



National Farmers' Federation

Submission to

Senate Committee on the Multi-Jurisdictional Management and Execution of the Murray Darling Basin Plan Issues Paper

6 March 2020

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.

Statistics on Australian Agriculture

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

Social >

There are approximately 88,000 farm businesses in Australia, 99 per cent of which are wholly Australian owned and operated.

Economic >

In 2018-19, the agricultural sector, at farm-gate, contributed 1.9 per cent to Australia's total Gross Domestic Product (GDP). The gross value of Australian farm production in 2018-19 is estimated to have reached \$62.2 billion.

Workplace >

The agriculture, forestry and fishing sector employs approximately 318,600 people, including full time (239,100) and part time employees (79,500).

Seasonal conditions affect the sector's capacity to employ. Permanent employment is the main form of employment in the sector, but more than 26 per cent of the employed workforce is casual.

Environmental >

Australian farmers are environmental stewards, owning, managing and caring for 51 per cent of Australia's land mass. Farmers are at the frontline of delivering environmental outcomes on behalf of the Australian community, with 7.4 million hectares of agricultural land set aside by Australian farmers purely for conservation/protection purposes.

In 1989, the National Farmers' Federation together with the Australian Conservation Foundation was pivotal in ensuring that the emerging Landcare movement became a national programme with bipartisan support.

1. Introduction

The National Farmers' Federation (NFF) welcomes the opportunity to respond to the Senate Select Committee on the Multi-Jurisdictional Management and Execution of the Murray Darling Basin Plan Issues Paper.

The NFF recognises the importance of processes surrounding implementation of the Murray-Darling Basin Plan (Plan). The Plan is one of the most significant pieces of water reform in Australian history involving the Commonwealth, four states and the ACT under a federated structure. Naturally, it is a complex reform and must be implemented properly to ensure communities have certainty about their livelihoods.

The Plan is not perfect nor was it something the NFF advocated for during its inception. However, the Plan is an historic compromise and has the consensus of each jurisdiction and the Commonwealth which the NFF considers necessary to provide certainty for communities. There is no credible, alternative Plan and no appetite to restart the water reform process, but there is no shortage of willingness from communities who wish to improve the Plan and the way it is implemented.

To date, the implementation of the Plan has been poor, and has created grief and hardship for many communities. It is important to recognise that impacts felt by communities cannot be isolated to the Plan, but rather in the context of broader water reform including evolving water markets, and drought. The NFF agrees with the Committee's statement that the Plan was '*not intended to drought-proof the Basin or return it to pre-development conditions*'.

However, the Plan has exacerbated these impacts, particularly by focusing on environmental targets without enabling or considering the social and economic change or indeed, transformation, required for communities to adjust. The Murray-Darling Basin Authority's (MDBA) 'Southern Basin community profiles' and the Basin Social and Economic Conditions assessment 'Progress Report: Listening to Community Voices' reflects the impacts in some of these communities.

The NFF shares the Committee's concern about how governments, communities and other stakeholders work together to ensure the Plan is managed and executed in a way that secures a healthy and sustainable Murray-Darling Basin and properly balance the social, economic and environmental demands on the Basin water resources. Many communities have already been let down by the implementation of the Plan and there is a need to improve the processes surrounding implementation to deliver certainty for communities.

The NFF consistently supported the need to improve the Plan, particularly by implementing recommendations from the Productivity Commission report. The NFF maintains that this report provides the best pathway to improve the Plan. Additional reports including the Vertessy report on fish deaths, the current ACCC water markets review and the Basin social and economic conditions assessment will complement the Productivity Commission. However, the NFF has been underwhelmed by the Government's response to the Productivity Commission report and is concerned about the apparent lack of urgency and willingness in key

areas that may ultimately delay implementation of the Plan. This only creates uncertainty for basin community.

The NFF notes the Committee's focus on broader governance, management and implementation of the Plan and the impacts it has had in the following areas:

- Effectiveness of SDLAM projects;
- Developing and implementing Water Resource Plans (WRPs);
- SDL compliance;
- WRP compliance;
- Water recovery;
- Environmental water;
- Water trade;
- Adequacy of information;
- Compliance;
- Monitoring and evaluating Basin plan implementation; and
- Drought, climate change and water for critical human needs.

