



Dead in the water: a very angry book about our greatest environmental catastrophe ... the death of the Murray–Darling Basin

by Richard Beasley, Crows Nest, NSW, Allen & Unwin, 2021, 296 pp., A\$29.99 (pbk), ISBN 9781760878450

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BOOK REVIEW

Dead in the water: a very angry book about our greatest environmental catastrophe . . . the death of the Murray–Darling Basin, by Richard Beasley, Crows Nest, NSW, Allen & Unwin, 2021, 296 pp., A\$29.99 (pbk), ISBN 9781760878450

Many from outside of Australia may be puzzled as to why anyone would write ‘a very angry book’ about water reform in, of all places, Australia? A country that senior Australian public servants, scientists, consultants and politicians have widely and frequently proclaimed to be the ‘world’s best’ on their many business trips to Paris, London, Washington, Delhi and Beijing.

As we know from history, and even more recently in the time of Covid-19, a lie told and repeated often enough, and especially by those people in authority, is believed by many despite contrary facts. It is in this ‘post-truth water world’ that Richard Beasley, a Senior Counsel and author of five other books, delivers a truthful rendering of the facts about Australian water reform.

Before turning to the book, we need to review how the myth of Australia as the world’s best began. This reputation appears to be founded, in part, on some very well-crafted ‘water words’, called the 2004 National Water Initiative (NWI) in the middle of a decade-long drought that ended in 2010. The NWI was an intergovernmental agreement that required its government signatories to deliver on a series of commitments. It was a worthy initiative and would have been a huge step forward *if* it had been delivered in full. Among the commitments by Australian governments in the NWI was an agreement, within 10 years, to ensure a sustainable level of water extractions.

By 2007, and with a worsening drought, it was clear to everyone that the NWI objective of sustainable extractions of water would not be delivered. As a game changer, Prime Minister John Howard announced in January 2007 that his government would spend A\$10,000 million (or A\$10 billion) over 10 years to deliver a ‘National Plan for Water Security’. In his 2007 speech announcing the National Plan, he stated: ‘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.’ Sadly, his vision, has still not been realized.

The National Plan for Water Security promised: A\$3000 million to buy back water entitlements from willing sellers (principally irrigators) who had been allocated *gratis* tradeable water rights (representing a huge transfer of wealth from the public to the private sector on the premise that the beneficiaries of these transfers would not impede a fully compensated reallocation of water to deliver environmentally sustainable level of extractions) by their state governments; A\$5000 million to subsidize water infrastructure and increases in irrigation efficiency; and A\$480 million to improve water information, especially metering and monitoring of water extractions.

Complementary with this large federal funding was landmark legislation: the 2007 Water Act, which had broad and bipartisan support. This Water Act gave the federal government enhanced powers to govern water in Australia’s ‘food basket’ and to set, for the first time, sustainable diversion limits (SDLs, i.e., extractions) for the more than 1 million km² Murray–Darling Basin at both a subcatchment and a basin scale.

The NWI, the National Plan for Water Security and the Water Act (2007) created the impression that Australia was about to resolve many decades of water failures and to truly deliver sustainable water outcomes to communities, irrigators and the environment. But no

sooner was the ink dry on these historic documents, they were being undermined by those who had the most to lose from reallocation.

By almost any scientific measure (stream flows, bird-breeding numbers, water quality, fish deaths, etc.) the Murray–Darling Basin still does not have a sustainable level of water extractions 17 years after governments committed to that goal. Yet the federal government has so far spent about A\$10,000 million, supposedly to deliver this sustainable outcome. Instead of delivering for communities and the environment, much of the taxpayer-funded largesse has benefitted larger scale, corporate irrigators. How this scandal happened and who is to blame is explained in this book.

In October 2010, beginning with a well-publicized public book-burning, reminiscent of repugnant acts from another time and place, a well-orchestrated and funded campaign began in earnest to ensure that transformational water reform did not happen. This campaign was about ‘post-truth’ and was intended to force the federal government to change its draft Murray–Darling Basin Plan that, if it had been implemented, would have gone a long way to deliver on the promises of the 2004 NWI and key objects of the 2007 Water Act.

By November 2012, in what was described as an historical compromise, a Basin Plan for the Murray–Darling was passed in federal parliament. This was supposed to include sustainable levels of water extraction called sustainable diversion limits (SDLs). It did not. By 2017, following a television investigation into alleged water theft (that subsequently led to guilty pleas) and multiple reports of ‘irregularities’, the Australian public woke up to the fact that the Basin Plan and the A\$10,000 million in federal spending had not delivered on what was promised, or what was being claimed.

One of the biggest jurisdictional losers from the failure to deliver on key objects of the 2007 Water Act was the downstream state of South Australia. Its response to revelations of water theft and declining environmental outcomes was to establish the South Australia Murray–Darling Basin Royal Commission in 2018. The Royal Commission’s remit was to get to the truth about why the Basin Plan and federal government initiatives were failing, despite many billions of expenditures of taxpayers’ dollars to fix the ongoing water crisis, and to offer recommendations.

