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Lifeblood Alliance submission to the Senate Rural and Regional Affairs and Transport Committee Inquiry into the Water Legislation Amendment (Inspector General and Other Measures) Act 2021

The Lifeblood Alliance consists of environmental, First Nation and community groups committed to keeping the rivers, wetlands and aquifers of the Murray-Darling Basin healthy for the benefit of current and future generations.

Lifeblood Alliance welcomes the Water Amendment Legislation Act. The Act establishes the Inspector-General for Water Compliance (IG) as a statutory entity to monitor and provide independent oversight of

- the performance of functions and exercise of powers by Commonwealth and Basin State agencies under the Water Act and regulations, the Basin Plan and water resource plans; and
- the implementation of a range of MDB intergovernmental agreements.

In addition, the Act creates new Commonwealth criminal and civil water offences and transfers responsibility for compliance and enforcement under the Water Act from the MDBA to the IG. This arrangement allows better separation of Basin Plan implementation (which rests with the MDBA) from enforcement (now with the IG) and reduces the potential for conflicts of interest.

However we believe the Act could be improved in the following ways:

1. The IG has broad discretion and considerable flexibility to scope and conduct its investigations pursuant to its compliance and enforcement functions. However there is no positive duty on the IG to ensure that the objectives of the Water Act are complied with. This could be remedied by adding a positive duty to exercise their functions consistently with, and so as to

promote, the international treaties that underpin the Water Act. The IG should also be required to investigate all complaints brought to their attention (unless shown to be vexatious).

2. The IG must be truly independent. The government currently proposes to house the IG within the Department of Agriculture, Water and Environment behind 'ethical walls'. A better option would be to establish a legislated Office of Compliance independent of all other government agencies. An obligation for full, timely and independent reporting directly to Parliament must be enshrined in the Act.

3. The IG must have strong compliance and regulatory powers in the public interest, and be able to investigate potential wrong doing in government agencies. A positive duty to act consistently with, and so as to promote, the international treaties which underpin the Water Act and strong transparency requirements would be of assistance.

4. The penalties set out in the Act may not be commensurate with the types of irreversible damage to environmental assets, in particular Ramsar listed wetlands, that could result from a significant aggravated take offence. Higher penalties should be considered.

2 August 2021.

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Australian Conservation Foundation, NSW Nature Conservation Council, Conservation Council of South Australia, Environment Victoria, Queensland Conservation Council, Murray Lower Darling Rivers Indigenous Nations, Northern Basin Aboriginal Nations, River Lakes and Coorong Action Group, Environmental Farmers Network, Inland Rivers Network, National Parks Association of NSW, Goulburn Valley Environment Group, Healthy Rivers Dubbo, Central West Environment Council and Healthy Rivers Lower Murray.