The NFF has previously articulated its concerns to Ministerial Council about its implementation of the Plan through:

- **Attachment A** - letter addressed to Ministerial Council, dated 27 February 2020, regarding responses to recent significant rain events.
- **Attachment B** - A letter addressed to Ministerial Council, dated 13 December 2019, regarding improvements to the Plan.
- **Attachment C** - A letter addressed to Ministerial Council, dated 13 December 2019, regarding WRP consultation process.

2. Responses to key themes

2.1. Adequacy of information

The NFF believes there is significant merit in having a 'single source of truth' in the Basin — that is, a single, authoritative source that contains accurate information about how much water there is available in the basin, how much water there is under each relevant entitlement, where the water is going and information about operational losses and evaporation. This would provide greater confidence in the basin community about water usage in the basin and address misinformation created by the absence of information. However, any public information sharing should be at such a level that it does not interfere with reasonable irrigator privacy or their commercial interests.

The NFF acknowledges the challenges of developing a consistent platform due to differences between state policies, measuring systems and technologies. This would first require basin states to share information and ensure metering across the Basin is available and representative. Currently, there are improvements required in the northern Basin which the NSW Government is working towards through their 'Healthy floodplains project'. The NFF suggests there is a role for the Commonwealth to: (1) facilitate cooperation between basin states to develop a single, authoritative source of information accessible by the public; and (2) support the NSW Government to implement their Healthy Floodplains Project.

Commonwealth funding to ensure implementation of the Healthy Floodplains Project is sufficiently resourced to be delivered properly, and in a timely manner, is critical.

2.2. Complexity of current Basin Plan governance arrangements

The NFF does not support any additional powers for the Commonwealth to manage Basin resources. The complexity of current governance arrangements is a natural consequence of the federated structure required under the Australian constitution. The NFF notes that state water policies have evolved over the last century to reflect circumstances in their state and should be respected.

The NFF does not consider any proposal to transfer powers to the Commonwealth particularly useful nor pragmatic and suggests working under current arrangements would lead to better outcomes. The NFF suggests that the current process by which all jurisdictions must cooperate and participate to deliver consensus outcomes are appropriate and will inevitably lead to enduring outcomes and therefore greater certainty for communities.

2.3. Water Resource Plans

The NFF recognises the importance of water resource plans (WRPs) under the Plan. The NFF has consistently supported the delivery of WRPs insofar as they are properly developed through comprehensive and genuine consultation with communities and are accepted by communities. Quality WRPs are necessary under the Plan, and effective stakeholder and community engagement is a critical component of this outcome which requires both time and adequate resources. Some WRPs are complex and should not be rushed to meet deadlines at the expense of genuine consultation.

However, the NFF has concerns about the NSW WRP process, and prepared a letter to Ministerial Council in December 2019 articulating our concerns (**Attachment C**). The NFF understands that the accreditation process by the MDBA requires consultation to be demonstrated under clause 10.07 within chapter 10 of the Basin Plan.

The NFF notes that communities that local expertise in knowledge about the way in which the system operates in their local community. It is in the best interest of all parties that that is recognised and processes surrounding the development of WRPs are shaped to appropriately involve them in the process.

2.4. SDLAM projects

The NFF supports the SDLAM process to deliver 605 GL equivalent water. However, the development of some SDLAM projects has been poor, particularly the consultation process for contentious projects including the Menindee Lakes, Yanco Creek and constraints measures.

While the NFF supports implementation of well-designed projects to achieve the 605 GL, the continued inflexibility of the projects and poor community consultation means that beneficial and other adaptive measures that could improve projects have effectively been locked out. The 2019 Victoria/NSW constraints modelling report also found there was inadequate modelling to

address nor assess third-party risks if constraints measures were to be implemented, consistent with the recommendation of the Productivity Commission report. Governments should consider whether these projects are feasible and, if not, work with communities to change projects which can deliver better outcomes for communities and the environment.

