Submission to Senate Environment, Communications and the Arts Committee Inquiry into Water (Crisis Powers and Floodwater Diversion) Bill 2010

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The Concept

This bill draws upon a well established business practice that has stood the test of time.

When a corporation becomes insolvent, the corporation's board must be replaced by an administrator. This administrator must then do everything possible to restore the corporation to a solvent state. The administrator is required to act quickly and in as equitable manner as the circumstances allow.

Under such an administrative arrangement, board members have a strong incentive to prevent the corporation from becoming insolvent.

The essential proposition put forward in this bill is the question of whether such an administrative arrangement would benefit the Murray Darling Basin.

If implemented, the Bill would force those responsible for managing the Basin's resources would have a stronger incentive to prevent an extreme crisis from occurring.

Conditions under which the State of the Murray Darling Basin could be described as insolvent

The bill proposes two situations which could be described as an extreme crisis (insolvency). The first is one where the Basin's groundwater, surface water resources and storages have been depleted to the extent that

- the level of water at the end of this system has remained below sea level for 3 consecutive months; or
- allocations to high security entitlement holders in a region have remained below 20% for two consecutive years.

When such a situation arises, the Chief Executive of the Murray-Darling Basin Authority is required to report to the Minister that the Basin is in a state of extreme crisis. The Commonwealth Minister for Water Resources must then decide whether or not to declare a state of extreme crisis. The call is hers.

Once an extreme crisis is declared, the Murray Darling Basin Authority is authorised to intervene to the extent necessary to solve the crisis. The powers given to the Authority are similar to those given to an administrator of a company that is insolvent. The Authority is transformed from a planning agency with responsibility to implement the Basin Plan under the general direction of the Ministerial Council and the Basin Officials Committee to one where, until the crisis is resolved, it has final decision making powers.

The power is similar to that agreed by the Prime Ministers, Premiers and the First Minister of the ACT on Melbourne Cup day in 2007. At that point in time, First Ministers agreed to appoint a Senior Officials Committee and empower them to change the way water in the MDB was to be shared among states and how it was to be allocated. Concepts like the need to provide water for critical human needs arose from this decision.

This Bill proposes a similar mechanism and authorises the Minister to give crisis management powers to the Murray Darling Basin Authority.

Is the Bill necessary?

The question of whether or not this Bill is necessary to ensure the sustainable utilisation and conservation of MDB resources depends upon the content of the Basin Plan.

It is possible that the forthcoming Basin Plan could contain a similar provision. {Amendment of the Water Act may be necessary to ensure that this power existed. This Bill ensures that this power exists.}

If the Basin Plan is written in a manner that empowers the Murray Darling Basin Authority to suspend part or all of a State Plan and agreements made among States then the Bill is redundant. If the Basin Plan is **not** written in such a manner then I consider that a bill of this nature has merit.

Are the proposed criteria appropriate?

The proposed criteria are simple and easy to measure. The question of whether or not they are too soft or too hard is a political one.

Sound business practice would suggest that the frequency of extreme crises will be less if criteria like these are set.