in an otherwise dry landscape was a haven for birds, fishing, boating and tourism. A community grew on the foreshore of Menindee Lakes which was a haven for nearby Broken Hill residents as weekenders and retirement homes.

But, then the Lakes dried up.

A combination of drought, climate change and increased upstream extractions left the lakes dry from 2003 until 2010. A huge flood in 2010 filled the lakes again, but they were drained by the Murray-Darling Basin Authority (MDBA) in 2013/14 to meet downstream demand. Another flood in 2016 filled the lakes, but again, they were quickly drained by the MDBA.

In June 2018, the Australian government passed legislation to ensure this was the new normal for Menindee. The Murray-Darling Basin Plan increased the legal limit of irrigation extraction in the Murrumbidgee and Goulburn valleys by 106GL. The increase was based on a Menindee Lakes Water Savings project which proposes to save evaporation by holding less water in the Lakes.

Under the project, irrigation is no longer viable in the region. The government has bought out the largest irrigator, is in negotiation with a small group of irrigators, but has ignored other irrigators. The population of Menindee township has halved, property values have declined, dry lakes have obviously halted boating and fishing. Pipelines are proposed to replace river flows for stock and domestic water for remaining residents. The NSW Department of Industry began consulting on the Menindee Lakes Water Savings project and have found communities that are despaired, outraged and increasingly vocal. It should have been very clear that the project in its current form is not acceptable to those communities.

Four months before the NSW elections, the outgoing local member and former Water Minister, Kevin Humphries, rode into town with a solution, known as Option 7. NSW will take Lake Menindee away from the MDBA and keep it full for residents. The irrigation community can not only stay, but grow. The town will prosper again, fishing and tourism are back on. The river will flow for graziers and riparian landholders.

It would be good if the story ended here, but this is not a Hollywood movie.

Lake Menindee is a very important part of a complex intergovernmental agreement (Murray-Darling Basin Agreement) and water reform (the Murray-Darling Basin Plan). Irrigators in other parts of the Basin have not only been promised some of the water out of Menindee, those promises have been legislated through amendments to the Murray-Darling Basin Plan in the Australian Parliament.

Delivering Mr Humphries' solution will require the Commonwealth, Queensland, NSW, Victorian, and South Australian governments to agree to change the Murray-Darling Basin Agreement. Victoria will have to agree to less water. The Australian parliament will have to agree to change the Murray-Darling Basin Plan. It will be a brave politician that will tell irrigation communities in the Murrumbidgee and Goulburn that they will have less water, breaking promises made over many years.

This paper poses important questions that the Lower Darling community should put to the NSW and Federal Water Ministers, NSW Department of Industry and the MDBA before Mr Humphries rides out of town, and the sun sets on his political career.

# Background

The Barwon–Darling River originates in Queensland and runs the length of Western NSW into Menindee Lakes in south-western NSW, 110km south-east of Broken Hill. Menindee Lakes feed the Lower Darling River, which meets the Murray near the South Australian border at Wentworth. Menindee Lakes are naturally occurring ephemeral lakes at the lower end of the Barwon–Darling River. The lakes were modified in the late 1950s to keep water in the lakes and regulate releases into the Lower Darling, principally for South Australia.

The Murray-Darling Basin Plan (Basin Plan) sets out Sustainable Diversion Limit (SDL) for each valley in the Basin. The SDLs are the legal limit for irrigation extractions. The Basin Plan was amended in June 2018 to increase the SDLs. 36 water savings projects have been proposed to justify a SDL increase of 605GL in the Southern Basin. These are supposed to achieve equivalent environmental outcomes with less water. The Menindee Lakes Water Savings Project is one of largest of these projects and alone is estimated to contribute 106GL of the 605GL total.<sup>1</sup>

The intended water savings come from reduced evaporation because less water would be stored in the lakes. As well as changes to the lakes, the savings require the removal of permanent irrigation in the Lower Darling and changing the source of Broken Hill's town water supply from Menindee Lakes to the Murray River. The project results in the Lower Darling river running dry more often and for longer periods, which will affect the town water supply for Pooncarie and water for stock and domestic users.<sup>2</sup>

The NSW Department of Industry commissioned a study to explore 6 Options to ensure water security for Pooncarie and stock and domestic water users in the Lower Darling. The 6 Options all complement the Menindee Water Savings Project and do not replace any part of that project.

