

WESTERN AUSTRALIAN WATER USERS COALITION

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11th December 1998

Impact of Competition Policy Reforms Inquiry
Productivity Commission
PO Box 80
Belconnen ACT 2616

Attention Herb Plunkett –Assistant Commissioner

Dear Sir,

Thank you for the reminder about submissions. On behalf of the Western Australian Water Users Coalition (WAWUC), I have pleasure in submitting the attached document, which has been based on the submission made to the Senate Inquiry.

As indicated to John Cosgrove, in Bunbury on the 28th October, the Coalition has limited its comments to Water Reform proposals. The impact of those reforms is likely to have serious consequences for individuals and resultant flow-on affects to communities in some regional areas.

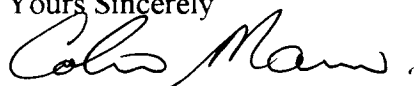
As full implementation of Water Reform has not yet occurred it has been difficult to provide empirical evidence of the implications of National Competition Policy.

The WAWUC concerns relate to the possible future longer term socio-economic implications of water reform and the timetable for implementation.

As indicated in the Bunbury discussions, members of the Coalition would be pleased to elaborate on any matters raised should the Commission have any specific questions.

My apologies for the late arrival of the submission.

Yours Sincerely



Colin Mann

On behalf of WA Water Users Coalition

In discussion with John Cosgrove (Presiding Commissioner) it became apparent that Water Reform was only one aspect of the wide-ranging Inquiry. Accordingly it is hoped that there could be some comment from the Commission to ensure the implementation process of reform was not rushed.

SUBMISSION TO THE SENATE SELECT COMMITTEE INQUIRY INTO THE SOCIO-ECONOMIC CONSEQUENCES OF THE NATIONAL COMPETITION POLICY

The Western Australian Water Users Coalition (WAWUC) welcomes the opportunity to present our views on some matters that could impact on the social and economic impacts of the National Competition Policy (NCP) agreements. The WAWUC wish to address aspects of the Western Australian Water Reform Proposals, which have been developed in response to the NCP agreements.

In presenting this submission the WAWUC acknowledges that Water Reform Proposals are still being developed and as yet specific legislation has not been enacted. (Guidelines to legislative change are currently available for comment in WA). Accordingly some matters may be resolved during the next consultative phase, however there are 5 key issues that WAWUC believe relate directly to NCP agreements

INTRODUCTION

A set of water management reforms that ensure a consistent approach to allocation of water rights, trading of water entitlements, water pricing and environmental flows is acknowledged as being necessary to maintain and protect this State's Resource.

It is the application and the implications arising from those reforms that is of concern to the Western Australian Water Users Coalition.

Water is a precious resource, with a variety of ever increasing and competing demands placed on it. In recent years Federal and State Governments and research agencies have produced numerous documents advocating a range of policies and strategies for future management.

In the national context the most significant of these to farmers, as water users is the Council of Australian Government's (COAG) Water Policy Reform (1994) package. In 1994, the State Premiers and Prime Minister in COAG (Council of Australian Governments) agreed:

*"that action needs to be taken to arrest the widespread natural resource degradation in all jurisdictions occasioned, in part, by water use and that a of measures is required to address the economic, environmental and implications of future water reform, and
"to implement a strategic framework to achieve an efficient and sustainable water industrv..."*

In its 1994 decisions, COAG agreed to a National Framework for Water Reform in which provisions for comprehensive Systems of water allocation and tradeable water entitlements were key elements.

In 1995 COAG attached the water reform framework to the National Competition Policy. This made delivery of the allocation and trading reforms a legally binding agreement in which the State will miss out on very substantial competition payments if found in default.

The key binding elements of the agreement in terms of allocation are:

- implement comprehensive systems of allocation with clear specification of the entitlement.
separate water entitlement from land title.
- use best science for setting sustainable environmental provisions.
- arrange a better balance of withdrawal and environmental use in stressed or over-allocated rivers.
- consider environmental contingency provisions as a precaution against unnecessary environmental risk.
- institute tradeable water allocation and facilitate trading.
- establish consistency where cross border trading is possible.

As stated by the Water & Rivers Commission of Western Australia many of the reforms occurring as a result of the COAG agreement are essentially consolidation refinements, or extensions of established practice. The major exceptions being; separation of land and water title, trading in water entitlements and cost recovery.

The Water & Rivers Commission, in discussion papers about water reform allocation and tradeable water allocations has aimed to meet both the requirements of the States Water Policy Reform Package and the principles of the National Competition Policy.

Included in the Package are associated reforms, which although being desirable from a States point of view, are not tied to the Competition Policy and which will require more room for negotiation.

It has been acknowledged that the principles of COAG reforms are not negotiable, the detail of implementation is open for discussion to achieve the best possible implementation appropriate for State circumstances.

