

13 October 2014



Senator Anne Ruston
Chair
Senate Standing Committees on
Environment and Communications (Legislative Committee)
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senator Ruston

Inquiry into the National Water Commission (Abolition Bill)

I am writing in response to the call for submissions to the Senate Inquiry into the *National Water Commission (Abolition) Bill 2014* (herein the Bill). While the National Farmers' Federation (NFF) was disappointed to see the National Water Commission (NWC) abolished, the Government's commitment to continuing many of the NWC's key roles is welcomed.

The NFF has had a long commitment to ensuring independent oversight of the implementation of the National Water Initiative (NWI) by governments at all levels - State, Territory and Federal. The NFF is largely satisfied that the Bill continues this important role.

This submission canvasses each of the key changes proposed by the Government, and includes specific recommendations for amendment to strengthen the proposed new arrangements.

The Productivity Commission

The NFF supports the Government's decision to transfer to the Productivity Commission responsibility for the triennial assessment of the progress of implementing of the National Water Initiative and for the auditing of the Murray-Darling Basin Plan.

For this transfer to be successful, it is critical that the Productivity Commission is empowered by the Parliament to:

- a) adopt a "triple bottom line" approach to its assessments and audits
- b) appoint Commissioners or Assistant Commissioners with the appropriate expertise
- c) adopt a more collaborative approach to involving stakeholders in their audit processes than their standard business practice
- d) consider the broader process of review of the Murray-Darling Basin Plan
- e) have access to the historical records of the NWC.

Each of these areas are explored in further detail below.

a) Triple Bottom Line

In NFF's view, a key strength of the NWI is its equal focus on achieving social, economic and environmental outcomes. This equal focus translated across to both the structure of the NWC, the skills of its Commissioners and the breadth of expertise of its staff. NFF acknowledges the concerns of fellow water stakeholders that the Productivity Commission has an industry and productivity focused mandate. Specific amendment to the proposed changes to Section 87 and 88 and the Water Act 2007 would ensure that the triple bottom line approach is continued.

NFF recommends amendment to the Bill to ensure that the Productivity Commission adopts a triple bottom line approach to its assessments and audits.

b) Expert Commissioners

To ensure that the triple bottom line of the NWC was comprehensively embedded in its approach, Section 11 of the *National Water Commission Act (2004)* specified the areas of high level expertise required by Commissioners for appointment. The areas of expertise included in the NWC Act were water resource management; freshwater ecology or hydrology; resource economics; public sector governance; and the audit, evaluation or implementation of programs relating to natural resource management.

NFF recommends that a similar approach be included in this Bill, to ensure that Productivity Commission led inquiries and audits be conducted by Commissioners that have the range of expertise required. In addition to the areas outlined above, NFF considers it pertinent to also include those with expertise in indigenous water management, urban water supply and rural water management.

NFF recommends amendment to the Bill to specify the expertise of the Productivity Commissioners or Assistant Commissioners who conduct inquiries and audits under the proposed new Sections 87 and 88 of the Water Act 2007.

c) Collaborative approach

NFF highly valued the collaborative approach adopted by the NWC when carrying out its functions. The formal mechanism to this approach was the NWC's Stakeholder Reference Group, which included representatives of industry, the environment, and indigenous stakeholders¹. This approach was a valuable conduit of information between water sector stakeholders with broad ranging interests and the NWC. It provided a platform to discuss and develop key positions, and to ground truth in a robust way the progress of jurisdictions in implementing reform. NFF would be very concerned if the Productivity Commission adopted a very narrow approach to consultation – for example through only submissions and/or public hearings – to inform its assessment and audit processes.

NFF notes that the *Productivity Commission Act (1998)* has provisions for the Productivity Minister to direct the process of inquiry adopted by the Productivity Commission (section 11(1)).

¹ For a detailed list of participating stakeholders see <http://www.nwc.gov.au/organisation/partners/srg>

NFF would like to see amendment to the Bill to enshrine a stakeholder reference group as part of the Productivity Commission's process.

NFF recommends amendment to the Bill to require the Productivity Commission to establish a Stakeholder Reference Panel to consult with the broad range of interests in the water sector.

d) Audits of the Basin Plan

The Bill includes specific amendments to section 87 of the *Water Act 2007* to require the Productivity Commission to audit the effectiveness of the implementation of the Basin Plan and Water Resource Plans every 5 years, with the first audit to be conducted by the end of 2018.

NFF notes that the nature and timing of audits and reviews of the Basin Plan is currently the subject of comprehensive consideration by the Review Panel conducting the statutory review of the *Water Act (2007)*. In our submission to this review, NFF noted the overlapping nature of many reviews that are embedded in both the *Water Act* and the Basin Plan, and the opportunity to streamline these processes.

NFF notes that the Bill seeks to reduce the flexibility of the current section 87 of the *Water Act 2007* (e.g. 87(1) The NWC may audit...”), leaving the Productivity Minister with no discretion (The Productivity Minister must...”).

Should the Review Panel make any specific recommendations in relation to the timing of the Basin Plan and Water Resource Plan audit function, amendments to these new provisions would be required.

NFF recommends that the Senate Inquiry be cognizant of the Statutory Review of the Water Act 2007, particularly in relation to the nature and timing of audits of the Basin Plan.

NFF recommends that legislation reflect the existing provisions of the Water Act 2007 and provide the Productivity Minister with some flexibility in timing of the commissioning of inquiries to accommodate efficient review of the Basin Plan and water resource plans.

The transitional provisions of the Bill include a clause that transfers the records of the NWC to the Department of the Environment (section 8). NFF recommends that to assist the efficient transfer of knowledge that the Productivity Commission be given shared access to all records pertinent to the conduct of triennial assessments and Basin Plan Audits.

NFF recommends that the Bill be amended to ensure that the Productivity Commission has unfettered access to the records of the NWC that are pertinent to its roles.

Department of the Environment

The NFF is satisfied that the Department of the Environment is appropriately placed to advise the Minister on milestone payments to the Murray-Darling Basin states and to provide advice relating to the Carbon Farming Initiative to the Clean Energy Regulator.

Australian Bureau of Agriculture and Resources Economics and Sciences

The NFF welcomes the decision to transfer water market reporting responsibility to ABARES. In our view, there is a great opportunity to build a strong connection between ABARES new role in water market reporting and their expertise in farm business analysis. Combining this expertise will help provide farmers with the useful tools and resources they need to make sound decisions to maximise the value of their water entitlements.

NFF would be pleased to present to the Committee, should you be holding hearings. If you require further information about the matters raised in this letter, please do not hesitate to contact Ms Jack Knowles, Manager NRM Policy on [REDACTED]

Yours sincerely

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TONY MAHAR
Acting Chief Executive