



Conservation
Council SA

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

3 August 2021

Dear Committee,

RE: Submission to the Senate Rural and Regional Affairs and Transport Committee Inquiry into the Water Legislation Amendment (Inspector General and Other Measures) Act 2021

Thank you for the opportunity to submit to the inquiry into the Water Legislation Amendment Act 2021. Conservation SA is an independent, non-profit and strictly non-party political organisation representing around 60 of South Australia's environment and conservation organisation and their 90,000 members.

As South Australia's peak environmental body, Conservation SA welcomes the establishment of an Inspector General for water compliance. The effectiveness of this role will depend on a number of factors including;

- how the Inspector General chooses to exercise his/her discretion,
- whether the office is appropriately resourced to conduct in-depth investigations into allegations of non-compliance, and
- whether the office maintains its independence. This independence will prove to be particularly important in relation to possible allegations involving Commonwealth water officials.

Conservation SA welcomes the compliance and enforcement functions previously held by the MDBA being separated and moved to the Inspector-General. When announcing the Interim Inspector-General in 2019 Minister Littleproud announced the position would be "a new tough cop on the beat across the Murray-Darling, with the powers needed to ensure integrity in delivery of the Basin Plan¹".

The Inspector-General will be required to hold the MDBA, Commonwealth and all basin states to account. Conservation SA is concerned that having the Inspector-General's office located within the Commonwealth Department of Agriculture, Water and Environment will raise the potential for

¹ <https://minister.awe.gov.au/littleproud/media-releases/new-inspector-general-basin>

conflicts of interest. Water management is often a highly politicised topic and nesting this role within a Department has the strong potential to negate its 'independence'. It is our belief that the Inspector-General and their associated office should be entirely separate from any water agency in order to avoid any real or perceived conflict of interests arising.

Furthermore, the terms of reference for the Inspector General say the role 'will seek to restore confidence for all stakeholders in the integrity of the Murray Darling Basin Plan'. Notwithstanding Mr Grant's past experience in law enforcement, Conservation SA is concerned the role to 'deliver the highest accountability for water use' has been awarded to a former NSW politician.

Despite declaring this obvious conflict of interest, we believe the most appropriate course of action would be to establish a legislated Office of Compliance independent of all other government agencies.

The broad discretion of this position allows for flexibility to conduct investigation. However, it is not clear within the Act what happens if the Inspector-General chooses not to exercise its discretion. An inclusion of a duty for the Inspector-General to exercise their functions consistently with, and to promote, the international treaties that underpin the Water Act would negate this issue.

Conservation SA recommends that penalties for illegal water extraction be increased in order to reflect the serious nature of the offences. Current penalties are not commensurate with the damage that results from water theft. Further penalties should be set at three times the benefit obtained by committing the offence to deter irrigators and protect the environmental assets within the Murray Darling Basin.

Recommendations to improve the Act:

1. The Office of the Inspector General be moved to a separate and independent compliance and enforcement agency in order to avoid any real or perceived conflicts of interest
2. Adding a positive duty to act consistently with, and so as to promote the international treaties which underpin the Water Act
3. Stronger penalties for individuals and companies that are found to be non-compliant. For example, penalties of three times the benefit obtained by committing the offence.

Thank you again for the opportunity to submit to the Committee's inquiry.

Yours sincerely,

Craig Wilkins
Chief Executive