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SUBMISSION

Senate Environment and Communications Legislation Committee

Inquiry into the National Water Commission (Abolition) Bill 2014

Monday 13 October 2014

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Secretary
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INLAND RIVERS NETWORK
Working for river and wetland health since 1991
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Introduction

The Inland Rivers Network (“IRN”) is a coalition of environment groups and individuals concerned about the degradation of the rivers, wetlands and groundwaters of the Murray-Darling Basin. It has been advocating for the conservation of rivers, wetlands and groundwater in the Murray-Darling Basin since 1991.

Member groups include the Australian Conservation Foundation; the Nature Conservation Council of NSW; the National Parks Association of NSW; Friends of the Earth; Central West Environment Council; the Coast and Wetlands Society and the Wilderness Society, Sydney.

IRN welcomes the Senate decision to closely consider the implications of the proposed National Water Commission (NWC) Abolition Bill 2014 (the Bill) through the Environment and Communications Legislation Committee.

IRN notes that the principal issue for consideration by the inquiry is the impact of the Bill on the continuation of robust, independent and transparent monitoring and assessment of matters of national water reform and the management of Australia's water resources.

The initial Council of Australian Governments (COAG) water reform agreement in 1994 was driven by concern over environmental degradation and recognition of the water needs of the environment.

The water reform process has matured over the last 20 years and yet water dependent ecosystems and river health are still under threat.

IRN considers the maintenance of the current functions, knowledge and experience of the NWC is critical to maintain consistent understanding and reporting on the progress of water reform initiatives in Australia.

1. National Water Initiative

The National Water Initiative (NWI) was agreed to by the Commonwealth and all State and Territory Governments in 2004.

The aim of the NWI was to achieve¹:

- economically efficient water use and related investment that maximise the economic, social and environmental value of Australia’s water resources
- improved environmental water outcomes, including the identification and effective and efficient delivery of water to sustain the health of water-dependent ecosystems of waterways and wetlands.

This included:

- effective water planning: transparent and statutory-based water planning that deals with key issues such as the natural variability of water systems, major

¹ <http://www.nwc.gov.au/nwi/objectives>

water interception activities, the interaction between surface water and groundwater systems, and the provision of water to achieve specific environmental outcomes

- conjunctive management of surface water and groundwater resources: so that the connectivity between the two is recognised, and connected systems are managed in an integrated manner

The Commonwealth Government considers that after 10 years there has been considerable progress in enhancing the security of irrigation entitlements, enabling water markets and trade, strengthening Australia's water resource information base and improving urban water security.²

However, the achievement of improved environmental water outcomes is a critical component of the NWI that will take much longer and requires the continuation of robust, independent and transparent monitoring and assessment by experts in the field of water dependent ecosystems and hydrological modelling.

The integrated management of connected surface water and groundwater resources has not progressed satisfactorily and needs close ongoing oversight from the NWC.

IRN considers that the important role of the NWC in assisting in the implementation of the NWI and providing advice to COAG on national water reform has not been completed because not all of the reforms in relation to environmental outcomes have yet been achieved.

The NWC currently has carriage of a number of important oversight tasks relating to water reform that are significant or yet to be completed. These include:

1.1 Monitoring of Interstate trading

One of the NWC roles is to monitor the impact of interstate trades in the southern Murray-Darling Basin. The monitoring of the environmental impacts of the movements of water extraction along the river system is critical. There are also implications with the purchase, temporary trade and use of Commonwealth held environmental water in the Southern Basin that require independent monitoring.

1.2 Environmental Water Accounting

The aims of the NWI for accounting of environmental water have not yet been fully met. The use of planned environmental water in NSW water sharing plans is not monitored or reported on in any meaningful way. This is an issue that needs to be addressed through the expertise of the NWC.

1.3 Monitoring and Review

The NWI outlines significant tasks for the NWC towards the implementation of the agreement including the development of a comprehensive national set of performance indicators.

