



National Farmers' Federation

Submission to the Productivity Commission Draft Report on National Water Reform

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NFF Member Organisations



Australian Chicken Growers' Council Ltd



CANE GROWERS



NEW SOUTH WALES IRRIGATORS' COUNCIL





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.

Statistics on Australian Agriculture

Australian agriculture makes an important contribution to Australia's social, economic and environmental fabric.

Social >

There are approximately 132,000 farm businesses in Australia, 99 per cent of which are Australian family owned and operated.

Each Australian farmer produces enough food to feed 600 people, 150 at home and 450 overseas. Australian farms produce around 93 per cent of the total volume of food consumed in Australia.

Economic >

The agricultural sector, at farm-gate, contributes 2.4 per cent to Australia's total Gross Domestic Product (GDP). The gross value of Australian farm production in 2016-17 is forecast at 58.5 billion – a 12 per cent increase from the previous financial year.

Together with vital value-adding processes for food and fibre after it leaves the farm, along with the value of farm input activities, agriculture's contribution to GDP averages out at around 12 per cent (over \$155 billion).

Workplace >

The agriculture, forestry and fishing sector employs approximately 323,000 employees, including owner managers (174,800) and non-managerial employees (148,300).

Seasonal conditions affect the sector's capacity to employ. Permanent employment is the main form of employment in the sector, but more than 40 per cent of the employed workforce is casual.

Approximately 60 per cent of farm businesses are small businesses. More than 50 per cent of farm businesses have no employees at all.

Environmental >

Australian farmers are environmental stewards, owning, managing and caring for 52 per cent of Australia's land mass. Farmers are at the frontline of delivering environmental outcomes on behalf of the Australian community, with 94 per cent of Australian farmers actively undertaking natural resource management.

The NFF was a founding partner of the Landcare movement, which has celebrated its 25th anniversary.

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1. Introduction

On matters related to water, NFF is the only national body that brings a 100% farmer-focused viewpoint. We represent the interests of farmers that are affected by water management decisions including irrigators, riparian and floodplain landholders and stock and domestic users.

NFF welcomes the opportunity to provide a submission in response to the Draft Report of the Productivity Commission's first inquiry into national water reform. For the rural water sector, NFF concurs with the Commission's overriding narrative: that good progress has been made in implementing the National Water Initiative in most jurisdictions; that the reforms stemming from both Competition Policy Agreements and the NWI have improved the management of Australia's precious water resources; and that maintaining a commitment to the key principles and foundations of the NWI are crucial to our continued success.

This is not to say that reform has not been without cost or pain. Indeed, many rural water stakeholders, particularly in the Murray- Darling Basin are fatigued after almost a quarter of a century of reform. We recognise that some stakeholders, particularly in the urban water sector, are looking for the Commission to make recommendations for stepped change reform. We urge the Commission to ensure that its final recommendations reflect the nuance between the reform-fatigued rural water sector, and the reform hungry urban water sector.

In responding the draft report, NFF has focused this submission on those recommendations that relate to the rural water sector.

2. Response to Draft Recommendations

2.1 Water entitlements and planning

NFF supports recommendation 3.1 that relates to maintaining and improving entitlement and planning reform. Secure water property rights, backed by a statutory water entitlement framework are not yet a universal for all water users, and continued effort is required in those jurisdictions where these elements of the NWI have not yet been fully implemented.

The draft recommendation to incorporate all users of water, include the take of extractive industries, in an efficient water access entitlement and planning framework is also supported.

NFF supports the Commission's view that as water plans reach the end of their planning cycle, that appropriate reviews be conducted. In NFF's view, a water planning horizon of 10 years provides the right balance between certainty for investment, and ensuring that plans incorporate best available knowledge about resource availability, including the impacts of climate change. It is critical that these reviews are informed on the best available scientific, social, economic and cultural information. This requires ongoing investment in the research, information collection and analysis to inform decision making.