Projects must have community support. If they do not, they must be adjusted to earn support, or failing that, find another pathway to meet the objective. The NFF is concerned the lack of flexibility and transparency will stall progress, particularly if project(s) are overwhelmingly unsupported by community, and risk further water buybacks in regional communities to meet water recovery targets. As outlined above, the first step is to fix the poor consultation process in these areas.

Therefore, the NFF recommends the Government explore pathways, including specific legislative pathways, to allow new or alternative SDLAM projects be developed and ensure greater participation from communities. The NFF has previously suggested Governments conduct a series of workshops to: (a) inform communities of the proposed project details to enhance community understanding and transparency; and, (b) workshop improvements or new projects by enabling flexibility and adaptability. The Productivity Commission's stakeholder consultation process proved effective in their inquiry and should be considered.



27 February 2020

The Hon Keith Pitt MP,
The Hon Dr Anthony Lynham MP,
The Hon Melinda Pavey MP,
Mr Mick Gentleman MLA,
The Hon Lisa Neville MP,
The Hon David Speirs MP,
Murray-Darling Basin Ministerial Council

Dear Ministers

Re: responses to recent significant rain events

The National Farmers' Federation (NFF) is delighted that recent rainfall events, particularly in the northern basin, are seeing widespread saturation and resultant variable flood events. An unfortunate consequence of this has been the quite unedifying commentary from (but not limited to) several jurisdictions. Without attempting to stifle public debate, the NFF would find it helpful if the debate was able to be led with strong reference to the reality rather than the perception.

Water rights are a difficult and complex issue at the best of times, when they are overlaid with prioritisation of early flows at the conclusion of a substantive dry period it is all the worse.

The NFF maintains its view that there are a range of principles, evident at law, in the context of water sharing agreements, and in negotiated policy. The commitment to these principles should be maintained and managed in the context of seasonal and water availability variability. The key areas are:

- Water access rights as agreed under legislation, by condition on water licences and/or as components of water sharing plans must be maintained. Should there be any proposal to vary these they should be done in consultation and with transparency;
- The hierarchy of water needs and commensurate rights while sacrosanct, also must be addressed in a transparent and consultative manner;
- There should be no need for embargoes; well-developed Water Resource Plans, should lay a clear groundwork for the sharing of water resources under all circumstances and climatic conditions.
- Where embargoes are put in place the purpose of the embargo, the conditions of the embargo and the triggers for removal of the particular embargo must be clearly and publicly enunciated. Poor communication can undermine the significant (and probably broadly supported) benefits that are accruing;
- Where an embargo is amended, or temporarily lifted, the condition of the variation and the triggers for cessation must be clearly and publicly enunciated; and
- Where a property right is or may be impinged then appropriate remedial action should be considered, again in a consultative and transparent manner.

The NFF conceptually supports the utilisation of agreed processes to ensure protection of, particularly, first flows especially for critical human water needs. We support prioritisation for stock and domestic and environment needs where there is a demonstrable case to do so and it is done with proper and transparent process. What we cannot support is the lack of clarity of, either, what has occurred or what has been perceived to have occurred in recent events. On the back of a very difficult drought period there are a complex range of needs to be met when water becomes available and they must be met in an even handed, sensible and proper manner recognising the needs of all water holders. This includes setting, publishing and adhering to trigger thresholds in water prioritisation, taking appropriate steps to address local infrastructure risk, but only to the extent that the risk is being addressed. And finally assuring all rights holders that their rights are protected. Where property rights are eroded, they need to be appropriately compensated.

Calm, consultative and careful leadership is a key tenet of quality governance. Partisan and particularly uninformed commentary does little to promote the leadership these complex issues require. Leadership now needs to exist above political point scoring.

