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SUBMISSION

Statutory Review - WaterNSW Act 2014

Healthy Rivers Dubbo (HRD) is a grass roots community group dedicated to providing a strong voice for our local rivers, aquifers and wetlands in the Murray-Darling Basin for the benefit of wildlife, plants and people. We pay our respects to Elders past, present and future, and acknowledge that this land was never ceded.

HRD is grateful for the opportunity to comment on the statutory review of the WaterNSW Act 2014.

The development and regulation of rivers has had a significant detrimental impact on the health and resilience of rivers and wildlife, and as a consequence, on the regions that rely on healthy natural functioning rivers.

As the operator of 42 dams across NSW supplying two thirds of the water used in NSW, WaterNSW has a critical role to play in the health and resilience of the rivers of NSW. The culture within the state owned corporation when it comes to prioritising environmental objectives is therefore very important.

This submission will focus on the legislated principle objectives of WaterNSW.

Question 2: Do the legislated principal and other objectives of WaterNSW need to be updated, amended or expanded to include any other matters?

Setting objectives is a powerful tool for organisations. Over time, objectives create and reinforce corporate culture. The objectives of an organisation inform decisions management make around hiring and training staff. They are the force behind the motivation of the organisations' employees.

From page 6 of the issues paper:

> Section 6: The principal objectives of WaterNSW under the Act:
>
> (a) to capture, store and release water in an efficient, effective, safe and financially responsible manner, and
>
> (b) to supply water in compliance with appropriate standards of quality, and
>
> (c) to ensure that declared catchment areas and water management works in such areas are managed and protected so as to promote water quality, the protection of public health and public safety, and the protection of the environment, and
>
> (d) to provide for the planning, design, modelling and construction of water storages and other water management works, and
>
> (e) to maintain and operate the works of WaterNSW efficiently and economically and in accordance with sound commercial principles.
>
> Section 6 (2) contains the other objectives of WaterNSW, these include:
>
> • to be a successful business
>
> • to exhibit a sense of social responsibility having regard to the interests of the community
>
> • to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates
>
> • where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in Section 6 (2) of the Protection of the Environment Administration Act 1991.
>
> These other objectives are of equal importance but are not as important as the principal objectives of WaterNSW.

The principles of ecologically sustainable development (ESD):

(a) the precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

(i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and

(ii) an assessment of the risk-weighted consequences of various options,

(b) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,

(c) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,

(d) improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:

(i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,

(ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,

(iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

Every action WaterNSW performs affects the environment. The modification of rivers has had significant impacts on groundwater aquifers, floodplains, wetlands a well as the rivers themselves.

Ramsar listed wetlands are protected under international agreements and legislation. Any actions taken by WaterNSW that reduce flows to Ramsar wetlands must be assessed under the principles of ESD.

Many iconic species of native fish, small bodied fish, migratory birds and water birds are listed as vulnerable and threatened under NSW and Commonwealth legislation. Numbers of native fish in the Murray Darling Basin have reduced by 90% since colonisation. Any actions taken by WaterNSW that impact the habitat of aquatic wildlife must be assessed under the principles of ESD.

Stygofauna grow slowly, don't have many young, live long lives and stay close to home. Some are from extremely old lineages, with ancestors dating back about 200 million years. It is because of their characteristics born of their low-energy environment, and their incredible age, a lot of stygofauna species are extremely rare and localised. Stygofauna contribute important ecosystem services by creating a nutrient cycle, and have been recognised as indicators of groundwater health. Stygofauna are vulnerable to extinction from environmental changes and human impacts. Any decision WaterNSW makes that would threatened stygofauna populations must be assessed under the principles of the ESD.

Connectivity between rivers is critical to enable the migration of aquatic life and to maintain the health of downstream ecosystems. Any decision WaterNSW make that will reduce the occurrences of connectivity between water sources must be assessed through the ESD principles.

Recommendation: The principles of ecologically sustainable development contained in Section 6(2) of the Protection of the Environment Administration Act 1991 should feature predominantly in the principle objectives of the Act.

HRD suggests the following amendments to the principle objectives:

(a) to capture, store and release water in an **ecologically sustainable**, efficient, effective, safe and financially responsible manner, and

(b) to supply water in compliance with appropriate standards of quality, and

(c) to ensure that declared catchment areas and water management works in such areas are managed and protected so as to promote water quality, the protection of public health and public safety, and the protection of the environment, and

(d) to provide for the planning, design, modelling and construction of water storages and other water management works **under the principles of ecologically sustainable development contained in Section 6(2) of the Protection of the Environment Administration Act 1991,** and

(e) to maintain and operate the works of WaterNSW efficiently and economically and in accordance with **the principles of ecologically sustainable development** and sound commercial principles.

Economic considerations:

The objectives of the WaterNSW Act have a strong focus on economic outcomes, which equate to its own profitability. Decisions made by WaterNSW that may maximise service to WaterNSW customers and therefore maximise WaterNSW profits, often negatively impact other parts of the economy.

Maximising 'efficiency' of water deliveries and minimising 'transmission losses' is language often used by WaterNSW. What this means out in the valleys is less free flowing water in rivers and wetlands.

Less water in the rivers significantly impacts businesses that support recreational fishing and tourism. Grazing is also significantly impacted by reduced flows over floodplains and wetlands. River towns rely 100% on healthy rivers to bring in visitors.

Recommendation: WaterNSW culture must evolve to take on a larger social responsibility for communities and businesses that are negatively impacted by actions that WaterNSW take to maximise their corporate profits.

Responsible environmental managers:

WaterNSW reputation as responsible environmental managers is poor.

Since 2011 they have had a legal requirement to build eleven fishways in NSW as offsets to dam safety upgrades. These projects were not funded in the previous IPART determination period.

Releases of environmental water are designed carefully, so that natural conditions can be replicated to facilitate the desired outcomes. During the 'stable cod flow' portion of an environmental release, it's very important that the daily flow rate for Held and Planned environmental water be complied with.

During the 2019 water year in the Macquarie Valley, WaterNSW used rainfall predictions in the valley to reduce the daily flow rate, expecting catchment rainfall would meet the target flow rate at the end of the system. The rain did not come, and there were a few significant 'holes' in the event.

By failing to comply with the daily flow rate, WaterNSW showed that their priorities were not in line with environmental outcomes. They seemed to overlook the importance of the 'stable cod flow' phase of the event, and the consequences to cod sitting on the nest with their backs out of the water, meaning many nest sites would have been abandoned.

The augmentation and safety upgrade of the Chaffey Dam on the Peel River, required an approved offset plan as a measure to mitigate impacts on the endangered Booroolong Frog. The biodiversity offset plan has not been implemented, meanwhile the Booroolong Frog has declined to the point of local extinction.

Many WaterNSW water storages, including Wyangala Dam, cause unmitigated severe cold water pollution problems.

For WaterNSW to improve their decision making record around environmental management, there is a need for the culture of the corporation to significantly shift.

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