

Fair Water Use proposes Royal Commission of Inquiry

Fair Water Use has made two submissions to the Senate inquiry into water management in the Coorong and Lower Lakes, for consideration as amendments to the Emergency Water (Murray-Darling Basin Rescue) Bill 2008.

This submission calls for the establishment of a Royal Commission of Inquiry and proposes its terms of reference:

MURRAY-DARLING BASIN COMMISSION OF INQUIRY - TERMS OF REFERENCE

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Introduction

The Murray Darling Commission of Inquiry (Royal Commission) shall be established by the Commonwealth of Australia to conduct a full and open inquiry into the management and governance of the Murray-Darling Basin, to determine compliance with section 100 of the Australian Constitution and the need to apply reasonable measures to restore and protect the ecological health of the Murray-Darling river system at all times, including during drought.

The inquiry will determine whether changes should be made by the Commonwealth, the States of Queensland, New South Wales, Victoria and South Australia and The Australian Capital Territory with respect to the governance (constitutions, laws, regulations, orders, agreements and treaties), management structure and practices (including, but not limited to, allocation, water trading and regional arrangements) and ascertain whether these practices are consistent with section 100 of The Australian Constitution and the long-term ecological survival of the Murray-Darling river system.

Australian Constitution Section 100 - Nor abridge right to use water

The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

Royal Commissions Act 1902

Under the authority of the Royal Commissions Act 1902, a Commissioners Board of Inquiry shall be established to inquire into and report within 12 months of its establishment on the following matters concerning the Murray-Darling Basin:

Government

1. Current management and governance structure, with specific reference to the responsibilities of the Commonwealth, the States of Queensland, New South Wales, Victoria and South Australia and The Australian Capital Territory.

Water Privatisation

2. The legal status and consequences of the establishment of the water market and the privatisation of the waters of the Murray-Darling Basin by the Council of Australian Governments and as enacted by the Commonwealth, the States of Queensland, New South Wales, Victoria and South Australia and The Australian Capital Territory.

Ecological Health

3. The ecological health of the Murray-Darling Basin and trends in and effects of extraction, diversion and quality of Murray-Darling water, both surface and ground water, over the last 30 years.

4. Drafting of guidelines defining the actions required to restore and protect the ecological health of the river system at all times, including during drought, and to define the processes whereby a Murray-Darling Basin Disaster Management Plan

will implement an orderly reduction in the volumes of surface and ground water extracted from and diverted within the Murray-Darling Basin.

Water Use

5. Determine trends of use of surface and ground water of the Murray-Darling Basin over the past 30 years, with specific regard for volumes utilised for irrigation (including determination of crop types, irrigation techniques and intended markets), by other industries and that supplied for critical human needs. Reference will be made to the cost of water, the economic return achieved by water users, water wastage by users and water losses.

6. An assessment shall be made of the efficiency and effectiveness of water use by irrigators, industry and communities, towns and cities, and plans to improve efficiency and effectiveness.

Climate Change

7. An assessment shall be made of the likely impacts of climate change on the availability of surface and ground water in the Murray-Darling Basin and policies that governments of Australia should consider to ensure compliance with Clause 100 of the Australian Constitution, with respect to the "reasonable" use of water, by minimising the utilisation and wastage of resources by all categories of user.

Recommendations

8. The Commission will recommend any changes it deems necessary as a result of its inquiry, including those that specifically address paragraphs 1 to 7 as detailed in the special provisions.

Regard for Murray-Darling State of Emergency

9. The Commissioners Board of Inquiry shall have regard for the State of Emergency, declared by the States of Queensland, New South Wales, Victoria and South Australia and The Australian Capital Territory with the full support of the Commonwealth, to carry out short term remedial action aimed at restoring the ecological health of the Murray-Darling river system.

Regard for State Royal Commissions

It is recognised any COAG member State may call its own Royal Commission to inquire into water management and governance. The Commissioners Board of Inquiry shall have regard for such Royal Commissions insofar as they relate to the Murray-Darling Basin.

Recognition of plans for desalination and pipeline projects.

Special Provisions - Commissioners Board of Inquiry

The Commissioners Board of Inquiry shall comprise a Chairman and a Commissioner for each of the following areas:

- Government
- Water Privatisation
- Ecosystem
- Water Use
- Climate Change.

Any eminent person or expert engaged by the Commissioners shall have placed on the public record a detailed statement of their support and involvement in water reform and of their competency in the area engaged by the Commissioners.

Draft reports shall be issued at no less than three monthly intervals until the work of the Commission of Inquiry is completed.

Separate reports shall detail findings and recommendations in relation to the restoration and protection of significant ecosystems of the Murray-Darling Basin, such as the Lower Lakes and the Coorong. These reports shall be completed within six months of the commencement of the Commission of Inquiry.

A separate report shall detail the findings and recommendations in relation to the waters of the Snowy Mountain scheme.

Special Provisions - Priority of Water Use

Murray-Darling water, including groundwater, shall be provided for use in the following order of priority:

- a. Water required by the Murray-Darling river system to ensure its ecological conservation.
- b. Water required by residents who are dependent upon the Murray-Darling for their water supply.
- c. Water for use by irrigators to produce food and drink for residents of the States.
- d. Water for use by other industries to produce goods and products for domestic use.
- e. Water for use by irrigators and industries to produce goods and products for export.