

**SUPPORT FOR DROUGHT AFFECTED COMMUNITIES IN NEW SOUTH
WALES**

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Submission to New South Wales Parliamentary Inquiry into support for drought affected communities

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I am grateful for the opportunity to address the Inquiry, particularly on conditions in the Darling River Basin.

My capacity to comment on these matters is based on my interdisciplinary research, my experience with and observation of the processes affecting indigenous people in several countries including Australia, and my service as a judge on relevant People's Tribunals and Citizen's Inquiries.

I am particularly interested in, and familiar with, problems arising from the use and abuse of water resources. I have acted as a Judge on the panel of the Permanent People's Tribunal (Rome, Italy) into Unconventional Gas and Oil Extraction (fracking) (2018). We heard evidence from many countries, including Australia, about the negative impacts of the industry on ecosystems: people, including indigenous nations; towns; communities; economies and health (mental and physical) in particular, and Nature.

Many of the issues regarding social and economic impacts of the UGOE industry are similar to those facing the ecosystem of the Darling River Basin and the government in its management of the Basin.

I served as a judge on the Citizen's Inquiry along the Darling River Basin, March 2019. For the Inquiry we studied many reports and accounts of the circumstances relating to the current condition of the Basin and its peoples, towns, economy and communities. During the Inquiry Hearings we visited the Basin for two weeks and heard testimony from more than a hundred witnesses, and spoke with many others as we travelled from Buronga to Walgett.

Recently I re-visited the Basin, from Menindee to Walgett. The situation is, if anything, worse than it was in March.

I am a member of the Water for the Rivers alliance and wish to be associated with the Submission they have submitted to the Inquiry. My Submission does not cover all of the specific Recommendations made in that submission, with which I agree, but seeks to address a number of more general and longer term issues as well as providing empirical testimony from the people.

My submission is a personal one and does not reflect the views of others.

Voices of the Darling/Barwon river people

For your appreciation of the situation as heard from the people of the Basin, I provide in the APPENDIX some selections from the testimony we received from the river people who volunteered to meet with us in the informal sessions we held in 8 towns along the river. These statements are highly relevant to the Terms of Reference of the Inquiry.

River people have been abandoned, but they know the issues and the remedies

I believe the major issues that exist on the river are well known to the people who live there. Over many years they have experienced a lack of government concern for them and the other, non-human elements of the ecosystem. The river people, like the rest of us but more directly, are reliant upon its health. Their voices have not been heard. But they need to be heard, and heard sympathetically and in good faith if the health of that system is to be restored. They have ideas

about the causes of the crisis of their ecosystem, and offer rational and humane solutions to remedy the damage done and to maintain the sustainability of the rivers and all that their water supports.

Clearly, the comments by the people of the river provide ample grounds for saying that the DRB is in crisis and nearing collapse, the people and Nature are suffering greatly, and there is a crisis of government legitimacy.

The following comment indicates the understanding held by many First Nations people, the second phrase of which many of the non-Aboriginal people would agree with.

“They used to take us out and shoot us. Now they kill us with their policies.”
First Nation resident of Wilcannia

The focus on drought

“Government’s idea that it is drought causing the problem is an insult. There is no feeling of responsibility. After 250 years, no one is listening.” W10 Wilcannia

The statements in the **Appendix**, taken from river people who volunteered their views, indicate that while there is no gainsaying that drought has contributed to the crisis for the people and Nature on the rivers, other factors have been major contributors over many years.

In attempting to develop solutions to the problems of affected communities in the long term, a narrow focus on drought is likely to be less comprehensive than is required to deal effectively with the conditions in those communities. When the drought lifts and rain falls, without substantial change in the management of the river, the crisis will not disappear for it is not just about getting water into the river. It is about maintaining it there and the appropriate distribution to people, the environment and to the farming community.

From the views we heard, and various reports considered, the factors other than drought would include: failure of adequate management of the DRB; water theft and floodplain harvesting; over-extraction of water by major irrigators; inadequate regulation and sanctions on violators; pollution of the rivers and groundwater from fertilizer, pesticide and other material that have badly affected the water supply and contributed to higher than normal rates of various mental and physical health problems; blue green algae that has been linked to motor neuron disease; long standing devastation of trees and other non-human species resulting in significant species extinction.

Government insistence that the drought is the major problem shows an unwillingness to recognize that there is a vital and fragile ecosystem that is in crisis, that there is a man made national emergency well beyond the bounds of the Basin, that requires vision, planning and action; the failure to include the effects of climate change on the Basin is a horrendous example of political ideology driving policy rather than any failure of science or even public understanding .