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<sup>1</sup> MDBA (2017) *Sustainable Diversion Limit Adjustment Mechanism: Draft Determination Report*, [https://www.mdba.gov.au/sites/default/files/pubs/SDLAM-draft-determination-report\\_2.pdf](https://www.mdba.gov.au/sites/default/files/pubs/SDLAM-draft-determination-report_2.pdf)

<sup>2</sup> Blackwatch Consulting (2017) *Menindee Lakes: Interim Project Proposal*, obtained under OPD 420, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22publications%2Ftabledpapers%2Fc2508f17-13bd-49a9-85eb-6f0436b70763%22>

There has been growing criticism of the future of Menindee Lakes and the Lower Darling:

- The draw down of Menindee Lakes in 2014 and again in 2017 has outraged and despaired locals;<sup>3</sup>
- The Australia Institute presented *Trickle Out Effect* and *I'll have what they're having* in the area in October 2018. These two reports describe how one large agribusiness has received compensation for the anticipated impacts of the Menindee Water Savings project, while every other stakeholder in the community will be affected without compensation, or at that stage, even consultation.
- Approximately 1,000 people attended a rally at Broken Hill in early November 2018 to protest about the Menindee water Savings project

The NSW Department of Industry (DoI) held several stakeholder consultation meetings on Options 1 to 6 in the Lower Darling area in November 2018. Several meetings were highly charged and even hostile.<sup>4</sup> The DoI received a strong message that the Menindee Lakes Water Savings Project is not acceptable to the Lower Darling and surrounding communities.

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<sup>3</sup> Gooch (2017) *Questions over plan to release more water from the Menindee Lakes, months after filling*, <https://www.abc.net.au/news/2017-01-06/questions-over-plan-release-more-water-from-menindee-lakes/8165186>

<sup>4</sup> Brealey (2018) *Stick Your Plans*, <https://bdtruth.com.au/>

# Option 7

A few weeks after the NSW Department of Industry stakeholder consultations, the outgoing member for the NSW seat of Barwon and former Water Minister, Kevin Humphries, held several meetings with Lower Darling stakeholders and proposed an Option 7 for Menindee Lakes. Option 7 is instead of, and not complementary to, the Menindee Lakes Water Savings Project. Mr Humphries described Option 7 in a letter to Niall Blair:

Construct a regulator at Morton Boolka linking Menindee Lakes to Lake Cawndilla via Cawndilla Creek. This would require associated earthworks to raise the height of the Menindee Lakes banks adjacent to the regulator.

Flow through rules (MDBA supported) established that once Cawndilla reaches a certain capacity, for example, 700GL, the two lakes are separated.

In effect Lake Cawndilla is given over to the MDBA agreement with operations and drawdowns their responsibility. End of system requirements and down stream flows to be met via Lake Cawndilla.

In effect Menindee Lake is the full responsibility of NSW. The Lake remains largely intact with flow through rules to meet downstream irrigator, stock and domestic supplies. This needs a review in line with future commitments i.e. it could negate the need for buy outs of water entitlement currently held by irrigators with additional works constructed (weirs) to meet demand. Depending on water storages in both Lakes the water user requirements downstream could also be a shared arrangements between the two lakes systems – e.g. a temporary transfer arrangement which gives everyone more options.

Works would need to be undertaken to enlarge the capacity of Cawndilla Creek and the Panelco (sic) Channel offtake and Darling River delivery point.

An additional consideration is additional storage in Weir 32 to support the fruit industry requirements. This could be achieved with either a top up from the Wetherell-Pamamaroo lake system via the existing interconnecting channel, or raising the height of Weir 32. This would need further scoping to quantify.<sup>5</sup>

While this letter is dated 15 November 2018, Option 7 is not new. Very few options for Menindee Lakes are entirely new – various reconfigurations have been proposed for

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<sup>5</sup> Humphries (2018) *Letter from Kevin Humphries to Niall Blair: Menindee Lakes Reconfiguration*

decades. In fact, Mr Humphries proposed it to the Water Minister and the MDBA in early 2017.<sup>6</sup>

Governments have undertaken a considerable body of work on reconfiguration options, the most comprehensive of which is the *Menindee Lakes Ecologically Sustainable Development project*.<sup>7</sup> The most recent summary of previous work is the *Review of Hydrological Investigations Carried Out Under the Menindee Lakes Memorandum of Understanding*.<sup>8</sup> Detailed analysis of this Option 7 may already exist. We would encourage Lower Darling stakeholders considering Option 7 to ask the following questions:

- Q 1. Has Option 7 been considered in any other analysis of options for Menindee Lakes?
  - a. If so, can the modelling for that option be published?
  - b. If so, can the analysis for that option be published?
  - c. If not, why not?