NFF urges a cautious, risk based approach to exploring options for aquifer reinjection. There are considerable risks to the integrity of aquifers, particularly in relation to water quality that can have significant impacts on other users and the environment.

2.2 Cultural water and water for Indigenous economic development

NFF supports recommendations 3.2 and 3.3 that relate to Indigenous access to water resources. The recommendations relating to the provision of water for indigenous economic development, will ensure that there are no third party impacts on existing entitlement holders, including the environment.

The draft recommendations have a volumetric focus. When it comes to access to waterways for cultural purposes, it is NFF's view that existing legal frameworks and processes that relate to native title determination must be respected, particularly for native title claims and determinations for non-exclusive title.

The Commission's draft recommendation 3.3 seeks to improve the economic wellbeing of indigenous communities by supporting economic development opportunities. In our view, these opportunities fall within the remit of broader indigenous policy objectives and closing the gap. Activities and programs that seek to achieve these objectives should not be funded through water management charges or cost recovered from other water users. We recommend the Commission ensure that concerns about cost recovery be reflected in the final report.

2.3 Water trading and water market information

NFF supports recommendation 4.1 that relates to ensuring that trade reforms are made; that steps are taken to improve the functioning of existing water markets; and that markets be established where there is demand to do so. In relation to removing residual barriers to trade, NFF's view is that there must be a transparent process for considering changes to trading rules. Full examination about the potential impacts of any rule changes must be transparently conducted, in consultation with stakeholders. In many instances, there are fundamentally sound reasons for trade rules, such as to ensure deliverability, to protect the environment or to ensure that the entitlements of others are not eroded. These reasons should not be arbitrarily discarded in the pursuit of unfettered trade.

The Commission's view in relation to approval standards and water market information align with the recommendations the NFF posed in our response to the Issues Paper developed to inform this review.

There have been some calls to provide full transparency over individual water accounts and trading activity, including water allocation (temporary) trading. This is in our view undesirable as it risks the integrity of the market, subjects it to significant arbitrage and gaming, and goes well beyond information provided by the ASX in relation to the trading of equities. NFF maintains the view that public transparency of the ownership of water entitlements and nature of entitlements, such as that provided by relevant registers of entitlements in each jurisdiction is sufficient to provide public confidence in access to water resources.

In NFF's view, there is an opportunity to improve the transparency of the water allocation decisions of resource managers. Currently, decisions are announced, but there is no opportunity to interrogate those decisions and for stakeholders to better understand them. While we appreciate that full codification of resource allocation decisions may not be desirable, there is an opportunity for resource managers to provide access to additional

information to build confidence in the decisions made. In developed water resources, where water trading activity is significant, in our view, confidence and predictability in allocation decisions is a core foundation of an effective market.

We encourage the Commission to go further in its final recommendations to ensure that in less developed, or yet to be developed water resources, where demand for trading may currently be low, that entitlement frameworks and water planning processes should be designed in such a way to support the orderly development of a market.

2.4 Environmental water management

NFF supports recommendation 5.1. As highlighted by the use of the terms “where possible”, in the NFF’s view environmental outcomes should not be compromised in the pursuit of other goals.

NFF supports recommendation 5.2. This strongly aligns with NFF’s view the planning and integrated management of waterways and important environmental assets must recognise that the volume and timing of watering events is only part of the solution to achieving environmental outcomes, and that non-flow efforts may also play an important role. In NFF’s view, management at a catchment scale most supports integrated management and the incorporation of local knowledge and expertise.

NFF supports recommendation 5.3 relating to the importance of “at arms-length” governance arrangements for managing held environmental water portfolios. As is the case for the Commonwealth Environmental Water Holder, water portfolio managers should be able to operate in a way that is not subject to Ministerial direction. NFF recognises that water portfolios are significant government-owned assets. However, we hold that view that Government decision making will dictate water plans and the outcomes to be achieved from the use of these assets. This, combined with transparent reporting of use and outcomes provides in our view sufficient Government oversight and direction, without Ministerial interference in operational decisions.

