



**The Hon Kevin Humphries MP**

Minister for Natural Resources, Lands and Water  
Minister for Western New South Wales

Mr Eamonn Moran, QC PSM  
Department of the Environment  
GPO Box 787  
CANBERRA ACT 2601

**NSW Government Submission  
2014 Review of the Commonwealth Water Act 2007**

Dear Mr Moran,

Further to Parliamentary Secretary for Water, Senator Simon Birmingham's correspondence of 12 May, I am pleased to provide the following initial advice regarding the Review of the *Commonwealth Water Act 2007* (the Act).

The review of the Act provides an opportunity to both consider and build on the success of water reforms implemented since the Act was introduced.

Since the scope of the review extends to both the Act's operation and the extent to which the Act's objects have been achieved, the key issue for consideration is the extent to which the Act "promotes the use and management of the Basin water resources in a way that optimises economic, social and environmental outcomes" [3(c)].

NSW strongly supports the need to arrive at balanced outcomes and believes that the most efficient and effective means of doing so is via market based mechanisms. Through placing restrictions on the trade of environmental water allocations, the Act is restricting the potential to deliver on its objects.

In reviewing the Act, NSW feels it is vital to examine the role of the Commonwealth Environmental Water Holder (the CEWH) and the flexibility it has to engage with the market.

One significant limitation is the requirement that any revenues raised from the sale of water by the CEWH are fully allocated to future water purchases. This limits the capacity of the CEWH to invest in environmental works and measures which maximise the return on the environmental water asset in a manner that maximises environmental benefits.

In the same way that 'productive' water use has been encouraged to become more efficient and effective, so too should the CEWH be able to maximise the efficiency and effectiveness of environmental water allocations.

To deliver optimal outcomes it is also vitally important to coordinate the use and delivery of environmental water held in both CEWH and Environmental Contingency Allowance (ECA) accounts. Establishing stronger links with the State-based ECA's by having a proportion of CEWH balances administered by the ECA will increase the decentralisation of decision making and improve local project delivery.

NSW accepts that there must be limitations on environmental trading but believes that flexibility, and decentralisation, are central to optimising social, economic and environmental outcomes.

The efficiency of the Murray Darling Basin Authority (MDBA) is a further area for consideration. NSW has ongoing concerns with the transparency and accountability of the MDBA managed joint programs and is currently awaiting the cost-efficiency review.

Given that NSW's contribution to the operational costs of joint assets are funded by water users, there is merit in the natural resource management components of these joint programs being funded by the CEWH through returns on the prudent management of the environmental water asset.

Until such time as all users of water find themselves on a level playing field we will not be in a position to deliver sustainable outcomes. A national framework to manage Basin water resources cannot be built around different sets of rules for different users, and as such, all licenced water allocations should be equally able to be managed in a way that delivers the desired outcomes.

Whilst issues of red tape and regulatory burden must be addressed, the greatest barrier to a healthy, productive and sustainable Basin lies in the barriers set up by the Act to constrain the management and use of environmental water assets.

Should you wish to discuss the above in more detail through the course of the review, please contact Warwick Pelly, Senior Policy Advisor, Water, via [warwick.pelly@minister.nsw.gov.au](mailto:warwick.pelly@minister.nsw.gov.au) or on (02) 9228 5248.

Yours Sincerely

A handwritten signature in blue ink that reads "Kevin Humphries". The signature is written in a cursive, slightly slanted style.

**Kevin Humphries MP**  
**Minister for Natural Resources, Lands and Water**  
**Minister for Western NSW**