1.4 NWC assessment reporting

² Senate, National Water Commission (Abolition) Bill 2014, Explanatory memorandum, p2

A third biennial assessment report in 2010 – 11³ provided a comprehensive review of the NWI against the indicators. IRN is particularly interested in two of the NWI objectives that are still to be achieved:

NWI Objective 4: Complete the return of all currently overallocated or overused systems to environmentally sustainable levels of extraction

NWI Objective 10: Recognition of the connectivity between surface and groundwater resources and connected systems managed as a single resource

A number of key issues relating to environmental management were raised in the report as follows. IRN considers that the NWC knowledge in these areas is irreplaceable. The proposal to spread NWC tasks across a number of different agencies may result in much of the critical work to achieve the environmental objectives of NWI being left undone or falling through the cracks.

Report Excerpt:

- The water plans and environmental management arrangements established under the NWI are improving Australia's capacity to maintain important environmental assets and ecosystem functions and to support economic activity. They have not yet had time to deliver fully their intended outcomes or to demonstrate their efficacy over the long term, including during periods of climatic extremes.
- Despite the effort to recover water for the environment in some areas, many water resources are still not being managed sustainably. Nationally, there has been disappointingly slow progress in the explicit identification of overallocated and overused systems and in restoring those systems to sustainable levels of extraction.
- There has been some progress across jurisdictions in the development of environmental management institutions and their capacity to deliver environmental water. However, accountability for environmental outcomes remains weak. In particular, monitoring capacity is often inadequate, the necessary science to link environmental watering with ecological outcomes is generally weak, and there is a lack of transparent reporting of results.
- **Headline recommendations:**

Leadership

1. The National Water Commission calls on the Council of Australian Governments to recommit to the National Water Initiative as the guiding blueprint for sustainable water management in Australia and to task the Standing Council for Environment and Water to drive these reforms as a priority. COAG leadership is essential to reinvigorate national water reform.
2. All NWI parties must resolve to stay the course on their reform commitments and give priority to delivering the significant unfinished actions identified by this assessment. This is critical to reap the full benefits of past efforts and to meet the continuing imperative of increasing the productive and efficient use of Australia's water and ensuring the health of river and groundwater systems.
3. Governments around Australia should engage with their constituents to develop a shared

³ The National Water Initiative— securing Australia's water future 2011 assessment

understanding of why water reform is still vital to build resilient communities, productive industries and sustainable environments.

4. All levels of government should strengthen community involvement in water planning and management, recognising the value of local knowledge and the importance of regional implementation, and review institutional arrangements and capacity to enable effective engagement at the local level.

A maturing agenda

5. Australia needs a stronger and more contemporary urban water reform agenda. The Commission recommends that COAG develop a new set of objectives and actions to provide national leadership for urban water management.
6. Water quality objectives should be more fully integrated into the reform agenda, with better connections between water quality and quantity in planning, management and regulation to achieve improved environmental outcomes. There is also a need for a more coordinated and structured approach to urban water quality regulation at a national level.
7. Greater coordination of water management and natural resource management initiatives would yield significant gains, for example by better aligning the development, implementation and review of water plans and catchment plans.
8. The Commission urges states and territories to review their existing mining and petroleum regulatory arrangements to ensure that water resource impacts are addressed explicitly, and that those extractive activities are fully integrated into NWI-consistent planning and management regimes.
9. It would be prudent at this stage to analyse the nature and materiality of potential changes to water use as a result of climate change adaptation and mitigation initiatives. Water management policies may need to be elaborated to operate more effectively in the context of these new initiatives.

Making it happen

10. Evidence-based decision making and good stewardship of Australia's water assets rely on robust science and socioeconomic information. The Commission reiterates its call for a national water science strategy, backed by sufficient investment to deliver the required capacity. To support improved water management, the Commission also recommends that water service providers and governments state publicly their commitment to resource adequately and implement fully the National Water Skills Strategy.
11. Renewed political commitment will require a refreshing of the approach to national reform. The Commission proposes that each of Australia's governments commit to a program of specific actions every three years, based on agreed national priorities and jurisdictional priorities underpinned by the NWI commitments, together with explicit levels of resourcing to implement the program. In the interests of accountability and transparency, the Commission calls on COAG to recommit to oversight of water reform progress by an independent assessment body.
12. The Commission urges COAG to consider a new approach to incentives to encourage the delivery of nationally significant water reforms.