## MURRAY-DARLING BASIN AGREEMENT

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The Australian Constitution confers the ownership and control of water to the respective state governments. The River Murray System is shared between NSW, Victorian and South Australian governments. The MDBA manages the River Murray System on behalf of those governments.

The Murray-Darling Basin Agreement (Agreement) is an inter-governmental agreement that sets out how water in the River Murray and Menindee Lakes is shared between the states and the high level rules to manage the River Murray System. The Commonwealth, Queensland, NSW, Victoria, South Australia and Australian Capital Territory are signatories to the Agreement. It can only be changed by consensus of all parties. For this reason, the Agreement is very difficult to amend.

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<sup>6</sup> Humphries (2017) *Media Release: Next Stage – Water Reform*,  
<https://www.kevinhumphries.com.au/media/media-releases/next-stage---water-reform>

<sup>7</sup> Moore (2000) *Menindee Lakes Ecological Sustainable Development project*

<sup>8</sup> Bewsher (2012) *review of Hydrological Investigations carried Out under the Menindee Lakes Memorandum of Understanding*,  
[http://www.water.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0010/548317/recovery\\_menindee\\_bewshers\\_report.pdf](http://www.water.nsw.gov.au/__data/assets/pdf_file/0010/548317/recovery_menindee_bewshers_report.pdf)

## State Water Shares

South Australia has a monthly water entitlement under the Murray-Darling Basin Agreement, which totals 1,850GL annually.<sup>9</sup> NSW and Victoria each contribute 50% to meet that entitlement (unless water availability is very low). Menindee Lakes has provided SA entitlement 39% regulated flow historically.<sup>10</sup>

The inflows into Menindee Lakes are shared equally between NSW and Victoria.<sup>11</sup> The total capacity of Menindee Lakes is 1,730GL. That is, Victoria can own up to 865GL of water in Menindee Lakes, to meet its obligation to South Australia. Option 7 proposes MDBA taking control of Cawndilla to meet downstream needs, including the South Australian entitlement. Cawndilla holds about 750GL. This raises questions about what impact that will have on state water shares. Figure 1 outlines a possible impact on state shares.

**Figure 1: The possible impact of Option 7 on state shares**

Scenario	Victoria Share GL	NSW Share GL	Menindee Lakes Total GL
<b>Current Share of Menindee Lakes</b>	865	865	1,730
<b>Option 7 share of Menindee Lakes</b>	750	980	1,730
<b>Gain/(Loss)</b>	(115)	115	-

If all of Cawndilla becomes Victorian water, Victoria’s water share could be reduced by up to 115GL, and NSW’s share could be increased by 115GL. This is likely to be unacceptable to Victoria. Before Option 7 is given any further consideration, stakeholders should ask:

**Q 2. Has there been any discussion with Victoria about option 7?**

<sup>9</sup> s88 *Water Act 2007 – Schedule 1: Murray-Darling Basin Agreement*, [http://www5.austlii.edu.au/au/legis/cth/consol\\_act/wa200783/sch1.html](http://www5.austlii.edu.au/au/legis/cth/consol_act/wa200783/sch1.html)

<sup>10</sup> Thoms et al (2000) *Report of the River Murray Scientific Panel on Environmental Flows: River Murray - Dartmouth to Wellington and the Lower Darling River*, River Murray Scientific Panel on Environmental Flows

<sup>11</sup> s94 *Water Act 2007 – Schedule 1: Murray-Darling Basin Agreement*, [http://www5.austlii.edu.au/au/legis/cth/consol\\_act/wa200783/sch1.html](http://www5.austlii.edu.au/au/legis/cth/consol_act/wa200783/sch1.html)

Q 3. Has there been an assessment of the impact of option 7 on State shares?

Option 7 proposes leaving water in Menindee Lakes for longer. This raises questions about NSW's commitment to meet their South Australian entitlement. If Lake Menindee does not contribute to the NSW commitment to South Australia, that commitment will need to come out of the River Murray. This will reduce water availability for NSW Murray irrigators. Understandably, they are likely to resist such a change.

If Lake Menindee continues to contribute to the NSW commitment to South Australia, the Lake will be drawn down and possibly emptied. Stakeholders should consider:

- Q 4. Will Menindee Lakes under NSW control be used to meet NSW's commitment to South Australia's water entitlement?
- c. If not, that commitment will need to be met from the NSW Murray. What is the impact on the reliability of NSW Murray high and general security water licences?
  - d. If yes, releases from Menindee Lakes will still be required to meet NSW's commitment to South Australia. What is the modelled difference in lake levels between MDBA and NSW control of Menindee Lakes?

