

Benjamin Cronshaw

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## **Submission to the Inquiry into Constitutional Alteration (Water Resources)**

Water is a precious resource, particularly in such a dry and arid landscape as Australia. We rely on water for a healthy river environment, irrigating our farms and household uses. There could be merits to granting extra power to the Commonwealth to oversee nationally significant water resources, such as the Murray-Darling Basin or Great Artesian Basin.

With any question of constitutional change, it is important to be aware of the principles behind Australian Federalism. Any power that is not given to the Commonwealth should be reserved by the states. Under the principle of subsidiarity, policy should be made on the lowest possible level so policymakers are more attune local needs and more easily held accountable. There is always suspicion about giving any more power to the central government.

However, there are some issues that benefit from a national approach. Additional powers over such issues can be referred by the by the states to the Commonwealth under S51(xxxvii) or approved in a constitutional referendum under S128. There is clearly a national element to managing and conserving our common water resources. Water resources and natural disasters (such as drought) are not confined within state boundary lines, and thus neither should the policy response. There is already cooperation on the management of our common water resources, such as with the Murray-Darling Basin Plan. However, there could be merit to having a stronger, nationally based approach. Senator Rex Patrick has proposed inserting a new section in the Constitution 51 (xxxvA) giving the Commonwealth power to make laws regarding “the use and management of water resources that extend beyond the limits of a State.”<sup>1</sup> This would include water resources such as the Murray-Darling Basin, which extends across five states or territories (Queensland, New South Wales, the Australian Capital Territory, Victoria and South Australia).

Constitutional change is historically difficult to achieve in Australia. Under S128, any constitutional referendum requires approval from a majority of both states *and* electors to

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<sup>1</sup> *Issues Paper* 2019, 16.

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succeed. Any proposal needs to have broad and generally bipartisan support from the Australian public. There could be some concerns about giving the Commonwealth greater power over water resources. Disputes over water management have occurred since the original Constitutional Conventions preceding Federation.<sup>2</sup> States have a legitimate interest in maintaining their right under the Australian Constitution S100 to “reasonable use of waters of rivers for conservation or irrigation.” The details of any new Commonwealth water management plans would need to be agreeable to most states and stakeholders involved. Any group who does not have confidence in the new plan (whether urban residents, agriculturalists or environmentalists) could vigorously campaign against the referendum proposal. As a practical question, any referendum would likely be held concurrently with a federal election and/or with a package of other referendum proposals.

Senator Rex Patrick makes some convincing comments about the need for a nationally consistent approach to the Murray-Darling Basin.<sup>3</sup> The significance of the Murray-Darling river and the Great Artesian Basin as water resources should ensure there is a “fully national framework that operates in the national interest,” rather than being subject to “parochial” state interests.<sup>4</sup> Having “different water rules ... compliance measures ... accountability measures” can undermine effective Basin management. Commonwealth laws would “override inconsistent state water management legislation.”<sup>5</sup> I believe our common identity as Australians is stronger than our identity as state residents. Being a Victorian, I would be happy to water to be used wherever it is most needed or where it can be used most efficiently whether that be in Victoria or another state. We should come together as Australians to manage our common water resources, rather than arguing based on arbitrary state boundaries.

There may be some dispute about whether the Commonwealth or the states can most capably and efficiently manage our common water resources. The question is which approach “best secures the health and sustainability of the river system now into the future” to meet social, economic

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<sup>2</sup> *Issues Paper* 2019, 1; *Refreshing the Plan* 2016, 139.

<sup>3</sup> *Issues Paper* 2019, 16.

<sup>4</sup> *Issues Paper* 2019, 16.

<sup>5</sup> *Issues Paper* 2019, 16.

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and environmental demands.<sup>6</sup> The proposal to give Commonwealth power over water resources deserves due consideration. I welcome the attention of the Australian Parliament on this issue and look forward to reading the recommendations.

Thank you for considering my submission.

Kind Regards,

Benjamin Cronshaw.

Formal Bibliography

Senate Select Committee on the Multi-Jurisdictional Management and Execution of the Murray Darling Basin Plan, Parliament of Australia, *Issues Paper* (2019).

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<sup>6</sup> *Issues Paper* 2019, viii.