

**INQUIRY INTO CONSTITUTION AMENDMENT (WATER
ACCOUNTABILITY AND TRANSPARENCY) BILL 2020
AND THE PROVISIONS OF THE WATER MANAGEMENT
AMENDMENT (TRANSPARENCY OF WATER RIGHTS)
BILL 2020 AND THE WATER MANAGEMENT
AMENDMENT (WATER ALLOCATIONS - DROUGHT
INFORMATION) BILL 2020**

Organisation: Nature Conservation Council of NSW

Date Received: 8 July 2020



Nature Conservation Council

The voice for nature in NSW

5 July 2020

Mr Mark Banasaik
Chair, Portfolio Committee - Industry
Parliament House
6 Macquarie Street
Sydney NSW 2000

Email: portfoliocommittee4@parliament.nsw.gov.au

Dear Mr Banasaik

Submission to the Inquiry into the Constitution Amendment (Water Accountability and Transparency) Bill 2020 and the provisions of the Water Management Amendment (Transparency of Water Rights) Bill 2020 and the Water Management Amendment (Water Allocations - Drought Information) Bill 2020

The Nature Conservation Council of New South Wales (NCC) is the state's peak environment organisation. We represent over 150 environment groups across NSW. Together we are dedicated to protecting and conserving the wildlife, landscapes and natural resources of NSW.

Thank you for providing the opportunity to make a submission regarding the proposed Amendment Bills. NCC is pleased that the Bills provide a framework for better transparency in water management.

The most recent drought is still impacting large parts of NSW. Scathing reports from the Natural Resources Commissioner and the Interim Inspector-General have highlighted failings in water management and the impacts of reduced inflows from the northern basin.

The Darling River has suffered 17 cease-to-flow events since 2001. Prior to 2001, the last time the Darling River stopped flowing was in 1945. Since 2008, we have witnessed some of the longest cease-to-flow events in the Darling river, including more than 520 days of disconnected Murray-Darling river system during 2015 and 2016. The most recent cease-to-flow event exceeded that. Unprecedented reduced inflows have caused multiple mass native fish kills,



trauma and distress among local communities, and the end of irrigation dependent industry in the lower Darling. It is yet to be known whether vulnerable or endangered species of native fish will ever recover.

The purpose of the Murray-Darling Basin Plan (the Basin Plan) is to return over-allocated rivers to sustainable levels of extraction for the overall wellbeing of the system and its communities. To ensure compliance with all relevant legislation, particularly where constitutional powers have been divested to the Commonwealth in relation to water management, best practice principles must be adhered across the board. These Bills must complement and strengthen the Water Management Act 2000 (NSW) and the Water Act 2007 (Cth).

The Objects of existing water management legislation

The Water Management Act 2000 (NSW) and the Water Act 2007 (Cth) are intended to:

- encourage best practice in the management and use of water¹
- enable the Commonwealth, in conjunction with the Basin States, to manage the Basin water resources in the national interest²
- provide for the orderly, efficient and equitable sharing of water from water sources³
- be implemented based on “the best available scientific knowledge and socio-economic analysis”⁴

The best available scientific knowledge is noted to include the best available systems for accounting for water resources.

It is in the context of the environment and community focussed objects of these Acts that NCC comments on the proposed Amendments.

The Water Management Amendment (Water Allocations – Drought Information) Bill 2020

NCC approves of and endorses the Water Management Amendment (Water Allocations – Drought Information) Bill 2020.

¹ The Water Management Act 2000 (NSW), Section 3, Chapter 1 (h)

² The Water Act 2007 (Cth), Section 3, Chapter 1 (a)

³ The Water Management Act 2000 (NSW), Section 3, Chapter 1 (e)

⁴ The Water Act 2007 (Cth), Part 2, Division 1, Section 21(4)(b)



This Bill will allow the most current, up-to-date data to be utilised in water management. In doing so, the Bill can enable a true and accurate understanding of water recovery needs under the Basin Plan.

This Bill will also provide the means to ensure equity is reinstated. Water quantities can be more accurately measured and monitored. Up-to-date data can be used to model projections more reliably and based on best available science.

The Water Management Amendment (Transparency of Water Rights) Bill 2020 and Constitution Amendment (Water Accountability and Transparency) Bill 2020

The public expects that holders of public office at all tiers of Government be accountable. Whenever policy or legislation is debated or new planning decisions are made, it is a vital function of our democracy that declaration of interests provides transparency. The community deserves certainty that decisions are being made in their best interests.

As a property right, water licenses and allocations have a monetary value in and of themselves. They are also a commodity that can be traded. It is therefore appropriate that these amendments aim to ensure transparency by creating a public register of politicians' water interests. Such a register would require regular updating as holdings are increased or traded, and regular independent auditing.

NCC supports a register that includes:

- spouse, dependent child/ren and all significant pecuniary interests
- ABN and director details of any business that hold water access licences, allocation or the ability to trade in water

Therefore, we do not support the exemption listed in [5] Clause 8A (2) (b):

“the Member had the interest only in his or her capacity as a trustee and the Member acquired the interest in the ordinary course of any occupation of the Member which is not related to his or her duties as a Member.”⁵

Although it may be that any Member, acting as Trustee, perceives the “...ordinary course of any occupation of the Member which is not related to his or her duties as a Member” it may be that

⁵ Constitution Amendment (Water Accountability and Transparency) Bill 2020



Nature Conservation Council

The voice for nature in NSW

the Member still stands to personally gain financially (or through spouse or dependent child). This exemption undermines the intention of the amendments.

Auditing of Members' financial interests by an independent agency with specific financial expertise is best practice. As such we do not support the proposal that the Natural Resources Commissioner be responsible for auditing the proposed register. Adequately funded, ICAC or the ATO are better resourced and to investigate financial interests.

We welcome the opportunity to discuss our submission further. Your key contact point for further questions and correspondence is Jacquelyn Johnson, Policy and Outreach Coordinator,

Yours sincerely,

Jacqui Mumford
Acting Chief Executive
Nature Conservation Council