In NFF’s view, this recommendation could extended to also include decision making for rules based environmental water, where rules enable water managers discretion as to the time of use (e.g. environmental contingency allowances).

NFF supports the principles that underpin Recommendation 5.4, to remove duplication and improve the efficiency of the management of held water portfolios. Given the ongoing role of the MDBA as the “regulator” of the Murray-Darling Basin Plan, NFF supports the principle of divesting it of its responsibility for active management of the TLM portfolio to achieve the plan outcomes. NFF would like to see the Commission recommend that there is full transparency over this transition, and that changes in costs associated with managing TLM entitlements are transparent tracked, and ultimately not borne by water entitlement holders. Recommendation 5.5 in relation to devolving the use of held water is consistent with NFF’s view that management at a catchment scale best supports integrated planning, the incorporation of local knowledge and expertise and building stakeholder understanding of the range of actions required to deliver desired outcomes. It also supports the integrated management of *all* water dedicated to the environment, regardless of who owns it and regardless of its form (i.e. held or planned water), and the non-flow measures required to achieve environmental outcomes.

NFF supports recommendation 5.6 relating to transparent monitoring, evaluation, auditing and reporting on environmental water allocations. Community and stakeholder confidence in the management of the environment's "share" of the resource is paramount for policy stability, which in turn is essential for industry confidence. We also recognise that active management of an environmental water portfolio is still a relatively new endeavour, and that investment in monitoring, evaluation and research is critical to continuous improvement. Currently in some circumstances, responsibility for research, monitoring, evaluation and reporting is diffuse among a number of agencies, and there is significant potential for duplication and inefficiency. In NFF's view, explicit recognition of this concept in an enhanced NWI is important.

2.5 Economic regulation of water infrastructure and monopoly service provision

NFF supports the principle of independent oversight by economic regulators, to support the transparent setting of efficient prices for monopoly services. We do not however accept that goal of full cost recovery in all water sources is appropriate. This is particularly the case in water resources where investment in infrastructure has been less than prudent – for example where assets are heavily underutilised and where services are delivered at standards that far exceed user needs. Water users should not bear the brunt of poor investment decisions of asset owners. In these circumstances, where prudent and efficient prices are deemed to be beyond the ability of users' capacity to pay, transparent community service obligations are required.

In relation to recommendation 7.2(a), NFF seeks greater clarity in relation to cost recovery in South Australia, given our understanding that these costs are recovered by the South Australian Government.

We support the recommendation 7.2 (b) for independent oversight of RMO by economic regulators. In NFF's view, the Australian Competition and Consumer Commission as the regulator with responsibility for oversight of the Water Charge Rules would be the appropriate economic regulator of the full range of MDBA costs, not just those associated with RMO.

We urge the Commission to go further with this recommendation, including recommending a review of RMO that canvasses the full spectrum of options for reform, including full institutional separation of the service delivery functions of the MDBA and its policy and regulatory functions. Furthermore, we consider that this recommendation also be applied to the Border Rivers Commission.

2.6 Government funding for infrastructure

The focus of Chapter 7 of the draft report is water infrastructure for agriculture, and the recommendations relate to ensuring that investment in infrastructure is transparent and prudent. Indeed, much of the recent interest in developing water infrastructure proposals has been driven for water uses other than agriculture, with proposals to augment Eden Bann Weir and to build Rookwood Weir on the Fitzroy River in Queensland being good examples of this.

In NFF's view, this chapter is relevant for the development of infrastructure, regardless of its use, and we recommend that the overall framing of the chapter be broadened to include all uses, not just agriculture uses.

NFF holds the view of the importance of considering the full range of costs and benefits associated with irrigation infrastructure development, including important flow on impacts for communities and the economy as a whole. This must include full examination of the public benefits associated with such investment, including the contribution of projects to regional development, avoided adjustment costs, the ability to mitigate environmental impact, and the local, regional and national economic benefits that flow from investment in water and irrigation infrastructure.

