

WENTWORTH GROUP OF CONCERNED SCIENTISTS

STATEMENT TO SENATE WATER BILL INQUIRY WATER BILL 2007

Friday 10th August 2007

Thank you for inviting the Wentworth Group of Concerned Scientists to appear before this Senate Committee. We are represented by Professor Peter Cullen, Professor Mike Young and Mr Peter Cosier.

We welcome this Senate Inquiry and thank you for the opportunity to appear today.

Introductory Comments

In 2004, the Wentworth Group of Concerned Scientists gave its wholehearted support to the National Water Initiative and we still do. It gives irrigators a secure title to water and the ability to trade this asset, it gives the environment more water to improve the health of our rivers, and in our cities, it is about the rest of us accepting the need to manage water more efficiently.

The National Water Initiative will be recognised as one of the most significant agreements in our nation's history because it signals a fundamental change in our understanding of our place on this continent. It is a 21st century solution to a 21st century problem.

There is agreement that the historic state-based management structure of the Murray Darling Basin has demonstrably failed Australia and, unless overhauled, will continue to cause significant economic pain and environmental damage.

It was for this reason that the Wentworth Group welcomed the intervention of the Commonwealth Government in 2003, through the leadership of the PM and the then Deputy Prime Minister John Anderson.

However, the lack of progress in the 4 years since is shameful. With climate shifts on top of the damage already caused by the over-allocation of our river systems, we are now witnessing significant economic pain and long term environmental damage to Australia's largest river system.

In a \$1 trillion 21st century Australian economy, it is unthinkable that in 2007 we as a nation would countenance the need to degrade our rivers, wetlands and estuaries in order to grow our economy.

We are living in the 21st century, not the 19th, and there are far smarter and more effective ways of achieving economic growth without damaging our environmental assets. We now know better.

The lack of progress and urgency is symptomatic of the fundamental flaws of the institutional frameworks for managing water in Australia and demonstrates only too clearly why Commonwealth intervention is required. But this intervention needs to deliver the outcomes we have all agreed are necessary.

When it became apparent late last year that these historic reforms had bogged down the Wentworth Group released a statement suggesting ways through the impasses (attachment 1).

We stated then that Australia needs to: expedite adjustment and remove barriers that are restricting change and set out 5 key actions that require immediate attention. None of them are easy and we acknowledged at the time that they will require a degree of collaboration rarely seen before in Australia:

1. Buy water for the environment to secure the health of over-allocated river systems from anyone willing to sell;
2. Regulate to offset further water losses caused by timber plantations, farm dams, groundwater use and water efficiency;
3. Build a National Water Account to find out where our water is, who is using it and what condition it's in;
4. Apply the same environmental, market and price disciplines to everyone so that all users pay the full cost of water, including the cost of addressing environmental impacts; and
5. Accept that desalination, potable reuse, stormwater capture, recycling and urban-rural trade are all legitimate options for our coastal cities and often better options than building new dams and damaging more coastal rivers.

The Bill introduced into the House of Representatives on Wednesday afternoon addressed many of these issues.

In doing so it will have profound implications for the people and environment of the Murray Darling Basin and to those cities such as Adelaide who directly rely on the health of this river system. We offer in principle support to this legislation but we cannot afford to get this wrong.

Are the Objectives Consistent with the National Water Initiative?

Our first test is whether the Objectives of this Bill satisfy the spirit and intent of the National Water Initiative.

We support the objectives of the legislation, because they do, to a large extent, satisfy this fundamental test:

- They provide a clear commitment to restore basin to sustainable levels of extraction as required under National Water Initiative;
- They deliver on International commitments to conserve high value conservation assets; and
- They provide reasonable water security to users and to create wealth from waters of the Murray Darling Basin.

The Bill gives a clear commitment to return over allocated systems to sustainable levels of extraction, and sets firm transition time lines to do this. However, these commitments have been made with every round of water reform since 1994 and have largely remained as rhetoric, partly because of the fear of rural communities of losing water and partly because of lack of clarity as to how to do this. These barriers remain as important considerations.

The Bill defines environmental assets in a wide way to include ecosystems, ecosystem services as well as high conservation value ecosystems. We support this definition.

The Bill goes further than previous attempts and defines environmentally sustainable level of extraction as the level at which water can be taken from that water resource which, if exceeded, would compromise:

- (a) key environmental assets of the water resource; or
- (b) key ecosystem functions of the water resource; or
- (c) the productive base of the water resource; or
- (d) key environmental outcomes for the water resource.

The Bill requires a Basin Plan and identifies key elements of that Plan. It requires the Sustainable Levels of Extraction be identified, and where these are exceeded to set in place a clear transition arrangement within a limited five year period

The Bill makes it clear that interception activities like forest plantations, farm dams and floodplain harvesting must be included in water allocations in Basin Plans. This is long overdue, but often these activities are not appropriately dealt with by existing State legislation and firmer controls are needed.

The Environmental watering Plan provides for good detail on the environmental outcomes are defined and what is required in the Plan.

We support these provisions.

We also recommend the following amendments to the objectives:

1. b) should read ‘the threat to the **long term health of the** Basin water resources’;
2. d) should delete the caveat ‘without limiting...’;
3. h) add a specific reference for river, wetland and estuary health;

Does this Legislation Deliver the Outcomes it Promises?

If the recommendations above are accepted, the test of the legislation then is whether the Bill provides the institutional framework to deliver these outcomes.

Answering this question is not simple.