It seems clear from all the evidence contained in publicly available reports and commentaries, that governments have for many decades allowed the Murray Darling rivers and their tributaries to degrade to a degree that can only be called catastrophic.

Unless the system of water management is changed so that the findings of mismanagement, maladministration and illegality found by the South Australian Royal Commission on the Murray River (knavery replicated in the DRB ecosystem) no longer operate, the degradation of the MDRB will continue. In which case the people, communities-First Nations and others- and the rest of the ecosystem will collapse. Without fundamental change,not just “tweaking” it, then even when the drought ends, the degradation will continue. It will be like pouring water into a sieve.

Lack of Social Justice

Social justice has been no part of the management of the river systems. The classic settler mentality and corporate greed have resulted in an obsession with “economic development” which has been so injurious to the rivers and the communities, first Nations and others. There is a long slow violence imposed by the structures of this “democratic capitalist” system which has the lack of morality exhibited by the market. (See generally Rob Nixon, *Slow Violence and the Environmentalism of the Poor*, Harvard University Press, 2013. Nixon acknowledges and builds on the “structures of violence” developed by Johan Galtung in the 1960s.) That violence and consequent inequality has led to the development of an underclass with a wide-range of social and health problems (mental and physical). It has also led to a significant “legitimation deficit”: it is clear from many of our witnesses in the citizen’s inquiry, that there is a mixture of contempt, distrust and scepticism about government’s willingness to even try to develop plans for achieving social justice let alone implement such plans.

Recommendations

Root and branch transformation of management of ecosystems

The South Australian Royal Commission on the Murray River, and numerous reports and academic studies focused on the DRB going back decades, have shown that the centralized bureaucratic style of management has long failed the people and the non-human elements of the rivers’ ecosystems. Such has been the failure that there have been catastrophic impacts on people and nature on a wide scale.

It should be noted that tweaking the management structures, policies, programs and regulations through law reform have only worsened the problems. That path leads, literally, to a dead end.

Management of the rivers must be given a new, local and federated system based on the knowledge and experience of the First Nations people, and the other river people, supplemented by appropriate scientific knowledge.

Local government should be funded to provide the administrative structure needed.

It has come to my attention through discussions with people familiar with the history of management of the rivers and my subsequent research, that the various state systems of Integrated Catchment Management (ICM) would provide a useful starting point for developing the reformed DRB management system.

I recommend the following document as a reference for understanding the potential of a new, modified and evolving ICM structure:

Bellamy, J. et al, *Integrated Catchment Management: Learning from the Australian Experience for the Murray-Darling Basin* (Final, Overview, Report, Jan.2002) CSIRO Sustainable Ecosystems, Canberra

Education for cultural change

There is currently a review of the NSW school curriculum. I suggest that Parliament should exercise oversight of that move to revise the educational program being devised for the generations to come. I doubt that the curriculum revision will adequately deal with the issues affecting the ecosystems that provide sustainability for the people, communities and regional ecosystems of New south Wales. given that the ecosystems we live in are necessary for the sustainability of the planet, surely a radical re-constitution of our education is justified, even necessary.

I have two recommendations:

- 1) Make ECOLOGY the central focus of the curriculum. Such a focus, like the hub of a wheel, would allow many disciplinary spokes to come together in an exciting interdisciplinary program of study. For what subject or discipline, is not related to the ecosystems of which humans are a part?
- 2) Make Aboriginal Studies compulsory, including a local or regional Aboriginal language. While in NSW much has been done to make available to students such studies, it will remain a marginal experience for the student population generally if such studies are elective.

A strong argument for this requirement inter alia, is that, as indicated above, we need to involve Aboriginal people directly in the transformed management of the ecosystems we have failed to manage properly and for which they are admirably suited. But the general attitude of the Australian non-Aboriginal people is such that they would not likely be willing to concede that role to the Aboriginal people. I suspect that will also be the attitude of politicians and governments.

Thus the need for a deeper appreciation for the Aboriginal people and their traditional knowledge and experience of custodianship of the waters throughout 60,000 years. The place to start is in the schools.

What is also needed, whether or not this recommendation is accepted,, is far more funding into the development and expansion of Aboriginal teacher training.

Transition of inappropriate crops

A plan must be developed for the future of agriculture in the DRB, and this must include three aspects: 1) the transition away from inappropriate crops that draw too much water from the rivers and floodplains, the major one being cotton; 2) the development of new crops that are suitable for dry conditions; 3) the subsidization of new methods of farming and water usage, such as Natural Sequential Farming.