The detail of implementation and consequences need to be tested for “public benefit” and clearly understood by all stakeholders before proceeding with legislative changes.

Professor Hilmer, when speaking to the National Press Club in May 1996 indicated that the NCP’s objective is to increase the public benefit through competition; *“competition policy is about when, where, how and to what extent competition will be used as a constructive force that benefits society as a whole”*

Guidelines from the State, in undertaking NCP reviews, indicate that competition “--- should not be for competition’s sake but for the public benefit it generates. Thus the highest level objective of NCP is increased public benefit; increased competition is to be adopted only in so far as it achieves that end”.

And as stated in the Background to the terms of reference of this Inquiry “---- and that the implementation of competition policy promotes efficiency, economic growth and community welfare. Competition Policy also recognises that there can be circumstances in which restrictions on competition may be justified where there are offsetting public benefits.”

The WAWUC are concerned that to date it is difficult to find empirical evidence that all of the water reforms in the name of NCP are likely to benefit society as a whole. Furthermore WAWUC consider that there are public benefits which are accruing from current practice that may already provide greater public and environmental benefits than can be provided by merely creating “competition” for the water resource.

Accordingly, any definition or test for “public benefit” needs to be broad enough to take account of the regional differences in regard to water use and availability as well as economic growth and community welfare.

Whilst recognising the need for water reform, particularly where the resource is under pressure, the WAWUC is conscious of the fact that higher water costs and or loss of security of supply will adversely agricultural diversity, competitiveness and regional development.

Furthermore where individuals have their livelihood and or equity affected by these reforms there will be a resultant flow-on effect to communities and the regional economy.

The WAWAC believe that against this background of NCP that water reform should give more consideration to the impact on individual enterprise and personal economic and welfare positions, so that regional implications can be assessed prior to implementation of change.

(Surely the outcome is more important than the process or the timetable of NCP agreements!)

BACKGROUND

The WA Water Users Coalition was formed to represent the interests of water users in the South-West regions of WA. The Coalition has been recognised as a major stakeholder by the Water and Rivers Commission of WA and has participated in the public forums and negotiations about water reform.

Whilst appreciating the complexity of water reform the Coalition would like to address 5 specific issues and highlight a number of concerns that exist at this stage of discussion. (Recognising that discussion and consultation with the Water & Rivers Commission is a continuing process.)

ISSUES OF CONCERN

1 Consultation

Whilst the level of consultation to date has been appreciated, the Coalition consider that many individuals and in fact communities are now only just becoming aware of the wider economic and social implications of some of the water reform proposals. This is particularly relevant where future planning; both for individual enterprise and/or value adding in horticultural activity has been based on an extended expansion program.

Because of the high capital cost of land and associated infrastructure, enterprise planning has of necessity been based on long term plans. In many instances this includes increased water use as development, future expansion and economic return dictates.

Additional consultation and modelling should be undertaken of the likely impact of the proposed reforms on individual enterprises and the resultant flow-on effect to rural communities.

2 Separation of land and water rights

The proposed approaches to water property rights (and hence tradeable entitlements) is intended to encourage greater efficiency in water use through facilitating trading of water from low yield uses to higher value uses.

Intensive and extensive agriculture/horticulture is dependent on a secure and reliable water resource, accordingly expenditure and investment will be dependent on security of supply. Without long term security of water supply investment and development will be inhibited.

WAWUC supports the use of licensing where there is a need for areas to be proclaimed and as the resource comes under pressure.

Under current practice areas can be "proclaimed" when non managed use of water would lead to over-utilisation and damage to resource sustainability. Licensing applies in these areas for the taking of water from watercourses, wetlands and aquifers with separate proclamations applying for surface water and groundwater.

A water property rights scheme needs to prioritise sustainable water management and clearly define long term security of supply.

However the separation of land and water rights will also change the values of land within particular regions. Currently the value of water availability is included in land valuation. The separate water right will have implications for valuation, borrowing power and valuation for local Shire rating purposes.

Furthermore physical and environmental aspects of different regions, within regions and the State will place different values on water right entitlements and may impact severely on production of commodities for processing and/or export.

The financial implications for existing industry need to be taken into account before implementation of the separation of land and water rights.

3 Tradeable water rights.

Competition for water resources not only occurs between industry, urban users, agriculture/horticulture and the environment, but also increasingly between different agricultural/horticultural pursuits.

Unless the policies of favouring the transfer of water to higher value uses also takes account of the impact on existing or potential downstream users there will be severe dislocation of enterprises and economic activity within a catchment or region.

There is also concern about the assumption that water, at higher marginal cost, will attract higher yielding uses. Higher marginal costs may in fact reduce or inhibit innovation, product variety, industry diversification whilst also raising market risk.

In some regions this could lead to changes in regional economies, property values, community and industry viability unless sufficient flexibility is provided to take all regional, and even local, factors into account.

