



31 July 2019

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary

RE: *Murray-Darling Basin Commission of Inquiry Bill 2019*

The National Farmers' Federation (NFF) welcomes the opportunity to make a submission the Senate Environment and Communications inquiry into the *Murray-Darling Basin Commission of Inquiry Bill 2019*.

The NFF is the peak national body representing farmers and, more broadly, agriculture across Australia. On matters related to water, the NFF is the only national body that brings a 100 per cent farmer-focused viewpoint and represent the interests of farmers that are affected by water management decisions including irrigators, riparian and floodplain landholders and stock and domestic users.

The NFF does not support a Commission of Inquiry into the Murray-Darling Basin Plan (Plan). After 37 inquiries into various elements of the Plan, it is sufficiently clear that a changes need to be made to improve its implementation. Another inquiry with a terms of reference already captured by other inquiries is unwarranted, duplicative, costly, and will delay progress.

The NFF also notes the passage of Senator Patrick's motion to establish the 'Select Committee on the Multi-Jurisdictional Management and Execution of the Murray Darling Basin Plan' to inquire and report on similar issues raised in this Bill. This should render the proposed Commission of Inquiry redundant.

Nevertheless, extensive work from the Productivity Commission (PC), the Vertessy review into fish deaths and others, have identified challenges to implementation and pathways to ensure the Plan can be sensibly implemented. These challenges are already well-documented; they are complex; and, there is a substantial ongoing body of work attempting to address these issues. The 14 December 2018 Ministerial Council communique and various MDBA communiques will attest to that. Without acknowledging the current work involved, this inquiry would be a costly duplication of effort.

The NFF considers recommendations from the Productivity Commission's five-yearly review of the Plan will provide the best outcomes for basin communities and the environment. The PC report was the outcome of the only formal review process for the Plan which conducted comprehensive multi-stakeholder consultations. The NFF expects a response to the report at the upcoming Murray-Darling Basin Ministerial Council in August 2019.

Seven years into the 12 year Plan, over 2000 GL of water has been recovered for the environment of which 1200 GL has been recovered through direct buybacks and the rest mostly through efficiency measures. This is not an insubstantial amount of water. It is the NFF's view that working to leverage environmental outcomes from the available environment water should be a key focus. The NFF continues to support adopting non-flow measures to improve environmental outcomes to address: cold water pollution, fish passages, feral animals in key wetland and floodplain areas, and carp infestations.

Proposed terms of reference

The NFF notes the proposed terms of reference and comments on each:

- *misconduct;*
- *the legislative and administrative framework for implementing, managing, and enforcing the Basin Plan;*
- *the impact of its implementation on the environment, agriculture, and river communities;*
- *adverse effects of the legislative and administrative framework on water management;*
- *allocation of funds to implement the Basin Plan, and their impact on environmental watering; and*
- *the impact of climate change on Basin water resources and adaptation measures.*

Misconduct

Over the past two years, substantial progress has been made to address issues with the compliance. The NFF notes the following inquiries specific to compliance:

- 2017 Senate inquiry into the integrity of the water market.
- 2017 Matthews' independent investigation into NSW water management and compliance.
- 2017 Australian National Audit Office (ANAO) audit of New South Wales' Protection and use of Environmental Water in the Murray-Darling Basin.
- 2017 MDBA Murray-Darling Basin Compliance Review.
- 2018 independent audit of Queensland non-urban water measurement and compliance.
- 2018 Productivity Commission five-year review of the implementation of the Plan.

These reviews led to an overhaul of the compliance regime in the basin, including metering and measuring standards, resourcing and auditing, and governance structures. In NSW, establishing the Natural Resources Access Regulator (NRAR) reflected a renewed focus on water compliance. Compliance outcomes from NRAR are also released quarterly.

The endorsement of the *Basin Plan Compliance Compact* at the 12 December 2018 Council of Australian Government was another outcome. The Compliance Compact sets out the compliance implementation framework each jurisdiction has developed to improve compliance and enforcement activities.

On broader misconduct, including the water purchases through direct buyback and efficiency measures, there have been numerous audits by the ANAO and other independent bodies.

