

Ms Jane Doolan
Commissioner - National Water Reform Inquiry
Productivity Commission
(via submission upload at website)

Dear Jane

I am writing to provide comments in relation to the issues paper on the national water reform reference you are currently dealing with. Owing to ill health I was not able to complete a submission in time. I write in the capacity of a private citizen.

I have read the terms of reference issued to the Commission by the Treasurer as well as the issues paper and the various requests for information made in that paper. Much has been written recently about water management, including the report of the South Australian Royal Commission on the Murray Darling Basin, the Vertessy report on fish kills, the Keelty report, in Mr Keelty's capacity as interim Inspector-General of the Murray Darling Basin, the report of the NSW Ombudsman about water mismanagement in NSW and a host of other material, including reports from Senate committees (both legislation and references committees), and of committees of the Legislative Council of NSW.

The theme running through the majority of these reports, insofar as they relate particularly to NSW is that water for irrigation purposes has been vastly over allocated for years. There has been an obvious political reluctance to recognise this reality and to do anything about it, although the National Water Initiative, as represented by the Water Act 2007 (Cth) and the Murray Darling Basin Authority and the Murray Darling Basin Plan was aimed at maintaining a healthy river system. I do not think it could be considered successful.

In 2000, I visited Menindee on the Darling River in western NSW. At that time it was an oasis in the western arid region of NSW, with lush green grapevines and citrus plantations aplenty. Green seedless grapes under the name Menindee Seedless table grapes were readily available in supermarkets and were an edible delight. In October 2019, I visited Menindee again, traveling by train from Parkes. On the northern side of the railway line, from about 20km east of town, all I could see of this once oasis was a graveyard of dead grapevines. One or two small holders closer into town have managed to maintain viable operations, but the former horticulture industry is really non-existent.

At the motel in Menindee at which I stayed, the proprietor made casks of drinking water, trucked in from Adelaide, available for guests. Indeed, in the room in which I stayed I suspect the reticulated water tap had not been turned on for quite a while. Conscious of the water shortage, I elected not to take a shower whilst I was there but instead took a supply of bath in bed water wipes to clean myself up. For a time, the town had run out of potable water, and it was being donated to Menindee from other western towns and trucked in by volunteers. Other towns in NSW, along the Barwon Darling river system similarly ran out of potable water, and as far as I can tell, the situation is still grim. It beggars belief that in a wealthy country such as Australia, such a situation should have been allowed to develop. In terms of your information request 10, the situation in Menindee demonstrates beyond doubt that high quality water services are not supplied in regional and remote areas.

The Commonwealth's involvement in basin management has also been less than creditable. Whilst talking about Menindee, I refer you to the massive water buyback from Webster Ltd of its water entitlements in relation to its Lake Tandou cotton operations at that town, and about which I wrote an article published in the online newsletter Independent Australia, linked here: <https://independentaustralia.net/business/business-display/the-murray-darling-basin-water-markets-and-money,10448>. As a result of this transaction Webster Ltd made a one off profit of some \$36m, which it announced to the Australian Stock Exchange, whilst at the same time, horticulturalists represented by the Lower Darling Horticulture Group had been unable to negotiate structural adjustment packages that would enable them to exit irrigated agriculture along the lower reaches of the Darling River. In my opinion, it is not cost effective water recovery for the Commonwealth to pay an amount by way of buy back that enables such an enormous one off profit by a corporation, notwithstanding ASX disclosure or anything else.

That this situation should be the case is a devastating commentary on the failure of the national water initiative, not because there was anything inherently wrong with the program, but because of the way in which it has been administered, and because of irresponsible political decisions. In NSW, this irresponsibility is amply demonstrated by people like John Barilaro the deputy premier and Melinda Pavey, the water minister stating that NSW would walk away from the Murray Darling Basin Agreement unless NSW got its way in ministerial council negotiations.

These political difficulties are compounded by other problems, such as the method of water allocation for irrigation purposes. In the various jurisdictions, water is allocated as a percentage of "entitlement" under the applicable law. I read and hear reports about how irrigators in various valleys receive say 5% or some other percentage of their entitlement that

always seems to be quite low by comparison with allocations to irrigators in South Australia, who might get 100% of their allocation for a particular year. That percentages of "entitlements" in NSW should be quite low by comparison with those in South Australia suggests two things. First, as the various reports I have referred to have repeatedly found, water in NSW is greatly over allocated. Second, that successive South Australian governments have been much more conservative in the granting of water entitlements, and that seems to be borne out by these reports. Comparisons made between allocations in the two states are frequently made and complaints arise as to how it is possible that in SA allocations are so much larger than in NSW. There seems to be a problem with transparency and understanding of the way in which the two jurisdictions manage water, which gives rise to community discontent.

It also seems to be the case in NSW that entitlements and allocations have been based on previous year flows, even though clear evidence has emerged from the Bureau of Meteorology that the Basin is experiencing long term and likely irreversible drying because of climate change. This suggests at least that there should be planning to limit new irrigated agricultural developments and mining activity that would add to the amount of water required to make them viable. Also perhaps plans should be considered to phase out the production of water intensive crops that can be produced elsewhere in the world without placing unnecessary strains on water resources. There is no legal or constitutional reason that would prevent the phase out of certain crops - it has been done with tobacco and it can be done with anything else. Moreover, the Commonwealth by use of its power over exports could ensure any such phase out was accomplished.

Water extraction for mining seems to occupy a singularly privileged place. Mining is apparently permitted unlimited extraction of water at any time, for any purpose related to mining. This extraction is not accounted for, monitored or controlled in any effective way. The continuance of such a regime will spell disaster for many locations in which mining is carried out, - disaster both in terms of the viability of agriculture and also for indigenous and rural communities. The Water Act 2007 relies principally on the constitutional power relating to external affairs that enables the Commonwealth to make laws implanting international agreements to which Australia is party and there are many treaties that could at least arguably enliven that power to provide for better controls over the resource extraction industry, and in particular those minerals the extraction and consumption of which contribute to climate change. There should at least be some planning in contemplation for legislation which imposes controls on the extraction and exploitation of minerals that contribute to climate change to also impose controls on the use and exploitation of water by those industries.

Finally I wish to make comment about dams. Dams destroy rivers by barricading natural streams behind artificial barriers normally built in upstream areas where rainfall exceeds 600mm per annum. The water thus withheld would otherwise be "environmental flow" that would prevent the build up of salinity in downstream areas. Dry land salinity in the Murray Darling Basin has been a problem for many years, and there are still areas where previously arable land has been destroyed by salinity - I have seen such areas along the Silver City Highway in NSW north of Wentworth.

If publicly funded dams are not justifiable, much less so are diversion dams constructed on privately owned land in upstream areas. These dams are the product of rent seeking and produce accidental profits and productivity, by virtue of the accident of their location. An equitable system of water allocation along a river or stream would be based on a share of natural flows averaged out over wet and dry seasons, and encompassing withholding for anticipated conditions, such as the drying out of rivers because of climate change. This would involve requiring private diversion dam holders to pay a premium for the water their dams withhold from the lower reaches of rivers, perhaps calculated on the basis of the volume of water withheld, the length of the river from the dam to its discharge point of the river, and also including a loss factor to take account of known likely evaporation. The application of such a formula could well make private diversion dams in Australia unviable. Similar sorts of considerations ought also be factored in to flood plain harvesting.

I will leave my comments here. Should you wish to discuss these matters further, I can be contacted

Yours sincerely
Mark A Zanker BA LLB