NFF supports the Commission's proposed recommendations, which will encourage governments to ensure that they make the upfront investment in scientific analysis required to support the long term sustainability of the project, ensure NWI consistent water entitlement and water resource planning processes are in place and that investment decisions are made on sound and transparent businesses cases.

2.7 Knowledge, capability, capacity and adjustment

NFF supports recommendation 8.1 that relate to building and sharing information, knowledge, capability and capacity. Such an approach builds understanding of the differences between jurisdictions, and the importance of ensuring that policy frameworks are translated in a way that is appropriate for the diverse water resources of Australia.

NFF shares the Productivity Commission's view of the importance of respecting water property rights when implementing water reform. Further, the NWI risk assignment frameworks ensure that water entitlements are appropriately protected from Government policy interventions. In NFF's view, there is an opportunity to review the risk assignment provisions to better reflect the actions of Governments to fully compensate entitlement holders for changes in access that arise from policy interventions.

In relation to draft recommendation 8.2, in NFF's view, where industry assistance to adjust is assessed to be an effective mechanism to support communities through change, that Governments should not be discouraged from pursuing this option. This could for example be where a community has a strong reliance on a single or small number of industries, and that supporting the smooth transition of those industries through changes will mitigate community impacts.

2.8 A renewed NWI

NFF supports the draft recommendations in Chapter 9, which call for governments to recommit to the National Water Initiative, maintain core principles which remain a sound basis for water policy nationally, and refresh its focus to ensure that it reflects future challenges and opportunities.

The need for the National Water Initiative arose from the growing frustration by stakeholders of the slow pace of the implementation of water reforms agreed under National Competition Policy (NCP), and a lack of confidence in the way NCP principles were being interpreted by jurisdictions. The NWI, and initially the funding that supported implementation, provided

the impetus for the states to deliver reforms that were either politically difficult or where there was administrative inertia. This review has highlighted that similar challenges still persist.

In the absence of a contemporary agreed water reform framework, stakeholders can find it difficult to influence the direction of change. An agreed framework enables stakeholders to “call out” governments that are acting in contrary to the agreed principles. In our view, the risks of not having a contemporary national agreement have been highlighted in recent months with considerable discussion on the veracity of the approaches of state governments to monitoring and compliance in the Murray Darling Basin. Unresolved allegations of illegal water take and lax compliance systems are very concerning and have the potential to damage the public’s confidence that water management approaches are robust and fair. Indeed, a foundation principles of COAG Water Reforms, which was reflected in the NWI was institutional separation of the roles of water resource management, standard setting and regulatory enforcement and service provision. Based on the preliminary reporting of recent inquiries into compliance, the lack of institutional stability, and confusion over roles and responsibilities are underlying drivers that have manifested over time.

Another example of the risks of not recommitting to the NWI is the pursuit of investment in water infrastructure, particularly in Northern Australia. While water infrastructure is a vital ingredient to the prosperity and growth of the Australian agriculture sector, it needs to be prudent. Poorly considered investments, will result in at best underutilised infrastructure, the cost of which is likely to be borne by water users. At worst, we risk repeating the past where the cost of reform to Governments, and the costs to water users and their communities has been considerable.

A rigorous and independent examination of the progress of reform of all jurisdictions, such as that provided by this review, provides stakeholders with the avenue to raise issues where progress is frustrating and identify new challenges that need to be addressed.

While many of the principles and intended outcomes of the NWI are enduring, in its current form, the current agreement is dated and the focus of jurisdictions has lapsed. In many areas it does not reflect the lessons that we have learned from the 13 years of implementing reforms, nor the changes in the policy frameworks and institutions that have emerged, particularly since the introduction of the *Water Act 2007*. The risk assignment provisions are an example of this, where the actions of Governments have implemented policies that fully compensate entitlement holders for changes in access that arise from policy interventions.

We recognise that some stakeholders, particularly in the urban water sector, are looking for the Commission to make recommendations for stepped change reform. We urge the Commission to ensure that its final recommendations reflect the nuance between the reform-fatigued rural water sector, and the reform hungry urban water sector.