They include:

- The ongoing ANAO audit of Procurement of strategic water entitlements, due to report in December 2019.
- 2012 ANAO audit of Administration of the Private Irrigation Infrastructure Operators Program in NSW.

Efficiency projects under the Plan are also subject to external audits and post project random 'spot checks'.

Legislative and administrative framework for implementing, managing, and enforcing the Basin Plan

Chapter 14 of the PC report comprehensively examined the governance and administrative framework under the Plan, identifying major shortcomings in the current institutional and governance arrangements, and made five recommendations to address these challenges. It is unclear what further examination of the administrative framework might reveal that has not been addressed.

The NFF notes that findings from the South Australian Royal Commission into the Murray-Darling Basin were used to support this Bill. The Royal Commission questioned the legal validity of the Plan which then flows through to a number of its recommendations, which is contrary to legal advice provided in 2012. It is not the place of the NFF to resolve this legal consistency, and until it is resolved, the NFF cannot consider the recommendations from the Royal Commission. A Commission of Inquiry is not the appropriate forum to resolve this inconsistency, but rather the High Court.

The impact of its implementation on the environment, agriculture, and river communities

The NFF is equally concerned about the impact the Plan is having on the environment, agriculture and basin communities. However, many completed inquiries have examined this interaction. The MDBA's *independent assessment of social and economic conditions in the Basin* is currently underway and will include more detailed case studies in specific locations and communities most impacted by the many forces of change. A Commission of Inquiry would unnecessarily duplicate existing efforts.

Adverse effects of the legislative and administrative framework on water management

This is broad, complex and captures many elements of the Plan, including: drought, water markets, water allocations, constraints and others. While these are challenging issues, they are currently being addressed.

For example, the 14 December 2019 Ministerial Council communique noted key actions including:

- Progressing the Constraints Measures Coordinating Work Plan.
- Work be done by the MDBA in conjunction with states to address River Murray deliverability challenges for both consumptive and environmental water.

Sections 3, 5, 6, 11 and 13 of the PC report also goes to these concerns. Aforementioned inquiries also capture these adverse effects and so too will the proposed Australian Competition and Consumer Commission inquiry into the southern basin water market and the 2026 review of the Plan will provide answers. At this stage, a Commission of Inquiry appears unlikely to provide any new information not already available, and will unnecessarily duplicate processes.

Allocation of funds to implement the Basin Plan, and their impact on environmental watering

This is another broad term of reference. It is unclear what findings this may yield considering it will examine all receipts and proposed expenditure under the Plan, many of which have been examined in past inquiries. This would further delay implementation of the Plan and create further uncertainty for basin communities.

The impact of climate change on Basin water resources and adaptation measures

Both the PC report and Vertessy report identified climate change as a key and emerging risk that may impact on the Plan, particularly through its effect on streamflow and condition of key environmental assets.

The NFF notes that the MDBA released a *climate change and the Murray-Darling Basin Plan discussion paper* to explore the impact of climate change across the Basin; the current Plan settings and various adaptive mechanism under the Plan; and a climate change research program for the MDBA. This will be conducted in partnership with the independent Advisory Committee on Social, Economic and Environment Sciences (ACSEES). It is unclear what new information a Commission of Inquiry will provide to improve the implementation of the Plan, and more than likely, will duplicate existing efforts.

Overall, the NFF does not see any issues raised that have not been adequately addressed in past inquiries or are currently being addressed. There is little evidence to suggest this inquiry will find anything new and appears to be an unnecessary. 37 inquiries into the Plan has already been completed and effort should be directed to implementing these recommendations. Critically, the Productivity Commission report has yet to receive a response by Ministers.

The 2026 review of the Plan is the most appropriate time to re-examine the Plan, not seven years into the 12 year plan.

While the NFF does not believe the Plan, or its implementation, is perfect—in fact, the NFF has been critical of its implementation to date — the appropriate and most pragmatic way to address these challenges is through the existing framework, not a new framework. The NFF seeks to work closely with stakeholders to ensure water users and basin communities are afforded certainty for the future.

Yours sincerely

TONY MAHAR
Chief Executive Officer