IRN considers that these recommendations are critical to the achievement of the scale of water reform that is needed to put Australia on a sustainable water use footing.

There is still a significant amount of work needed to turn around the degradation of water dependent ecosystems, water dependent species and river health across the continent.

IRN considers it critical that the NWC continue to carry on the independent oversight of the water reform process so that the key objectives of the NWI are met.

2. COAG report on NWC (Attached)

The National Water Commission Act 2004, and the NWI required COAG to conduct an external review of the NWC in 2011.

The report handed down by Dr David Rosalky in December 2011 concluded that: *“the NWC should continue, without sunset, for the duration of the NWI agenda and with essentially the same governance arrangements that it now has with its legislation strengthening its independence as a COAG body.”*⁴

The report identified a number of issues regarding the NWI and related work of NWC.

These include the ‘ambitious’ timetable adopted for the completion of NWI milestones because some key reforms had proven to be ‘technically and politically’ difficult.⁵

The report particularly notes that the elements of the NWI still to be implemented are the most difficult and the role of the independent NWC is likely to be even more important in the future.

It is recognised that highly technical research on the state of Australia’s water resources, riverine systems and their dependent communities and industries will be needed to inform policy formation and implementation.⁶

The NWC has provided key services in each of the areas of core functions for future reform.⁷

These include the roles of auditing NWI progress, conducting the biennial assessments of how well NWI objectives are being achieved, investing in studies where knowledge gaps were identified and the development of tools to assist the delivery of technical tasks.

The report states that combining all of these activities into a single entity *‘ensures the free flow of information and a comprehensive understanding of the state of the reform process.’*⁸

The efficiency and effectiveness of each of the core functions is enhanced by having a single entity responsible for monitoring, audit and assessment.

⁴ Rosalky, D, 2011. COAG Review of the National Water Commission p vi

⁵ Ibid p i-ii

⁶ Ibid p ii

⁷ Ibid p iii

⁸ Ibid p v

The report acknowledges that the NWC has become a credible, specialist organisation in water reform by building relevant skills and methodologies.

*'Its independence is recognised and valued by stakeholders, especially those outside government.'*⁹

IRN strongly concurs with the findings of the report that there has been a failure to meet the harder objectives of NWI and that a lot of important work is still needed. The role of the NWC is critical in achieving good outcomes in the water reform process because of its experience and body of expertise built up over the past 10 years.

The proposed abolition of the NWC is regarded by IRN as a strong signal that the Commonwealth Government is walking away from water reform.

3. Indigenous Water Rights

NWC has been a strong advocate for the achievement of indigenous water rights. The NWI commitment to provide for indigenous access to water resources¹⁰ is one of the outstanding tasks to still be achieved.

IRN is concerned that there is no recognition of this important aspect of NWC work and no consideration of what other Government body might take over this role.

4. Constraints with role of Productivity Commission

IRN does not support the proposed transfer of two key statutory functions of the NWC to the Productivity Commission (PC).

These are the triennial assessments of the progress of the NWI and the audits of the implementation of the Murray-Darling Basin Plan and associated Basin State water resource plans.

IRN considers that the PC does not have the appropriate expertise in water dependent ecosystems and hydrological modelling to carry out these detailed assessments and audits. Neither does the PC have the required legislative base to conduct these activities.

The body of knowledge and experience built up by the NWC, as recognised in the independent COAG review, cannot be provided by the PC.

The key purpose of the PC is to improve the productivity and economic performance of the economy. The core function of the PC is to conduct inquiries on key policy or

⁹ Ibid p v

¹⁰ COAG, 2004. Intergovernmental Agreement on a National Water Initiative clause 52

regulatory issues bearing on Australia's economic performance and community well being.¹¹

IRN considers that the task of assessing and auditing key outcomes of the NWI and Murray-Darling Basin Plan implementation is a highly technical activity that requires the expertise developed by the NWC.

There is no indication that the PC can effectively perform this important role or has the necessary expertise to assess and audit the environmental outcomes achieved by the water reform process. These skills could not be acquired by the PC without the allocation of significant additional funding, which would negate one of the key justifications for abolishing the NWC.