Yours sincerely



FIONA SIMSON
President



13 December 2019

The Hon David Littleproud MP,
The Hon Dr Anthony Lynham MP,
The Hon Melinda Pavey MP,
Mr Mick Gentleman MLA,
The Hon Lisa Neville MP,
The Hon David Speirs MP,
Murray-Darling Basin Ministerial Council

Dear Ministers

Re: Fundamental improvements for the Murray-Darling Basin Plan

The National Farmers' Federation (NFF) recognises the critical importance of the upcoming Ministerial Council (Minco) meeting to address ongoing concerns surrounding the implementation of the Murray-Darling Basin Plan (Plan). The timeframe to drive sensible reform to the implementation of the Plan tightens as Governments continually delay action amidst further inquiries and reports.

Farmers are suffering across the Basin. The anger from a combination of poor or delayed policy implementation, severe drought and other factors culminated in protests which led to all agreeing that the Plan needs fixing. However, this requires a fundamental commitment from all Governments to work together to improve the Plan. No one Government alone is responsible for the suffering across the Basin nor can they solve every problem, but no meaningful and enduring policy has ever been created without dogged commitment to work together and build consensus. Ongoing commitment from all governments to fix the Plan is strongly encouraged.

The NFF understands a number of reports and policy proposals will be discussed at the meeting, including:

- The Northern Basin Commissioner First Year report.
- Investigation of the impact of changing distribution of inflows in the southern Basin.
- The interim report of the Sefton review into social and economic conditions in the Basin.
- Outcomes of the joint NSW and Vic review into modelling of constraints projects.
- Providing the Interim Inspector General with appropriate powers.

These outcomes should be promptly released to inform policy direction. This includes Greg Claydon's independent review of the governance arrangements for implementing the Plan. Greater transparency is needed from Governments to bridge the gap in trust from communities and the NFF will be watching with interest the outcomes of the deliberations.

The NFF notes the following crucial priorities in the coming months for implementing the Plan:

Leading
Australian
Agriculture

NFF House,
14-16 Brisbane Ave.
Barton ACT 2600

Locked Bag 9
Kingston ACT 2604

T (02) 6269 5666
www.nfforg.au
ABN 77 097 140 168

Conferring powers to the Interim-Inspector General

The NFF has welcomed the appointment of Interim Inspector-General (IIG) Mick Keelty to ensure integrity, accountability and confidence in the management of Basin water resources, and notes the broad support he has received across the community. The NFF supports the outcomes agreed at Minco in August 2019 that allows for increased compliance across the Basin and the IIG should be able to perform his role without obstruction and with full cooperation with the states. The NFF nevertheless reserves its final position on expanded powers until we have considered the draft legislation.

Expert panel investigation

The NFF supports Minco, through a properly resourced expert panel, conducting an investigation into the impact of changing distribution of inflows in the southern Basin and the consequential impacts on state shares including how these interact with State allocation policies. The NFF encourages all jurisdictions to cooperate and participate in this process. However, the maintenance of sovereign rights of states over water distribution remains sacrosanct.

Fixing the consultation process

The NFF has received numerous complaints from diverse sources about the shambolic consultation process pursued by some State Governments. There is a view that there can be an anti-irrigation bias amongst water bureaucrats which is undermining goodwill and procedural fairness, resulting in Water Resource Plans (WRPs) and Sustainable Diversion Limit Adjustment Mechanism (SDLAM) projects that are poorly designed and unsupported by communities. The Productivity Commission reaffirms this sentiment, noting:

Consultation has been inconsistent and inadequate, and the community has often had little sense that decision makers have listened to their concerns. Governments' approach has regularly lacked transparency and candour.

Despite this clear advice and the issue being persistently raised by stakeholders, there is little evidence engagement has improved in some jurisdictions.

Poor consultation continues to corrode community trust and confidence and further jeopardise implementation of the Plan. The NFF cannot have confidence in the integrity of WRPs or projects developed without proper consultation that would likely result in poorer water management outcomes. Given the complexities of many water reform aspects of the Plan, genuine consultation is essential and cannot be rushed.

The consultation process cannot only amount to the following:

1. Placing an inordinate amount of long and dense documents on a Government website;
2. Advertising consultations online that most people do not see; and/or
3. Holding 'public information sessions' in communities to tell communities what they are going to do, usually at the end of the policy development process — where most decisions have already been made and there is little scope for communities to provide input, and where there is little appetite to make any substantial changes.

