



## **National Farmers' Federation**

### **Submission to the South Australian Murray-Darling Basin Royal Commission**

1 June 2018

# NFF Member Organisations





The National Farmers' Federation (NFF) is the voice of Australian farmers.

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities across the breadth and the length of the supply chain.

Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF.

The NFF represents Australian agriculture on national and foreign policy issues including workplace relations, trade and natural resource management. Our members complement this work through the delivery of direct 'grass roots' member services as well as state-based policy and commodity-specific interests.

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# Introduction

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The NFF is the peak national body representing farmers and, more broadly, agriculture across Australia. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. The NFF's vision for Australian agriculture is to become a \$100 billion industry by 2030. Agriculture is a source of strength in the Australian economy, providing stable employment and income to rural communities. To achieve our vision, the sector needs regulatory and public policy settings that foster growth and productivity; innovation and ambition.

The NFF is pleased to make a submission to the Murray-Darling Basin Royal Commission (The Commission) Issues Paper.

## Issues Paper 1

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The Commissioner would be aware that there is a currently a separate statutory review into the implementation of the Murray-Darling Basin Plan (Basin Plan) being conducted by the Productivity Commission. The NFF has reviewed the Terms of Reference in Issues Paper 1 and believe that there are substantial parallels between the two inquiries.

Specifically, from Issues Paper 1, these include:

- 1. If any Water Resource Plans are unlikely to be delivered in full and in a form compliant and consistent with the Basin Plan, the reasons for this.*
- 2. Whether the Basin Plan in its current form, its implementation, and any proposed amendments to the Plan, are likely to achieve the objects and purposes of the Act and Plan as variously outlined in ss.3, 20, 23 and 28 of the Act, and the 'enhanced environmental outcomes' and additional 450 GL provided for in s. 86AA(2) and (3) of the Act, respectively.*
- 3. If the Basin Plan is unlikely to achieve any of the objects and purposes of the Act and Basin Plan and/or the 'enhanced environmental outcomes' and the additional 450 GL referred to above, what amendments should be made to the Basin Plan or Act to achieve those objects and purposes, the 'enhanced environmental outcomes' and the additional 450 GL?*
- 4. Any legislative or other impediments to achieving any of the objects and purposes of the Act and Basin Plan and/or the 'enhanced environmental outcomes' and additional 450 GL referred to above, and any recommendations for legislative or other change if needed.*
- 5. Whether, in any event, the enforcement and compliance powers under the Act are adequate to prevent and address non-compliance with the Act and the Basin Plan, and any recommendations for legislative or other change if needed.*
- 6. Whether the Basin Plan in its current form, its implementation, and any proposed amendments to the Plan, are adequate to achieve the objects and purposes of the Act*

*and Basin Plan, the 'enhanced environmental outcomes' and the additional 450 GL referred to above, taking into account likely, future climate change.*

The NFF also notes the 'Areas of Particular Focus' in the Commission's Issues Paper 1, specifically the:

- 36 Supply Measure Projects.
- Recovery of 450GL for Enhanced Environmental Outcomes.
- Water recovery to date.
- Northern Basin Review.
- Deadline for Water Resource Plans.

The NFF has provided a detailed submission to the Productivity Commission's inquiry. Given the contemporaneous nature of that inquiry and the Commissioner's, and the similarity of issues described above, the submission has been linked [here](#) for your consideration.

## Issues Paper 2

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The NFF, following the release of Issues Paper 2, notes the Commissioner's concerns surrounding the legal interpretation of the *Water Act 2007* (Water Act) and its implications with how the Basin Plan was developed in 2012. The NFF has a number of comments for The Commission to consider.

The Commissioner would be aware that, in 2010, then Minister for Water, the Hon. Tony Burke MP, sought advice from the Solicitor-General regarding the extent to which the Water Act allowed the consideration of social and economic factors in determining the environmentally sustainable level of take (ESLT) in the Basin Plan.