IRN recommends that any current duplication of work on water issues could be solved by giving it all to the NWC. The PC currently runs inquiries on urban water issues. This would not be necessary if all independent oversight of water management arrangements were conducted by the NWC.

5. Poor financial outcome from proposed abolition of NWC

The key purpose for abolishing the NWC appears to be the saving of \$20.9 m over 4 years. IRN considers this saving to be false economy within the context of the important public benefit provided by the NWC and the need for the continuation of robust, independent and transparent monitoring and assessment of matters of national water reform and the management of Australia's water resources.

This proposed saving is insignificant when compared to the size of the investment in the Murray-Darling Basin Plan. There is currently over \$3 billion dollars allocated to infrastructure spending in the Basin to achieve a more sustainable water management system.

The environmental outcomes of this investment are at the high risk end and it is critical that the technical tools and knowledge base of the NWC are available to assess the Basin Plan and the associated Water Resource Plans as they are being developed and implemented.

This level of informed assessment will provide the community with a greater assurance that public investment is being used wisely and will help to provide the necessary outcomes to achieve a more resilient river system.

The NWI identifies that integrated management of environmental water should be achieved by optimising the cost effectiveness of measures to provide water for environmental and other public benefit outcomes¹².

The Commonwealth Government has moved away from this agreement by capping water buyback as a method of returning water to the environment and choosing the more costly and less reliable infrastructure investment.

¹¹ <http://www.pc.gov.au/about-us> Operating Principles and Guidelines

¹² COAG, 2004. Intergovernmental Agreement on a National Water Initiative clause 78 iii)

The budget savings sought by abolishing the NWC would be better found through reassessing the Basin Plan investment commitments.

While the Government has chosen to accept the advice from the Commission of Audit on the abolition of the NWC, it has ignored the advice on cost efficient environmental water recovery.

*“Commonwealth funding is also provided to meet the public benefit of recovering environmental water for the Murray-Darling Basin. Water recovery is funded through a range of different measures including buying water entitlements and funding private infrastructure that will return water to the river system. **The Commission considers that the Government should focus on maximising public benefits and achieving value for money in its water recovery, not on providing industry assistance. This means moving away from infrastructure funding, which is significantly more expensive and which provides substantial private benefits to landholders.**”¹³[bold added]*

IRN recommends that the Commonwealth Government achieve the required budgetary savings by maintaining the essential work of the NWC and redirecting funding away from private benefit infrastructure and towards water licence purchase.

6. Poor justification and outcomes from proposed abolition of NWC

The Commonwealth Government has justified the abolition of the NWC because of the belief that there has been considerable progress in national water reform, through enhancing the security of irrigation water entitlements, enabling water markets and trade, strengthening Australia's water resource information base and improving urban water security.

However, as outlined previously in this submission there is still a considerable amount of work to be done to achieve the environmental objectives of the NWI.

IRN does not support the Commonwealth Government's position that:

‘Given both the substantial progress already made in water reform and the current fiscal environment, there is no longer adequate justification for a stand-alone agency to monitor Australia's progress on water reform.’¹⁴

IRN maintains that the proposal to split the important work of the NWC across the PC, the Department of the Environment and the Australian Bureau of Agricultural and Resource Economics and Sciences means that consistency and an overarching view of the implementation of the NWI will be lost.

Many important roles of the NWC such as investing in studies where knowledge gaps are identified and the development of tools to assist the delivery of technical tasks have not been identified in the abolition bill.

¹³ National Audit Commission 2014 *Towards Responsible Government*, Appendix Volume 2 p10

¹⁴ Senate, National Water Commission (Abolition) Bill 2014, 25 September Hansard second reading

Conclusion:

IRN considers that the completion of the agreed water reform in the NWI is a critical process to ensure a secure future for Australia's water resource systems.

There is still a need to better consider water quality, connectivity between surface water and groundwater systems and integration of mining and petroleum regulatory arrangements to ensure that water resource impacts are addressed explicitly.

The maintenance of the NWC as an independent stand-alone monitoring and reporting agency is essential to achieve the significant objectives of the NWI