

**Senate Rural and Regional Affairs and
Transport Committee**

**Inquiry into Water Management in the
Coorong and Lower Lakes**

080905

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Introduction

NSW Irrigators' Council (NSWIC) represents more than 12,000 irrigation farmers across NSW. These irrigators are on regulated, unregulated and groundwater systems. Our members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries.

In responding to this Inquiry, NSWIC is responding with the views of its members. However each member reserves the right to make independent submissions on issues that directly relate to their areas of operation, or expertise, or any other issues that they may deem relevant.

General Comments

Irrigators in NSW are well aware of the dreadful consequences of prolonged drought. Impacts are manifested in their businesses, on their families, on their communities and on their environment.

It would be incorrect to surmise that irrigators care not for their environment – and it would be further incorrect to assume that the Coorong and lower lakes are the only environmental assets severely affected by the current drought.

Irrigators rely on environmental assets – rivers and streams – to deliver water, a vital asset to their business. Even solely as a business concern, irrigators and the environment are intrinsically linked. Moreover, irrigators are often at the front line of environmental management, through Land and Water Management Plans, through projects such as the Rice Growers Association “Environmental Champions”, the adoption of the cotton industry’s “Best Management Practice” program and through direct management of assets.

The Committee will no doubt be aware that the impacts of this prolonged drought have been felt across the Murray Darling Basin – and further afield still. What the Committee must also take into account in its deliberations is the affect that this has had on environmental assets across the system, not just in the lower part. Wetlands across the southern connected system are suffering. Acid sulphate build up in soils is occurring much further upstream than simply Lakes Alexandrina and Albert.

NSWIC makes this point not to trivialise the extraordinary circumstances that face the lower lakes and Coorong, but to urge the Committee to recognise the enormity of the task at hand – to manage a large range of environmental assets with limited capacity to do so.

First Hand Understanding

NSWIC has played a leading role in bringing together irrigators from across Australia since November 2007. We have developed a first hand understanding of the challenges faced in each state and have discussed at length the process of consumptive water use in each state.

We have toured the lower lakes and Coorong to obtain a first hand understanding of the challenges that face this particular part of the system. We recognise their specific issues and have developed an “on ground” understanding of proposed solutions.

At the same time, NSWIC directly represents irrigators in the northern part of the Murray Darling Basin, those along the length of the Darling River, those along the Murrumbidgee and the NSW Murray. We understand their approach to water and environmental management and we understand what impacts that any action will have on their businesses, their families and their communities.

In short, NSWIC is uniquely and ideally placed to provide the information that the Committee desires.

Approach to the Inquiry

NSWIC notes that the Terms of Reference are in two sections – a section on the provision of short term relief to report by 30 September and a section on longer term management to report by 4 December.

This submission should be considered in two parts. This current document addresses only the first section. A second submission addressing the second section will be lodged in due course.

Terms of Reference

- A. *The volume of water which could be provided into the Murray Darling system to replenish the Lower Lakes and Coorong;*

There is a simple reason why the lower lakes and Coorong are short of water – there is a shortage of water in the entire system.

Some elements of the media – and, consequently, members of the public – have suggested that high levels of upstream extraction have produced the problem of low flows at downstream assets. Such suggestions are entirely inaccurate.

Southern Connected System

Allocations for irrigation in the southern connected system¹ remain at devastatingly low levels. In NSW, allocations to general security licenses in the southern connected system remain at zero, where they have been (or close to)² for the past two years.

As at 19 August, a total of 263 gigalitres has been allocated to irrigators in the NSW southern connected system. The vast majority of this will be used to keep permanent plantings viable. Water held in regulated streams as carryover water is likely to be used for the same purpose.

That said, NSWIC recognises that some irrigators may choose to sell high security or carryover allocations. The Government may consider entering the temporary market to obtain water in this fashion. We note in particular the recent decision of a large irrigator on the Darling River who has received a full allocation to sell that water.

It is vitally important, however, that the Government recognise that demand for this water will be fierce for one reason in particular – many irrigators desperately need water to ensure the viability of permanent plantings. If they are unable to meet the prices offered by government, they will be forced out of the market. This may materially affect the viability of their business, which

¹ Murray, Murrumbidgee and Lower Darling.

² Murrumbidgee General Security has had small allocations in the last two years.

would have significant flow on affects to their community. NSWIC estimates a multiplier of nine in terms of economic impacts from irrigated agriculture. As a result, Government activity to compete for this allocation water may have a significantly higher cost to the Australian community that the dollar value paid for the water.

Consideration will clearly be given to the approximately 500 gigalitres of water in the Menindee Lakes.³ The State of NSW has reserved this water to underwrite flows to the Murray, effectively to ensure critical human needs water for Adelaide (and Broken Hill). NSWIC reaffirms its position that critical human needs⁴ must be the first priority for water. As such, diversion of this water for environmental purposes potentially results in devastating effects for Broken Hill and Adelaide.