The advice from the Solicitor-General supported the recognition of economic and social factors in the development of the ESLT, in accordance with Australia's relevant international agreements under the external affairs power in the Australian Constitution. It stated that:

*'Where a discretionary choice must be made between a number of options the decision-maker should, having considered the economic, social and environmental impacts, choose the option which optimises those outcomes.'*

As provided in Issues Paper 2, the current basin-wide sustainable diversion limit (SDL), 2750 GL, was drafted in accordance with the legal advice received from the Solicitor-General at the time. In doing so, NFF accepts that the current SDL was determined in a manner consistent with the legal advice received at the time, and is reflected in the 2012 Basin Plan Regulation Impact Statement:

*'The Authority has found that overall, for the Basin Plan water recovery of 2,750 GL/y, the impacts on the Basin economy will be modest. The Basin economy is still expected to grow under the Basin Plan, but at a slower rate than would be the case without the Basin Plan.'*

The NFF emphasises that the current Basin Plan is a compromise plan resulting from extensive consultation and negotiation between the Commonwealth, Basin States and a broad

range of stakeholders. In the development of this plan, assurances were made between the States and Commonwealth that was consistent with international obligations, specifically the Convention of Biological Diversity and the Ramsar Convention, as recognised in both Issues Paper 2 and the Solicitor-General's legal advice. Therefore, NFF believes that the development of the Basin Plan was entirely consistent with the legal interpretation of the Water Act at the time.

It is the NFF's view that the Basin Plan is the Basin Plan and should be implemented in a consistent manner that does not create further uncertainty for stakeholders, especially basin communities. There is no alternative Basin Plan. The integrity of the current plan is conditional on the goodwill and compromise of Basin States and, ultimately, the health of the river system is too.

The NFF has a policy position on the Murray-Darling Basin Plan outlined at Appendix A.

# Appendix A – Murray Darling-Basin Plan

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## Policy position

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The NFF supports a Murray-Darling Basin Plan that truly balances the social, economic and environmental values that our nation enjoys from our largest river system. Governments must ensure that the Basin Plan is implemented in a way that minimises the social and economic impacts of recovering and using water for the benefit of the environment.

## Issue

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It is important that Governments adopt a “pathway of least impact” when implementing the Basin Plan.

The trajectory of our irrigation industries has fundamentally changed as a result of the Basin Plan. Water recovery activities to implement the Basin Plan will result in around 30% of water that was once used for irrigation now being used for the environment. In some river valleys, too much water has been recovered. The buyback of irrigation entitlements have had significant localised social and economic impacts. Water efficiency projects share water savings between the farm and the environment. While the choice to participate in on-farm projects is one for the individual, there are still impacts to our communities and industries, as there is as a whole less water available for production over the long term. There is a difference between the financial attractiveness of a project and the social and economic impacts of on-farm efficiency projects.

A key issue is the ability of the CEWH to effectively manage its water portfolio and to deliver water to the environment without resulting in flooding of private land and infrastructure. Communities that live along the river are concerned that Governments are not listening to them on the magnitude of these possible impacts. The budget and timeframe to overcome these issues is inadequate.

## Background

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The Murray-Darling Basin Plan has a legislated goal to remove 2750 gigalitres (GL) and an additional 450 GL of water from production. The recovered water will be owned by the Commonwealth, and managed by the Commonwealth Environmental Water Holder (CEWH) for the benefit of the environment. The Plan includes a provision to reduce the 2750 GL by up to 650 GL if the States are able to demonstrate actions that will deliver the same environmental benefit, but with less water. The additional 450 GL can only be sourced from projects that result in water efficiency savings

At the end of 2015, almost 1954 GL of water had been recovered by the Australian Government by direct purchasing of water entitlements (buyback), and investment in on- and off-farm water efficiency projects.

Governments have invested \$200 million to deliver a strategy to overcome these “constraints” to effective environmental water management.

## **What the industry needs**

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To minimise the social and economic impacts of implementing the Basin Plan, we need:

- Governments to put on hold recovery of the 450 GL “up water”. Until constraints are overcome and a method to ensure that this recovery will have neutral or beneficial social and economic impacts is developed, it is premature to take a “non-regrets” approach to the 450 GL.
- Genuine engagement with the riparian landholders who are potentially affected by changes in environmental water management to ensure that we are realistic about what can and can’t be achieved in the constraints management strategy.
- A review in those valleys where water recovery has exceeded the diversion limits set by the Basin Plan
- Governments to explore to the full extent possible options to achieve environmental outcomes more efficiently, including the 650 GL “downwater” projects and better environmental management in the Northern Basin