## 480/640 rule

A key part of the Option 7 proposal is to change the 'control' of Menindee and Cawndilla lakes. There has been a lot of criticism of MDBA draining the lakes in 2013/14 and 2016/17. Mr Humphries' proposal infers that if Lake Menindee was under the control of NSW, it would not have been drained. However, those releases from Menindee Lakes are likely to have been supported by all governments, including NSW.

The Menindee lakes are owned by NSW and are leased to the MDBA. Under the Agreement, the management of Menindee Lakes is shared between MDBA and the NSW government. The MDBA 'controls' the lakes until the lake volumes drop to 480GL, then control reverts to NSW. When the lakes are filling, NSW have control until the lakes volumes reach 640GL, when control reverts back to MDBA.<sup>12</sup> The 480/640GL rule has been part of the Murray-Darling Basin Agreement since the 1970s.<sup>13</sup>

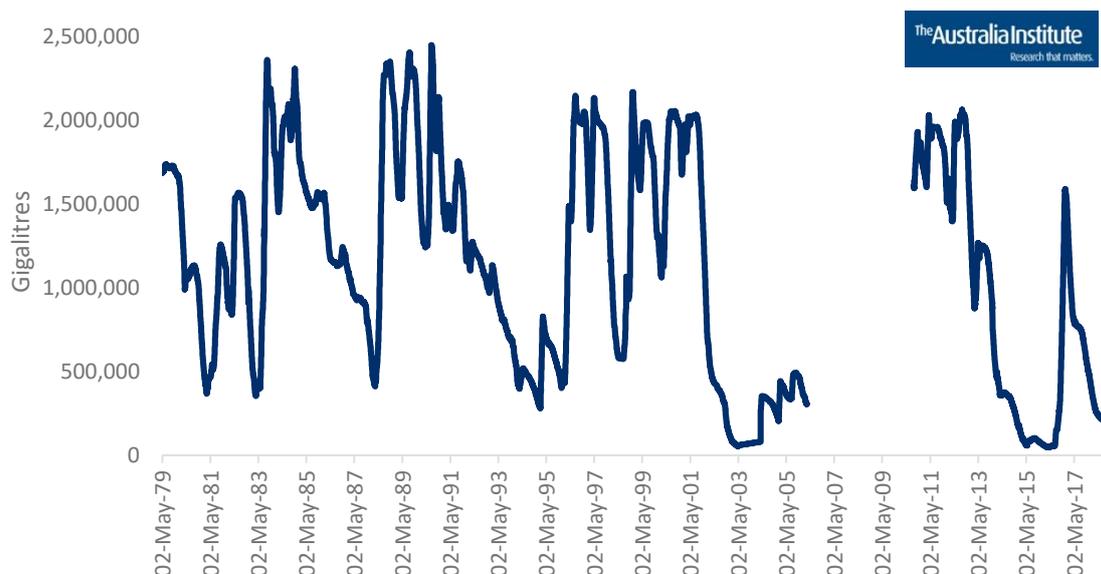
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<sup>12</sup> s99 *Water Act 2007 – Schedule 1: Murray-Darling Basin Agreement*, [http://www5.austlii.edu.au/au/legis/cth/consol\\_act/wa200783/sch1.html](http://www5.austlii.edu.au/au/legis/cth/consol_act/wa200783/sch1.html)

<sup>13</sup> NSW Irrigators Council (2013) *Menindee Lakes: Policy*, [http://www.nswic.org.au/pdf/policy\\_documents/130307%20-%20Menindee%20Lakes%20Policy.pdf](http://www.nswic.org.au/pdf/policy_documents/130307%20-%20Menindee%20Lakes%20Policy.pdf)

Figure 2 shows the volumes in Menindee Lakes. Since the Lakes were reconfigured in 1960, the Lakes always had some water until 2006, excepting in 2003. The Lakes remained below 640GL and under NSW control until 2010, when the Millennium drought broke and the lakes refilled. The lakes were completely drawn down in 2013/14 and again in 2016/17.