If water license and tradeable water entitlements are to proceed, there should be a definition of different components of the entitlement. eg;

- a non tradeable right (necessary for the maintenance of a property),
- a managed licence component (that may be tradeable),
- sleeper or “unused” water (which may be traded dependant on seasonal availability) and
- an allocation for the environment,(which is non tradeable).

To be successful a local management regime should exist and tradeable license entitlement be either;

- a) Exclusive: With the rights to use or not use, or trade, the exclusive preserve of the owner within any one season ; or
- b) Transferable; Transferable to others in an open and effective market abiding by local management arrangements.

4 Full Cost Recovery

The “user pays” and “full cost recovery” principles adopted by COAG are too simplistic in the context of overall water reform. Such principles are inconsistent with objectives of stimulating economic activity and regional development.

Structural adjustment and development in agriculture/horticulture/ aquaculture will be influenced by global market changes, technological advances, innovation and product development. All water users need to be consulted in decisions about infrastructure development or asset replacement where costs are to be passed on to users.

Also it should not be assumed that previous infrastructure development will remain relevant to future water users.

The development of water resources can provide benefit to regions, communities, industry, recreation, the environment and individual enterprises. It would therefore seem more appropriate to apply “beneficiary pays” rather than user pays principle

Where benefits are widespread and costs are not directly associated with supplying an individual water service, the relevant share of those costs and resource management should be charged to all beneficiaries, including the environment.

Already it can be shown that provision of “on-farm” storage and development of water supply has been of environmental benefit particularly to wildlife. This is very relevant where water is stored from a winter or unused flow for later use.

5 Equity

Although water reform is aimed at the long-term management and efficient use of water resources, water allocations and trading rights are likely to have significant impacts on individuals. It is likely that the most significant impacts will be an adverse affect on land and enterprise value due to the separation of land and water. And on existing enterprises in regions where the water resource will not sustain increased use.

There is no doubt that the Water and Rivers Commission is committed, on behalf of Government to introduce reforms after consultation with stakeholders in an endeavour to ensure equitable outcomes. This process must continue.

However, the proposals, to comply with COAG Agreements will introduce a new regime of property rights and corresponding obligations.

Where such reforms adversely affect stakeholders or diminish existing rights then the affected parties should be paid equitable compensation. Compensation should reflect the true loss, including market value and any consequential losses such as severance, disturbance and injurious effect.

Furthermore the implementation and administration of any new water regime should be subject to the independent scrutiny of a court or tribunal, as the current consultation process appears to be attempting to avoid existing rights.

The attached Position Paper prepared for and endorsed by the WA Farmers Federation establishes a basic equity position where action is taken in the public or community interest.

CONCLUSION

There is no doubt that water resources are a very valuable asset that require protection and management. The present laws are very complex and it is difficult to argue convincingly against the need for change, however there is strong argument to suggest that all water users should be recognised as stakeholders and treated equitably.

All stakeholders should be given the opportunity to clearly understand the proposed changes and that adequate information and data is available to make informed decisions.

Furthermore only those legally binding aspects, of the COAG National Framework for Water Reform, that will provide “competition payments” should be introduced as issues of equity are resolved. All other water reform matters should be phased in after due consideration, consultation and agreement with stakeholders.

A proportion of the “competition payments” resulting from the State meeting the COAG agreements should provide funding toward the stakeholder consultation process, ongoing management of the resource and equity compensation payments.

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ATTACHMENT 1

The Hypothetical Farmer in the South West agricultural region of Western Australia, who fully recognises the importance of a managed water resource but is concerned about the implications of water reforms. This concern relates to the future of water entitlement, allocation and use in the farming enterprise.

The developing family enterprise consists of 500 hectares (for ease of multiplication or division) with an established home infrastructure and reticulated gardens.

200 hectares of forest/bushland/natural vegetation

100 hectares of intensive horticulture

150 hectares of grazing livestock

25 hectares of farm forestry

5 hectares of intensive livestock

20 hectares home, sheds, infrastructure and planted vegetation.

The long term plan for development is 5 years into a 10 year program with all obligations being met and loans serviced on time. It is intended to expand another 100 hectares to intensive horticulture and possible development of aquaculture.

All approvals for clearing, remnant vegetation, contours, run-off pollution control and environmental approvals have been obtained.

Sufficient water (from various sources) is available for the current enterprise and the planned development – in fact there is sufficient water resource to meet adverse dry seasonal conditions.

The source of water is from developed infrastructure from one or a combination of the following;

- dams built on the property to collect surface water run-off
- underground (shallow) water soaks or bores
- underground deep bores
- springs
- from streams or rivers
- an irrigation system

Water Reform that changes the availability or increases the cost of water is likely to have a significant impact on the economic returns, financial obligations and employment opportunities of this individual enterprise. This could in fact threaten the future viability of a family enterprise.

The resultant impact and loss of people could also mean the lessening of services such as schools and health services within a region.