WATER AMENDMENT (LONG-TERM AVERAGE SUSTAINABLE DIVERSION LIMIT ADJUSTMENT) BILL 2012

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments are to be moved on Behalf of the Government

(Circulated by the authority of the Minister for Sustainability, Environment, Water, Population and Communities)
WATER AMENDMENT (LONG-TERM AVERAGE SUSTAINABLE DIVERSION LIMIT ADJUSTMENT) BILL 2012

GENERAL OUTLINE

1. The purpose of the government amendment is to include within the Water Amendment (Long-term Average Sustainable Diversion Limit Adjustment) Bill 2012 (the Bill) an additional requirement before an amendment to the Sustainable Diversion Limit is adopted, and to make the relevant Minister the decision maker on any amendments.

2. The amendment Bill includes a requirement that members of the public are consulted and their submissions are considered before the Murray-Darling Basin Authority proposes an adjustment.

3. The amendment Bill also replaces previous 23B(6) with a clause that provides the relevant Minister with a discretionary decision to adopt or not adopt an amendment proposed by the Murray-Darling Basin Authority.

4. The government amendment also removes the proposed item 13 (proposed paragraph 33(2A)) the Bill so that the amendment to the Basin Plan is not a non-disallowable legislative instrument. This amendment reflects that the Minister has a discretionary decision in amending the Basin Plan under 23B(6).

FINANCIAL IMPACT STATEMENT

5. This Bill does not appropriate funds.

REGULATORY IMPACT STATEMENT

6. A Regulatory Impact Statement (RIS) is not required.
NOTES ON INDIVIDUAL CLAUSES

Amendment 1 – Schedule 1, item 10, page 6 (after line 11)

1. This amendment inserts at the end of subsection 23A(2) (after paragraph 23A(2)(c)) a new paragraph 23A(2)(d) which will apply if the Basin Plan includes provisions for the adjustment of the long-term average sustainable diversion limit under paragraphs 23A(1)(a) or (b). The amendment provides that the Plan must also include a requirement for the Murray-Darling Basin Authority not propose an adjustment under paragraphs 23A(1)(a) or (b) without inviting members of the public to make submissions to the Authority on the proposed adjustment and providing a reasonable amount of time for those submissions to be made and considered by the Authority.

Amendment 2 – Schedule 1, item 10, page 6 (after line 20)

2. This amendment omits the words “is adopted” and substitute “may be adopted”. This reflects that the adoption of the amendment to the Basin Plan by the Minister is now a discretionary decision.

Amendment 3 – Schedule 1, item , page 9 (lines 12 to 18)

3. This amendment omits subsection 23B(6) and substitutes a new subsection. The new subsection requires that the Minister as soon as practicable after receiving the proposed amendment from the Authority, must consider the amendment and either adopt the amendment or decide not to adopt the amendment.

4. The Minister must adopt or not adopt the amendment in writing. If the Minster adopts the amendment this decision is a legislative instrument for the purposes of the Legislative Instruments Act 2003 as a result of item 11 of the Bill.

Amendment 4 – Schedule 1, item 13, page 9 (lines 28 to 32), omit the item.

5. This amendment omits paragraph 33(2A) of the Bill. That paragraph provides that an amendment to the Basin Plan under 23B(6) is not a disallowable legislative instrument for the purposes of the Legislative Instruments Act 2003.