**Figure 2: Volumes in Menindee Lakes 1979 - 2018**



Source: <https://realtimedata.watersw.com.au/>

The MDBA manages the River Murray System in accordance with the wishes of the state governments. High level decisions are made by consensus between governments. Day to day decisions are delegated to the MDBA, but it is accountable to the States. The States scrutinise MDBAs decisions on at least a monthly basis. The States can direct the MDBA in relation to releases from Menindee Lakes.<sup>14</sup>

That is, the states set the boundaries for MDBA to manage the River Murray System, including Menindee Lakes. While MDBA controls releases from the Lakes, it could not have drawn down Menindee lakes in 2013 and 2016/17 if the states had disagreed with the releases. That is, NSW could have overridden the draining of the lakes under existing arrangements but did not. Transferring control of Lake Menindee to NSW is unlikely to change the draw down strategy recently used by MDBA. To clarify whether Option 7 would change this situation, the following questions should be answered:

Q 5. Did the Basin Officials Committee direct MDBA releases for any part of the 2013 or 2016/17 draw down of Menindee Lakes?

<sup>14</sup> s99 *Water Act 2007 – Schedule 1: Murray-Darling Basin Agreement*, [http://www5.austlii.edu.au/au/legis/cth/consol\\_act/wa200783/sch1.html](http://www5.austlii.edu.au/au/legis/cth/consol_act/wa200783/sch1.html)

Q 6. Did NSW dissent to MDBA about the 2013 or 2016/17 draw down of Menindee Lakes, either through an inter-jurisdictional committee or directly to the MDBA?

## SDL ADJUSTMENT

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The Murray-Darling Basin Plan is a Commonwealth legislative instrument and any amendment to it must be passed in the Australian parliament. The Basin Plan was amended in June 2018 to increase the SDLs. 36 water savings projects have been proposed to justify a SDL increase of 605GL in the Southern Basin. These are supposed to achieve equivalent environmental outcomes with less water. The Menindee Lakes Water Savings Project alone is estimated to contribute 106GL to that total.<sup>15</sup>

The intended water savings come from reduced evaporation because less water would be stored in the lakes. As well as changes to the lakes, the savings require the removal of permanent irrigation in the Lower Darling and changing the source of Broken Hill's town water supply from Menindee Lakes to the Murray River.

Mr Humphries' critique of the Menindee Lakes project is that it is:

driven by the continued debate around evaporation loss and the need to move proposed savings down river. This whilst technically obvious, makes no consideration of the loss of amenity and economic activity in and around Menindee Lakes and township. Nor is this thinking consistent across the Basin where evaporation loss and transmission loss are potentially just as significant.<sup>16</sup>

Option 7 proposes that water is kept in Menindee Lakes for longer, meaning that evaporation will be higher than assumed in the Menindee Lakes Water Savings Project and the savings from evaporation will be less, or possibly none.

The amendment to the Basin Plan in June 2018 increased the SDL in the Murrumbidgee and Goulburn valleys by 106GL. If the Menindee Lakes does not deliver 106GL of savings, NSW will be required to recover the savings shortfall through water recovery under the Basin Plan.<sup>17</sup> This will also require a future amendment to the Basin Plan to decrease the SDL in the Murrumbidgee and Goulburn Valleys by the savings

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<sup>15</sup> MDBA (2017) *Sustainable Diversion Limit Adjustment Mechanism: Draft Determination Report*, [https://www.mdba.gov.au/sites/default/files/pubs/SDLAM-draft-determination-report\\_2.pdf](https://www.mdba.gov.au/sites/default/files/pubs/SDLAM-draft-determination-report_2.pdf)

<sup>16</sup> Humphries (2018) *Letter from Kevin Humphries to Niall Blair: Menindee Lakes Reconfiguration*

<sup>17</sup> s7.21 *Basin Plan 2012*, <https://www.legislation.gov.au/Details/F2012L02240>

shortfall amount. Such an outcome is likely to receive significant criticism in those valleys. Stakeholders in the Lower Darling and other valleys should ask:

- Q 7. Have Murrumbidgee and Goulburn irrigators been advised that the 106GL SDL adjustment will not be achieved under Option 7?

## PENELCO CHANNEL

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The Penellco Channel flows from the Darling River into Tandou Station, which borders Cawndilla. Option 7 proposes that water is released from Cawndilla through Penellco Channel into the Darling River for downstream demand. That is the channel would need to flow in the opposite direction. This appears to be a significant engineering exercise and the following questions should be considered:

- Q 8. Has there been any survey work to assess the feasibility of:
- c. Reversing the direction of Penellco Channel?
  - d. Enlarging the channel capacity of Penellco Channel and the Darling River delivery point?