This is an extremely complicated piece of legislation, primarily because constitutional authority for land management, even after this legislation is proclaimed will still rest with State Governments. Its successful implementation will still be contingent on integration with State land management responsibilities.

For example, management of water resources goes hand in hand with management of the whole landscape within a catchment. You cannot manage river systems independent of managing land use as land use will inevitably affect the health and flows in river systems:

For example, ground water extraction affects river flows, forestry and dams affect runoff which affects river flows.

This Bill needs careful assessment of the detailed design elements before coming into law and it goes without saying that 72 hours and a one day hearing does not satisfy that test. It would be a fundamental mistake therefore to rush this legislation through the Parliament.

The Wentworth Group therefore wish to place on record that in our opinion it would be a profound mistake for the legislation, which effectively redesigns the constitutional arrangement for managing water resources in the Murray Darling Basin, directly affecting over 3 million Australians and the long term health of Australia's largest river basin, to be rushed through Parliament without careful, detailed scrutiny, to ensure that it is capable of delivering the needed reforms.

Within the time available to us, we offer the following comments:

1) *Water Information*

A glaring omission is the requirement for routine and systematic assessment of river health. The Sustainable Rivers Audit developed by the MDBC needs to be accelerated and included as mandatory reporting.

2) *Getting on With the Task*

We are concerned that if existing water plans are protected then little change will be seen within the Basin until after 2014, by which time many of the environmental assets and the rural wealth of irrigation could be destroyed. This task is urgent.

We are concerned that the Bill is very southern basin centric and does not reflect understanding of the flood pulse systems of the northern parts of the basin.

The Bill does not adequately reflect the connection between surface and groundwater systems. It should reverse the current burden of proof, assuming these systems are connected unless proven otherwise.

The Commonwealth should build a top class water registry system for surface and groundwater systems, with appropriate guarantees. All Commonwealth water should be on such a registry, and irrigators should have the opportunity to migrate to this registry if they wish to have greater certainty as to titles.

We are concerned that the multiplicity of agencies provides the potential for ongoing gridlock and blame sharing between players.

3) *Direct the Authority to pursue the functions to the Objects of the Act*

- Amend section 172 to read:

“The Authority has the following functions:

(a) to pursue the objects of the Act as set out in Section 3.

(b) such functions as are conferred on the Authority by:

(i) Part 2”

4) Amend the definition of the “long-term average sustainable diversion limit” to enable effective management of the Northern Basin’s event-driven systems and capacity sharing systems.

- Amend section 20 (b) to read:
 - (b) the establishment and enforcement of environmentally sustainable limits on the quantities of and shares of surface water and groundwater the may be taken from the Basin water resources
- Amend section 22 Content of the Basin Plan to read

6		The maximum long-term annual average quantities of water <u>or share of water</u> that can be taken on a sustainable basis
7		For the water resources or particular parts of the resources, or each water resource plan area, the long-term annual average quantities of water <u>or share of water</u> that may on a temporary basis, be taken by year from the water resource

5) Empower the Murray Darling Basin Authority to establish progressively a water entitlement register that is of guaranteed integrity and facilitates both the low-cost registration of interests and the efficient transfer of registrable rights from one entity to another.

- Change the heading for PART 5 to read:
 - Part 5 --- Murray-Darling Basin Water Rights Information Service and Register
- After section 103 add a new section:
 - Progressively established Basin water register
 - (1) The Authority may establish a guaranteed water right register in a manner that is consistent with the Basin Plan.
 - (2) The Authority may establish a process enabling the voluntary transfer of registrable water rights issued by States to the register established under subsection (1).

6) Expand the purpose to the Basin Plan to include a requirement to consider the downstream consequences and ensure that water flows through the entire system

- Amend section 20 to include a new subsection after subsection 20 (b):
 - (bb) maintenance of essential ecosystem functions by ensuring that a minimum flows of water regularly pass through the Basin’s river systems;

7) Acquisition on just terms

- Add a new section to the Bill enabling the Minister to acquire water on just terms when this is necessary to maintain the reliability of water entitlements and not impede the water market.
- After section 77 or at another appropriate place add a new section to the Bill:

X Acquisition on just terms

In order to maintain the reliability of water access rights and water access entitlements or return water use to sustainable limits, the Minister may acquire a proportion of every water access entitlement and water access right in a water resource area on just terms.

(Note: This would mean that water could be acquired only in a manner that is consistent with the principles established under the Lands Acquisition Act 1989.)

Conclusion

Over the last 5 years the inflows to the Murray Darling Basin have dropped by around 40% and the major storages are now largely empty and are unlikely to refill without a run of wet years. This is hurting irrigators and the environment and urgent action is required.

There are two key requirements:

- Actually implement the principles already agreed between the Prime Minister and Premiers and accelerate the implementation the National Water Initiative to allow us to cope with water scarcity; and
- Improve the Governance of the Murray Darling Basin and allow us to move beyond the lowest common denominator approach of the present management requiring consensus between 6 levels of Government.

The Federal Government has allocated a large amount of funding to restore the basin. For this we should expect a best available solution that will set the basin up for water scarcity and an uncertain climatic future.

What the irrigators of the basin, nor the now critically stressed environments of the basin, can not accept is prolonged and unnecessary certainty while Governments bicker and the future of the Basin moves to the courts for a potential prolonged constitutional struggle.

We urge all the Governments of the Basin to continue talking, to get on and fix the problems.

This legislation outlines many, but not all of the critical elements and is a sound beginning.