Moratorium on building new dams on the rivers

The very mixed history of building dams, and weirs, on the rivers does not indicate that that is necessarily the way to improve the management of the river ecosystems. Given the crisis of the DRB, and failed government policies that saw the building of numerous dams over time, there should be a "super precautionary principle" in effect: do nothing in the short term that will not mitigate the crisis and might make it worse.

There should be an independent study of the dam building projects now in train, and the justification of any new dams must be based not just on predicted economic payoff, but should be primarily based on whether there is clear advantage for the ecosystem as a whole.

Cessation of land clearing

Too much land has been cleared already. Indeed, one of the causes of the severe drought is the massive land clearing that has made great swathes of the Outback dry and dusty without forests. Thus contributing also to the loss of biodiversity. Land clearing also increases soil erosion and flooding. It should now be prohibited.

Reforestation: Begin a Great Green Wall

Reforestation is an absolute necessity for any comprehensive solution to the problems of the DRB and the Outback more generally. In Africa there is now a Great Green Wall project that involves the planting of a wide band of trees stretching across the continent. This would be an ambitious project for Australia, but a necessary one.

Commence recognizing the Rights of Nature

Across the globe, countries (including New Zealand) and sub-national jurisdictions are introducing Rights of Nature in their constitutions, by legislation or judicial decisions. This is an important development which Australia, Commonwealth and states, should emulate.

If it is deemed appropriate that artificial entities such as corporations have some of the rights of persons/citizens, rather surprisingly even including the right to vote in some local jurisdictions in Australia, then why not rivers?

Reinstate Lake Menindee and probe the mysteries connected to the Lake

I have been informed that the Lake had been “de-commissioned”. The Lake bed is bone dry. Drilling is now happening in the Lake bed although no public information seems to have been made available explaining this enterprise. The Lake was formerly an important site for various non-human species and an amenity for the people of the area. It was like an oasis in the desert.

The discharge of the water from the Lake seems incongruous as it appears that it was unnecessary to do so. That operation, the drilling in the Lake bed and, of course, the highly controversial construction of the pipeline to Broken Hill with its connotations of corruption, all this has for many people on the rivers entirely destroyed faith in the government and fuelled their despair.

One of the most important steps needed for signalling the intention to make transparency and accountability a fact of life on the rivers in the future, and in the Outback generally, is for there to be an honest account of 1) what has happened to the Lake and why, 2) what is intended for it given the drilling there, and 3) what percent of the water to be pumped through the pipeline is to be provided for the people and what will be used for the local mining industry. Perhaps the answers to these questions will best be achieved by this Parliamentary Inquiry.

Such truth telling would do marvels for the mental health of the people of the rivers and would go some way towards developing trust in politicians and governments which, in my view, has justly been suspended.

Recognize there is a Climate Emergency and take appropriate action

I will never forget the mix of emotions I felt when standing in a street of a town in Australia, along the Darling River, watching people line up early on a Sunday morning waiting for charity in the form of a water train that was coming up from Melbourne. Shame, first of course. For the Third World conditions imposed upon the river people by the mismanagement, maladministration and illegalities in water management, and corporate greed in the Murray Darling ecosystem. Admiration too, for the people in Melbourne and the owners of the trucks in particular. Their solidarity with the waterless folks on the rivers was extraordinary.

There is, amongst other afflictions, a Climate Emergency affecting the DRB. The people of the rivers have been in the frontline for some time. For Walgett, Day Zero has already been experienced.

Special measures need to be taken to maintain the communities on the river. Special legislation should be crafted so that those measures will be taken promptly, rather than the problems ignored or subject to long drawn out parliamentary procedures that ensure that what is done-if anything-is too little and too late.

End water theft and flood plain harvesting, sanction the perpetrators

It has been made clear in various media reports (including ABC TV Four Corners documentaries) and academic studies, and criminal prosecutions, that when it comes to nefarious activities to sequester water, there are “many ways to skin a cat”. Detection of such activities has not been a priority of governments, to say the least. Convictions are few and the sanctions inadequate. All of this needs to change before the DRB can be considered safe from corporate greed and government indifference.

Again, we might look to the First Nations people for assistance in dealing with the lack of social justice and the impunity, effectively, from criminal justice that perpetrators appear to enjoy in these matters. The lack of social and criminal justice is detested by the river people.

A commitment to the development of a large scale, full time First Nations Ranger Corps for the entire DRB would be an important step in dealing with the negative impact of water theft and illegal diversion on the DRB but also on the employment problem of the communities and would, in part, assist in restoring faith in the government to act boldly to restore the rivers and maintain the communities.