Where this is happening, this fundamentally flawed process must be fixed. Governments must recognise the role of expert local knowledge in shaping policy and other projects under the Plan, and involve them at an earlier stage. This should be broadly represented. Business-as-usual is not an option.

The NFF recommends Ministers develop clear consultation plans that outline how Basin Governments will conduct stakeholder consultations that give voice to local community concerns which should also inform communities on the overall process to address issues. Consultation records should also be made public to ensure transparency.

While the NFF recognises this might require additional resources, this is the cost of processes that have been so shambolic they have eroded community trust which is fundamental to the successful implementation of the Plan.

Developing proper Water Resource Plans

WRPs must be properly developed through comprehensive consultation with communities. The NFF has seen mounting evidence that the consultation process to date in NSW has been poor and disingenuous without properly considering feedback received. Some WRPs are complex and should not be rushed to meet deadlines at the expense of genuine consultation. A separate letter outlining these concerns will also be provided to the Minco.

Implementation of the Productivity Commission recommendations

The NFF has made abundantly clear the importance of implementing the recommendations of the Productivity Commission report and previously expressed our disappointment with the delays and underwhelming response by the joint Government response. The NFF notes that there is little point of a five-yearly review if it takes more than two years to commence implementation, by which time it would be relatively obsolete. We need to see real progress on implementation agreed at Minco.

Improving flexibility of SDLAM projects

The development of some SDLAM projects has been poor, particularly the consultation process for contentious projects including the Menindee Lakes, Yanco Creek and constraints measures.

While the NFF supports implementation of well-designed projects to achieve the 605 GL, the continued inflexibility of the projects and poor community consultation means that beneficial and other adaptive measures that could improve projects have effectively been locked out. The NFF understands modelling of the constraints measures has been reviewed by the Victorian and NSW Governments, and expects these results to form part of the implementation strategy. However, the lack of information here is concerning.

Projects must have community support. If they do not, they must be adjusted to earn support, or failing that, find another pathway to meet the objective. The NFF is concerned the lack of flexibility and transparency will stall progress, particularly if project(s) are overwhelmingly unsupported by community, and risk further water buybacks in regional communities to meet water recovery targets. As outlined above, the first step is to fix the poor consultation process in these areas.

The NFF requires the Government explore pathways, including specific legislative pathways, to allow new or alternative SDLAM projects be developed and ensure greater participation from communities. The NFF has previously suggested Governments conduct a series of workshops to: (a) inform communities of the proposed project details to enhance community understanding and transparency; and, (b) workshop improvements or new projects by enabling flexibility and adaptability. The Productivity Commission's stakeholder consultation process proved effective in their inquiry and should be considered.

Urgently addressing deliverability issues and third party effects

Deliverability issues and third party effects associated with changing patterns of water use and subsequent demand downstream of the Barmah Choke remains a priority concern for the NFF. This includes a declining river channel capacity and impacts on the environment including bank erosion. We understand options are being examined under multiple inquiries including the:

- ACCC inquiry into water markets in the Murray-Darling Basin
- Sefton review into social and economic conditions in the basin
- Minco review of the Murray River capacity risks due to be reported at the upcoming meeting.

The NFF expects greater transparency surrounding this process and urges prompt release of the reports as they become available to allow industry and other stakeholders to develop informed policy and allow public discussion to occur. Governments must make quick and considered responses to the above inquiries when the interim findings are released.

Improving governance and oversight of the Plan

The NFF continues to advocate for recommendations of 'Chapter 14 – Institutions and Governance' of the Productivity Commission report to be implemented, and notes the overwhelming response provided in the 'Joint Basin government response to the Productivity Commission inquiry report' where none of the recommendations were wholly agreed to.

The NFF seeks action from Governments to reform the institutions and governance of the MDBA and separate its service delivery and regulatory functions, consistent with good public administration. As identified in the report, postponing separation carries serious short-term risks for the credibility of Governments within the community, and the long-term success of the Plan, and the institutional incentives outweigh the cost of transition. The NFF notes, however, that this must be carefully managed to minimise bureaucratic inertia and avoid any undue disruption to the MDBA's ability to implement the Plan.

