



National Farmers' Federation

Public Submission to the Senate Inquiry into the Water Amendment Bill

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Member Organisations



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National Farmers' Federation

The National Farmers' Federation (NFF) was established in 1979 and is the peak national body representing farmers, and more broadly agriculture across Australia.

The NFF's membership comprises of all Australia's major agricultural commodities. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations collectively form the NFF.

Each of these state farm organisations and commodity council's deal with state-based 'grass roots' issues or commodity specific issues, respectively, while the NFF represents the agreed imperatives of all at the national and international level.

Introduction

The NFF welcomes the opportunity to provide a submission to the Senate Standing Committee on Rural & Regional Affairs & Transport Inquiry into the Water Amendment Bill 2008 (the "Inquiry"). This Inquiry is seeking the views of stakeholders on the amendments proposed to enact the Murray-Darling Basin Water Reform Intergovernmental Agreement (the "IGA") signed in July 2008 and the Referral Intergovernmental Agreement (the "Referral IGA") which NFF understands has been signed by COAG in the intervening time.

The NFF has been supportive of the enactment of Commonwealth powers to put in place improved governance and water management of the Murray-Darling Basin. The first tranche of these powers was enacted by the former Coalition Government as the Water Act 2007 (the "Act") using the Commonwealth's powers under the Constitution and International Conventions, e.g. Ramsar Wetlands and Migratory Birds. The Act sought to provide for a Basin Plan, established a Murray-Darling Basin Authority and a Commonwealth Environmental Water Holder, as well and providing specific roles for the ACCC (water market and charge rules) and the Bureau of Meteorology (collection of information).

NFF and other stakeholders were accorded significant consultation on the drafting of the Act and importantly the referral of powers sought by the Commonwealth. These powers were initially drafted into the Water Bill 2007 and commonly referred to as Version 61. As the Coalition Government were unable to seek the referral, the Bill was amended to exclude those powers that were unable to be referred from the States, and duly passed.

The Federal Labor Government has achieved this referral of powers under the IGA signed in July 2008. A subsequent Referral IGA has been drafted to give direction about how the States and the Commonwealth will draft their respective legislation on the referral of powers. The Commonwealth legislation is known as the Water Amendment Bill 2008 (the "Bill").

NFF understands that the NSW Government has passed its referral legislation, and that the South Australian, Queensland and Victoria Governments have put their legislation into Parliament. In the meantime, the Federal House of Representatives has passed the Bill without change, it is being considered by this Senate Inquiry and NFF understands that the Federal Senate cannot debate the Bill until all state parliaments have passed their referral legislation.

Water Amendment Bill – structure

The Bill is drafted into three main areas:

1. Schedule 1 are those amendments relating to the referral of powers, including the inclusion of the current Murray-Darling Basin Agreement as a new Schedule 1 to the Act;
2. Schedule 2 – other amendments not reliant on the referral of powers or that are administrative in nature; and
3. Schedule 3 – transitional provisions that mainly relate to the Murray-Darling Basin Authority administration and governance such as staff and appointments.

The majority of amendments are located in Schedule 1 and Schedule 2. Schedule 3 is largely irrelevant to the irrigation sector.

Water Amendment Bill – NFF position

The bill is a significant document – some 306 pages, making this a more extensive document than the current Act. The major reason for this is that it is proposed to append the Murray-Darling Basin Agreement (referred to now as the “former Agreement”) as Schedule 1 of the Act.

Assessing the impact that the Bill will make on the Act, and consequently water access entitlements has been difficult due to the large number and complexity of amendments. NFF concerns have been provided to the Commonwealth, and a formal response has been obtained. NFF remain in discussions with the Commonwealth about any remaining concerns and whether there is a need for amendments to the Act to be introduced into the Senate or whether clarification can be included in the Minister’s speech when the Bill is introduced into the Senate.

In summary, the major concerns related to the introduction, through policy change, of the new arrangements for critical human needs and reserves (for both critical human needs and South Australian private carry over). Whilst the bill provides that these arrangements will not affect the State shares, this may not correlate to changes to individual water access entitlement holders in each State.

A lot will depend on the triggers for each of the Tiers, and rules around reserves (such as individual entitlement caps on water use for allocation and carry over) – all of which will be

developed for inclusion in the Basin Plan. NFF urges that these new arrangements are modelled to ascertain any positive or negative impacts.

If the Governments (both State and Federal) are confident that these new arrangements will not affect the reliability of water access entitlements, then there should be no objection to the inclusion of an amendment to ensure that any impact triggers NWI Clause 50 risk assignment. Clause 50 provides that changes of government policy are borne 100% by Government. This must undoubtedly include any policy changes put in place by State Governments arising from these new arrangements.

Recommendation 1: That the Water Amendment Bill include provisions that any impacts arising from the introduction of the new policies for critical human needs and reserves will trigger risk assignment under the National Water Initiative (Clause 50).

An assessment of the impacts should be provided at the earliest opportunity, such as the development of the Basin Plan or at the latest the first review of the Basin Plan and Water Act.

Recommendation 2: A review of the impacts arising from the new policies should be undertaken at the earliest opportunity.

NFF observes that the new reserves have not triggered a review (relevance, timing and quantum) of the current minimum reserves and would recommend that this take place particularly given that new reserves policies have been agreed by COAG and are provided in the Bill. It is unnecessary to have provisions for multiple reserves. Such a review may result in changes to current reserves arrangements that may negate any impacts of the introduction of new policies.

Recommendation 3: That the Water Amendment Bill includes provisions to review the current reserves policy (Clause 103 of the Agreement, Schedule 1 of the Bill).

Conclusion

NFF supports the provisions of the Water Amendment Bill. However, to ensure that water access entitlements are not affected by a change in Government Policy (i.e. new policies for critical human needs and reserves), NFF strongly suggests the inclusion of amendments to include a provision for NWI risk assignment Clause 50. This amendment should be included in Division 4 of the Water Act. Also beneficial would be a review of the impacts of these new policies at the earliest opportunity along with a review of the existing minimum reserves policy.

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