Penellco channel is owned by Webster Ltd and is wholly located on their property at Tandou Station. Webster would need to agree to the proposal and presumably will require financial remuneration for the arrangement.

- Q 9. Has Option 7 been discussed with Webster Ltd?
- Q 10. Will there be a financial inducement to Webster Ltd to reconfigure Penellco channel?
- Q 11. Will there be a financial inducement to Webster Ltd for the ongoing use of Penellco channel?

Upgrading Penellco channel to deliver a maximum of 80GL per year from the Lower Darling to Tandou Station was considered as part of the Menindee Lakes Water Savings project at an estimated cost of \$72m.<sup>18</sup> Given this proposal is to deliver more than 500GL in the opposite direction, that cost is likely to be significantly higher.

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<sup>18</sup> Blackwatch Consulting (2017) *Menindee Lakes: Interim Project Proposal*, obtained under OPD 420, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22publications%2Ftabledpapers%2Fc2508f17-13bd-49a9-85eb-6f0436b70763%22>

## BUY BACKS AND STRUCTURAL ADJUSTMENTS

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The Menindee Water Savings project assumes that the permanent irrigation in the Lower Darling will cease. The Australia Institute's *Trickle Out Effect* and *I'll have what they're having* describe how the Commonwealth government gave Webster nearly \$80m in 2017 for their water and compensation to cease irrigation at Tandou Station.<sup>19,20</sup>

The Lower Darling Horticultural Group is a group of irrigators who foresaw the future of Menindee Lakes and the consequences for their businesses and approached government in 2014 with a proposal for compensation and sale of their water. The business case for the Menindee Lakes Water Savings Project identifies that this group should receive a structural adjustment, but those negotiations have still not been finalised.<sup>21</sup>

The Menindee Water Users Group was established in late November 2018 to represent the remaining Lower Darling irrigators and water holders. We understand that this group has not been in any negotiations with government about the compensation and sale of their water. The business case for the Menindee Lakes Water Savings Project does not identify that the water holders in this group should receive a structural adjustment.<sup>22</sup>

There is a real risk that the NSW and Commonwealth governments will delay negotiations for water buy backs and compensation while they undertake assessments and consultation on Option 7. This could delay any structural adjustment packages for several years.

Q 12. Will the government continue to negotiate buy back and structural adjustment packages with water licence holders while they assess Option 7?

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<sup>19</sup> Slattery and Campbell (2018) *Trickle Out Effect*, <http://www.tai.org.au/content/trickle-out-effect>

<sup>20</sup> Slattery and Campbell (2018) *I'll have what they're having*, <http://tai.org.au/content/ill-have-what-theyre-having>

<sup>21</sup> Blackwatch Consulting (2017) *Menindee Lakes: Interim Project Proposal*, obtained under OPD 420, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22publications%2Ftabledpapers%2Fc2508f17-13bd-49a9-85eb-6f0436b70763%22>

<sup>22</sup> Blackwatch Consulting (2017) *Menindee Lakes: Interim Project Proposal*, obtained under OPD 420, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22publications%2Ftabledpapers%2Fc2508f17-13bd-49a9-85eb-6f0436b70763%22>

# Conclusion

Concern for the communities of the Lower Darling is long-overdue. However, Option 7 is unlikely to improve their situation.

The Murray-Darling Basin Plan will always be contentious because it sets out how much water is available for irrigation and the environment for each valley in the basin. That means it becomes a contest of competing interests: irrigation versus the environment; upstream communities versus downstream communities; or state versus state. The contest makes the sharing of water a political decision first, and environmental, social or economic decisions later.

When the Basin Plan was legislated in 2012, it came with a commitment to change the SDL later. That change was legislated in June 2018 and its basis includes keeping less water in Menindee Lakes and that the Lower Darling will be dry more often.<sup>23</sup> The constituents of Menindee and the Lower Darling are competing with much larger and more politically powerful irrigation communities and industry in the Northern Basin, the Murray, Murrumbidgee and the Goulburn valleys.

The communities of the Lower Darling have been increasingly voicing their objections to the Menindee Water Savings Project, as a NSW election approaches in March and a Federal election likely in May 2019. It is reasonable to ask if Option 7 is aimed at managing discontent until after the elections?

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<sup>23</sup> Blackwatch Consulting (2017) Menindee Lakes: Interim Project Proposal, obtained under OPD 420, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22publications%2Ftabledpapers%2Fc2508f17-13bd-49a9-85eb-6f0436b70763%22>