Moreover, Menindee Lakes cannot be seen simply as water storage. It is, in itself, a significant environmental wetland and a major site for bird breeding events.⁵ The Committee must seriously consider the efficacy of draining one wetland to supplement another whilst suffering transmission losses in the process. At the same time, consideration must be given to the effect of exposing the bed of the Menindee Lakes and the likely onset of acid sulphates in these soils. There is a real chance that political considerations could overarch sensible decision making given the relative proximities of the lower lakes to Adelaide and the Menindee Lakes to significant human settlement.

Northern Basin

NSWIC recognises that the northern part of the Basin experienced useful inflows resulting in allocation being made available to irrigators in both NSW and Queensland last year. We note that no allocations have been made in northern NSW this year. It should be noted that Northern NSW has experienced 6 dry years. As an example, the Gwydir Valley modelled long term average reliability is 42% but the last 6 years is a little over 11%.

We understand that around 600 gigalitres of water was held in private storages in this part of the Basin in early August.⁶ Again, this water may be available for purchase by the Commonwealth.

We note, however, that this part of the Basin has also experienced prolonged drought in recent years. Many irrigation businesses in this area are relying on the cashflow that will be generated by crops underpinned by the water held to maintain their viability. Put simply, they need a crop to be able to continue. Again, Government purchase of this water may have significant consequences not only for these businesses, but the economies and communities that they support.

³ DEWHA notes 550 GL at June 2008 and 512 at 27 August 2008.

⁴ NSWIC defines CHN as water that is necessary for drinking, sanitation and health.

⁵ 7.30 Report, New South Wales, August 2008

⁶ Murray Darling Basin Commission 7 August 2008 report.

Moreover, there are practical considerations that must be taken into account in redirecting water from private storages back to river systems. The infrastructure in place is designed to extract water from rivers, streams and floodplains – it is not designed to return it. That is, these are one way systems. Prior to consideration of acquisition (purchase) of this water, consideration must be given to the method by which it would be returned to a river. Note that minimisation of system losses requires that water be delivered as one flow, not as a series of trickles. NSWIC seriously doubts that sufficient infrastructure to pump water from dams back to rivers simultaneously is available to achieve this.

B. Options for sourcing and delivering this water, including:

- (i) Possible incentive and compensation schemes for current water holders who participate in a once-off voluntary contribution of water to this national emergency.

This Term of Reference is simply a convoluted description of a market.

The “incentive and compensation scheme” is the payment. The “once-off voluntary contribution” is the water provided in return for the payment.

- (ii) Alternative options for the acquisition of sufficient water.

NSWIC sees no feasible alternatives to the market for the acquisition of water.

The Commonwealth has zealously pursued the creation of an interstate market in water – a pursuit to which irrigators have acquiesced. It would be, at best, untenable for the Commonwealth to now undermine that market.

Put bluntly, “alternative options” refers to compulsory acquisition. NSWIC is unanimously opposed to compulsory acquisition and further notes that the National Irrigators Council is also unanimously opposed. Compulsory acquisition undermines a property right, will devastate already fragile communities and will utterly destroy confidence in the long term buy back and acquisition of licenses.

- (iii) Likely transmission losses and the most efficient and effective strategies to manage the delivery of this water.

What water is available from the southern connected system could be delivered with system losses that are deemed “normal”. At present, “normal” is a significant loss. NSWIC notes the DEWHA report showing that as at 19 August, some 2,226 GL of system losses are allowed for

in a total commitment of 4,292. That is, over half of the total commitment is allowed for system losses.

NSWIC urges the Committee to enquire of river operators as to the availability of conveyance water to deliver any purchased water to the lower lakes and Coorong prior to entering the market.

Transmission losses from the northern Basin are likely to be enormous. NSWIC notes the DEWHA report that supports our own public statements that around 80% transmission losses would occur. That is, in order to deliver 350 GL to the lower lakes and Coorong, 1,750GL would need to be purchased. NSWIC understands that the Commonwealth aims to acquire only 1,500GL during the course of its current Water for the Future programme.

To put this in perspective, to deliver the 350GL that the lower lakes and Coorong seek would require the purchase of real water in excess of the entire 10 year Water for the Future programme which is purchasing entitlement only.

Recall that this water would need to flow past a large number of environmental assets to reach the lower lakes and Coorong. Each of those assets is in dire need of water. The Committee must question the efficacy of sacrificing water in transmission and must consider the relative value of the range of environmental assets in the Basin.

- (iv) Commonwealth powers to obtain and deliver water and possible legislative or regulative impediments

The *Water Act 2007* precludes the Commonwealth from compulsorily acquiring water.

The Commonwealth is not precluded from purchasing water, as was evidenced by the recent \$50m tender process.

