



3 August 2021

Committee Secretary
Senate Standing Committee on Rural and Regional Affairs and Transport
Parliament House
Canberra ACT

Via email: rrat.sen@aph.gov.au

Dear Committee,

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 Nature Conservation Council of New South Wales (NCC) is the state's peak environment organisation. We represent over 160 environment groups across NSW. Together we are dedicated to protecting and conserving the wildlife, landscapes and natural resources of NSW.

NCC welcomes the establishment of an Inspector General (IG) for water compliance.

The Act creates new Commonwealth criminal and civil water offences and transfers responsibility for compliance and enforcement under the Water Act from the Murray Darling Basin Authority (MDBA) to the IG. This arrangement allows better separation of the implementation of the Basin Plan from its enforcement, and reduces the potential for conflicts of interest.

The discretion, independence and resourcing of this new office will influence its effectiveness.

Recommendations

1. The IG has broad discretion and considerable flexibility to scope and conduct its investigations, pursuant to its compliance and enforcement functions. The role would be strengthened with the addition of a positive duty for the IG 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). Strong transparency requirements would be of assistance.



2. The IG must be truly independent. The amendment should establish a legislated Office of Compliance independent of all other government agencies.

3. 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.

Sincerely,

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Chris Gambian
Chief Executive
Nature Conservation Council of NSW