



Environment Centre NT

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Senate Environment and Communications Legislation Committee
Parliament of Australia

Monday, 13 October 2014

To the Secretariat,

Re: Submission regarding the National Water Commission (Abolition) Bill 2014

Thank you for the opportunity to comment on the National Water Commission Abolition Bill.

The Environment Centre of the Northern Territory (ECNT) is the peak community sector environment organisation in the Northern Territory.

The mission of ECNT is to:

- protect and restore biodiversity, ecosystems and ecological processes,
- foster sustainable living and development, and
- cut greenhouse gas emissions and build renewable energy capacity.

ECNT is strongly opposed to the passing of this Bill. The National Water Commission (NWC) has played a critical role in improving water resource management in Australia and performs an important role beyond the Murray-Darling Basin in providing a level of independent oversight for states and territories, including the Northern Territory (NT).

ECNT has engaged in national water reform through water allocation processes in the NT until November 2012 when the NT Government began issuing very large ten year water licences (up to 12GL) outside of the water allocation planning process outlined in the National Water Initiative (NWI) and scrapped the previously established regional water advisory committees informing the drafting of those plans.

The statements, assessments and information provided through the NWC informed critical water planning processes, including two Draft Water Allocation Plans for the Ooloo Dolostone and Tindall (Mataranka) Aquifers, which despite being finalised by the relevant community Advisory Committees, were never accepted by the relevant Minister and are now set aside in favour of water licencing outside of any established water planning process.

ECNT strongly disagrees with point 5 of the Explanatory Memorandum:

Since the Australian Government and all State and Territory Governments agreed to the NWI in 2004, there has been considerable progress in enhancing the security of irrigation water entitlements, enabling water markets and trade, strengthening Australia's water resource information base and improving urban water security.



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Although progress has occurred in some other states, sadly the NT has now fallen far behind its commitment to national water reform.

In 2012, the newly appointed Controller of Water Resources was also delegated responsibilities as Director of the Department of Land Resource Management which also has powers to grant native vegetation clearing permits, a move which is both unusual and unprecedented in the NT.

As it currently stands, nearly 68GL has now been licenced by the Controller from the Ooloo Dolostone Aquifer which critically feeds the Daly River. All of these licences have been granted outside of the water planning processes determined in the NWI, which was signed by the NT Government in 2004. Total water extraction through water licences now exceeds the agreed maximum cap on extraction of 60GL previously set by the Daly River Management Advisory Committee, informed by the best available science, Traditional Owners, industry representatives and community stakeholdersⁱ. Over 19GL has now been issued from the Tindall (Mataranka) Aquifer, 1GL over the agreed maximum cap on extraction.

The NT Government has dismissed the expressed concerns of Traditional Owners, environment groups (including ECNT), fishing bodies, scientists and farmers in continuing to grant large long-term licences outside the water allocation process and in a manner which is neither fair nor transparent, nor consistent with the NWI or the principles of ecologically sustainable development.

A properly resourced NWC with strengthened powers requiring states and territories to comply with the NWI within a timeframe is required to address these very serious water resource issues. ECNT has no confidence that the NT Government is moving to comply with the NWI given its disregard for its principles as demonstrated by its recent water resource management decisions.

The two Draft Water Allocation Plans also included provisions for a Strategic Indigenous Reserve, water set aside for economic development by Indigenous communities, a policy which has now been scrapped, leaving Traditional Owners in the Daly region without access to water for development (given the extraction level now exceeds 67GL) and setting the stage for future water conflicts between industry, farmers and Traditional Owners, with increased extraction from environmental flows.

It should also be noted that these levels of extraction do not include water use by mining or petroleum companies, of which the water extraction rates are unknown, including that by shale gas hydraulic fracturing.

In light of the fact that the NWC has now been defunded by the Federal Government, and with all options exhausted, in the public interest ECNT has made the hard decision to pursue legal action against the Minister for Land Resource Management, represented by the Environmental Defenders Office NTⁱⁱ, regarding the water licence decision-making process.

In relation to points 13 to 16 outlined in the Explanatory Memorandum:



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STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

13. *The Bill repeals the NWC Act, abolishing the NWC, a Commonwealth agency established by the Act. The principal role of the NWC is to provide oversight and assessment of national water reform. The Bill will also transfer two functions, the triennial assessment function and the Basin Plan audit function, to the PC.*
14. *The Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.*
15. *The Bill does not engage any of the applicable rights or freedoms. The proposed amendments are of a machinery of government nature and do not limit any human rights or provide for any offences or penalties.*

Conclusion

16. *The Bill is compatible with human rights as it does not engage any of the applicable rights or freedoms*

ECNT believes that this Bill is in potentially in breach of international law, in so far that it:

- May not comply with Articles 25-29 of the United Nations Declaration of the Rights of Indigenous Peoples
- May not comply with the Principles of Ecologically Sustainable Development outlined under the United Nations Convention on Biological Diversity

Avoiding future water conflicts by reinstating the NWC will save taxpayer dollars in the long-term. Independent Federal oversight of the NWI is required to ensure water resources are far less likely to become depleted, that resource allocation decisions are made under a fair, transparent and informed process. This will ensure that we make the very best use of our limited water resources so that river health, fisheries, livelihoods, cultural sites, threatened species and iconic tourist destinations are protected from the impacts of over-extraction.

Importantly, research conducted and funded by the NWC has also been critical to building well-informed decision-making processes around water resource allocation and management.

Australia now has the opportunity to demonstrate that it has learned from the historical mistakes made in the Murray-Darling Basin, which created an ecological, economical and agricultural crisis and cost millions of taxpayer dollars to fix. It has the opportunity to plan for a future where water resources are managed properly, fairly and our rivers are valued for the huge amount of production they naturally provide.

Northern Australia, particularly the NT, needs a NWC now more than ever. As we see greater pressure placed on our water resources, it is critical that fair, transparent and informed water



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allocation planning processes are in place with oversight from an independent national body to ensure this occurs in the right way for the benefit of all water users and future generations.

Please, do not abolish the NWC.

Sincerely,

Anna Boustead
Policy and Campaigns Director, Environment Centre NT

ⁱ http://www.lrm.nt.gov.au/_data/assets/pdf_file/0003/354558/statement_of_decision_NTP6072_6071.pdf

ⁱⁱ <http://www.ecnt.org/media/water-extraction-row-goes-court>