- (v) Assessment of the potential contribution of bringing forward irrigation infrastructure spending under the Council of Australian Governments agreement to deliver water to save the Coorong and Lower Lakes

NSWIC has long been an advocate of infrastructure investment as a way of obtaining water for the environment without affecting agricultural productivity, regional communities and the Australian economy. Our resolve in that respect has not wavered.

Efficiency programmes – both on and off farm – are medium to long term measures. If what the Committee seeks is short term relief, infrastructure investment is unlikely to provide any significant assistance. Even assuming that infrastructure works could be completed in a short period, the dramatically low allocations across

most of the system mean that very little water would be delivered in the short term in any event.

C. The impact of any water buybacks on rural and regional communities and Adelaide including compensation and structural adjustment

NSWIC notes that a Community Reference Group, appointed by Federal Minister for Water Senator Penny Wong, is currently considering the impacts of the buyback of water pursuant to the Water for the Future programme. In light of that, NSWIC assumes that this Term of Reference seeks submissions with respect to any further buyback pursuant to the findings of this Inquiry.

It would be simple to assume that any purchase of current allocation will only have impact in the current year. Little could be further from the truth.

Irrigators have dealt over the past several years with crippling drought, a myriad of policy changes and the impending threat of further drought through climate change. Confidence in the sector is extremely low. Even small allocations of water are enough to provide the glimpse of the other end of a drought that they so badly need. To take away that glimpse through taking away what little water they have is likely to have devastating consequences. For many, it will be the “final straw” that will see them give up on farming. Whilst we recognise that irrigators are in a position to sell their water rights to the Commonwealth and exit agriculture, the same cannot be said of the communities in which they exist, the economy of Australia or the food security that they provide to this nation and our export partners.

“Structural adjustment” is a glib phrase. There are only so many “main street beautification” projects that Government can fund. If the economic heart of regional Australia ceases to function, so do the communities that rely on it.

D. Any other related matters

NSWIC is concerned that Government programmes and policies affecting irrigators – and agriculture at large – specifically require irrigators and farmers to prepare for the impacts of climate change.

Why, then, is the Parliament considering methods to continue managing the lower lakes and Coorong as though climate change does not exist?

Why are we aiming to maintain the level of the lakes at 0.3m AHD – the level that NSWIC was advised during an inspection was “normal” – when climate change theory dictates that there will be less water than “normal” available? Why are we attempting to preserve normal in one part of the system, but demanding changes to deal with a new normal in others?

If we are, indeed, aiming to manage the lakes and Coorong at 0.3m AHD, then rising sea levels (which form the AHD) mean, perversely, that *more* water in the lakes would be required.

Conclusions

NSWIC supports the maintenance of environmental wetlands and recognises the importance of the lower lakes and Coorong.

We reject, however, the notion that water is being used to an enormous extent elsewhere in the system and that this is the root cause of the problem.

The root cause is drought. The solution is rain.

No system to manage water can provide optimal outcomes when no water is available to manage.

The Emergency Water (Murray-Darling Basin Rescue) Bill

NSWIC is steadfastly opposed to this Bill.

It is unachievable, contrary to existing legislation, shortsighted and possibly contrary to the Australian Constitution.

It represents a simplistic view of water management in Australia and threatens the progress that stakeholders (including irrigators) and governments (state and federal) have made toward Commonwealth management of the Murray Darling Basin.

30 Day Preparation of Basin Plan

The central plank of the Bill is the preparation of a Basin Plan within 30 days.

The *Water Act* 2007 requires such a Plan to be presented by 2012.

The timeframe allowed in the Act was determined in conjunction with senior officials from each jurisdiction, stakeholders (consumptive and environmental) and First Ministers. It reflects the enormity of the task that the Bill clearly does not comprehend.

Constitutional Power

It is at best questionable as to whether the Commonwealth has the power pursuant to the Constitution to enact this legislation. The Government has recognised the Constitutional issues surrounding federal management of the Basin by seeking a referral of powers pursuant to the Council of Australian Governments agreement of June 2008.

This Bill ignores the requirement for such a referral and, indeed, puts the process of such referral at risk. Should the Commonwealth Parliament be seriously considering adopting this Bill, the States may well (and with justification) defer or reject altogether legislation to refer power.

Ministerial Council

The Bill does not recognise the Ministerial Council as part of the preparation of the Basin Plan. That is, consideration of state specific requirements with respect to water are entirely neglected.

Concentration of Power

The checks and balances imposed by the *Water Act* 2007 – the Ministerial Council, the requirement to refer changes back to the MDBA and the requirement to table reasons for disagreement – are all sidestepped by this Bill. Power is concentrated

solely into the hands of a single Minister, who will be asked to act with exceedingly limited information and potentially in the climate of political expediency. Clearly this is not a sensible basis for legislation.

Improperly Applied Penalties

The Bill purports to impose penalties upon states who breach requirements. The manifestation of those penalties will be visited upon those not responsible for the breach. If a state breaches a cap, then towns, industry and irrigators will be the parties that suffer.