And this is where Beasley’s *A Very Angry Book* begins. As Senior Counsel assisting this Royal Commission, he had a front-row seat to the many expert testimonies given under oath to the Royal Commissioner. The testimonies were shocking. The Murray–Darling Basin Authority (MDBA), following the 2010 book-burning, developed SDLs for the 2012 Basin Plan that were supposed to ensure an environmentally sustainable level of take (extractions). In the under-oath testimony of Professor Justin Brookes, who was a co-author of report undertaken by the federal government’s own scientific research agency (Australian Commonwealth Scientific and Research Organization – CSIRO) on the Basin Plan’s SDLs, he stated that the Basin Plan’s SDLs did *not* represent an environmentally sustainable level of take, as required in the 2007 Water Act.

To understand the significance of this testimony, it is worthwhile quoting at length from *A Very Angry Book*:

The MDBA has been given the statutory responsibility to prepare a Basin Plan according to the law. To achieve the goal of preventing ongoing degradation to the environment, by determining the amount of water that needs to be restored to it. This is the keystone of both the Plan, and the A\$13 billion being spent on it. Our leading scientific organization [CSIRO] produces a report in which it says – and I summarize – the MDBA has done a XXXXXXXX awful job. It has not determined an environmentally sustainable level of take. It has not taken climate change into account. This is the truth, as found by [Royal] Commissioner Walker. (p. 85)

By failing to ensure an environmentally sustainable level of take, the Basin Plan is not lawful, as determined by one of Australia’s leading legal counsels, Royal Commissioner Bret Walker. Quoting again from *A Very Angry Book*:

The massive reduction of water said to be needed by the environment – from 3900 billion litres to 7600 billion litres [in the 2010 Draft Basin Plan] down to 2750 billion litres [in the 2012 basin Plan] – was because of a ‘political ruckus’, not because of a ‘technical change in modelling’. (p. 96)

But it gets worse. According to testimony by David Bell, Director of Environmental Water Planning at the MDBA until November 2017, he was told by his bosses that the amount reallocated to the environment had to have a number ‘2’ in the front (i.e., be *less* than 3000 billion litres). This ‘was a decision of the [MDBA] board conveyed by the senior management’. In other words, the MDBA when finalizing the Basin Plan did not use the ‘best available science’ as it was required to do under the law when determining its SDLs. This was and remains unlawful.

Adding insult to injury, the federal government essentially stopped the purchasing of water rights from willing sellers in 2014, which was intended to increase environmental flows. Instead, it has continued subsidizing so-called irrigation-efficiency measures. Funnily enough, the biggest beneficiaries of these grants are the larger, corporate irrigators.

If spending billions actually increased environmental flows and generated public good benefits, then handing out large amounts of taxpayers’ dollars to multi-millionaires might be justified. But as Beasley observes, ‘Efficiency measures don’t recover the amount of water you think they do. They may not work at all. They are really expensive compared to buying water’ (p. 164). The bottom line is that *much less* than an additional 2750 billion litres (as promised in the 2012 Murray–Darling Basin Plan and much less than what was required to be lawful) has been returned to the environment in the Basin than is claimed. Shockingly, that is not all. Beasley also shines his legal light on the phenomenon called ‘floodplain harvesting’ practised in the northern Murray–Darling Basin, principally northern New South Wales and parts of southern Queensland (pp. 235–242).

There is very credible remote sensing and other evidence to indicate that are up to 1400 billion litres of water capacity in private water storages. These private storages are filled by a system of hundreds of kilometres of private flood-diversionary infrastructure, some of which has been paid for by taxpayers. These floodplain water extractions are outside the calculations of the SDLs in the 2012 Basin Plan.

Beasley also explains how, in 2018, the federal parliament, based on recommendations from the MDBA, reduced the planned reallocation of water to the environment in the Northern Basin by 70 billion litres. According to the Royal Commissioner, this decision had ‘no scientific justification’ (see p. 246). No prize for working out who has benefitted the most from this appalling decision. A decision that was made despite the fact downstream communities that depend on the river have literally ran out of drinking water and large extractions upstream have led to massive fish kills on the lower Darling.

Despite an exhaustive review, *none* of the Royal Commissioner 44 recommendations delivered in January 2019 has been acted on by the federal government. In the expert legal opinion of the Royal Commissioner, and well supported by evidence in his 748-page report, he found that the MDBA had:

Engaged in ‘maladministration’; acted with ‘gross negligence’; fostered ‘scientific censorship’; engaged in decision-making that was ‘incomprehensible’ and ‘indefensible’; drafted a Basin Plan that was unlawful; and that there were ‘serious doubts as to whether senior management, and the Board of the MDBA were capable of fulfilling their statutory obligations and functions’. (see p. 64)

In a country where claims of defamation have become a national pastime, including in March 2021 when its then federal auditor-general launched a personal defamation claim against

Australia's own national broadcaster, you may wonder why a legal suit has not been lodged against Beasley. Perhaps it is because he has written the truth – fully supported by evidence, including multiple expert testimonies given under oath at the Royal Commission.

If you want the unadulterated facts, if you wish to understand why the claim that Australia's water governance in the Murray–Darling Basin is the world's best is a lie, then this book is for you. It is essential reading for anyone who cares about and wants to help realize a better water world.

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