Northern Basin Commissioner Report First Year report

The NFF is disappointed with the Northern Basin Commissioner's report, noting it did not adequately reflect the Terms of Reference. The report did not:

- Conduct an audit of water resources.
- Comment on water theft.
- Clearly articulate progress against environmental water recovery and metering.

The NFF believes these areas still need to be explored.

Nevertheless, the NFF notes the report excoriates the overly bureaucratic nature of the Department of Agriculture and other state agencies which is effectively risking timely delivery of projects and delaying implementation.

The Department's bureaucracy must be fixed by developing an 'enabling' culture that can guide implementation. Government risk aversion in implementing the Plan should be tempered by the risk posed by the Plan not being sensibly delivered.

The NFF believes there is also a strong case for having the Commonwealth Environment Water Holder as a member of the Basin Officials Committee to improve governance.

This is a critical moment for Basin communities and the farm sector. Please ensure clear progress is made across these issues, and other issues of importance. Should you seek further advice or information please contact the undersigned or Warwick Ragg, NFF's General Manager NRM on wragg@nff.org.au or 0262695666.

Yours sincerely



TONY MAHAR
Chief Executive Officer



13 December 2019

The Hon David Littleproud MP,
The Hon Dr Anthony Lynham MP,
The Hon Melinda Pavey MP,
Mr Mick Gentleman MLA,
The Hon Lisa Neville MP,
The Hon David Speirs MP,
Murray-Darling Basin Ministerial Council

Dear Ministers

Re: Concerns regarding NSW Water Resource Plans

The National Farmers' Federation (NFF) is writing to raise concerns about the consultation process as part of development of NSW Water Resource Plans (WRPs). The NFF has received mounting evidence of the poor consultation process being conducted by NSW that appears disingenuous and does not reflect proper nor appropriate standards. This follows numerous concerns raised by the NFF about the importance of genuine community consultation.

The NFF has received complaints from multiple sources across various WRPs being developed. Specifically, we have been informed that the consultation process to date has amounted to Government officials going to affected valleys, receiving feedback, and then returning at a later date to tell them what would be in the WRP without considering their feedback.

NFF has been informed that during consultations, including through the Stakeholder Advisory Panel process (SAPs), there has been no opportunity nor appetite to change rules for improved conditions for productive users. Furthermore, the SAP process has been primarily comprised of Departmental staff without any water users; insufficient information was provided to SAPs to support informed decision-making — no local knowledge was made available given limited local officials whom were able to provide detailed responses to local impacts; and, WRP development has been insufficiently resourced, resulting in delays and unresponsiveness.

Stakeholders have had requests for further consultation ignored. Departmental delays in preparing draft plans have left little time for proper community engagement, and have been consistent across numerous WRPs. Draft water sharing plans exhibited for public comments have raised significant concerns about water being diverted to the environment at the expensive of allocations to water entitlement holders — and it appears these concerns have not been addressed nor explained to stakeholders about why this is the case.

If this is correct, the NFF expresses concern about the consultation process for all WRPs across NSW. We understand the accreditation process requires consultation to be demonstrated under clause 10.07 within chapter 10 of the Basin Plan, and urge the Murray-Darling Basin Authority (MDBA) to not approve any WRP that has not been conducted through a proper and effective consultation process.

WRPs remain an integral part of the Plan and must have the appropriate rules in place to ensure it is fair, and accepted by the community. The NFF understands the relatively short time frame

both NSW and the MDBA is working under to finalise WRPs; however, poor WRPs due to a rushed and/or poor processes, particularly complex WRPs, would undermine the integrity of the Plan.

We need the MDBA to ensure the WRPs are developed according to best practice consultations and allow further consultation or specific review clauses as necessary. Should you seek further advice or information please contact the undersigned or Warwick Ragg, NFF's General Manager, NRM on wragg@nff.org.au or 0262695666.

Yours sincerely



TONY MAHAR
Chief Executive Officer