

SUBMISSION COVERSHEET

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SUBMISSION DETAILS	<p>01 June 2018</p> <p>Mr Bret Walker SC Commissioner Murray-Darling Basin Royal Commission GPO Box 1445 ADELAIDE SA 5001</p> <p>Dear Commissioner Re: Submission to the Murray-Darling Basin Royal Commission -Issues Paper No: 2 (Submitted by Paul Stevens, June 2018)</p> <p>Overview</p> <p>1. The content of this submission focuses principally on the Terms of Reference items 7 to 10 which relate to failures in compliance and enforcement and also the facilitation of illegal take of water resources, including with official approval across various levels of government, that jeopardises the capacity of the Water Act 2007 (Cwlth) and the Basin Plan 2012 to meet its environmental objectives.</p> <p>2. It is also argued that the recommendations of The Northern Basin Review (MDBA 2016) which relies upon a non-statutory and non-enforceable 'toolkit of</p>

measures' provided by state governments as a means to offset the reduction in water recovery by 70 GL will further detract from the goal of obtaining suitable environmental outcomes for the Murray Darling Basin because this proposal is an expedient and a potentially fraudulent means of securing additional water resources for non-environmental purposes for the principal benefit of larger commercial interests and with minimal flow-on benefits to the broader social and economic spheres.

3. The submitter agrees with the argument in Issues Paper No: 2 that economic and social objectives should be considered after environmental objectives specified in the Water Act 2007 – especially where the legislation's legal validity also relies upon the external affairs power at s. 51(xxix) of The Constitution as they relate to various international environmental agreements and conventions for which the Australian government is a signatory.

4. The submitter argues that policy and strategy, such as that presented in The Northern Basin Review, give the appearance of considering environmental, social and economic objectives as a whole where environmental objectives are likely to be compromised in favour of social and economic objectives. It is contended that the failure against environmental objectives will largely arise due to the failures in compliance and enforcement and also the facilitation of illegal take of water resources at various government levels.

5. The submitter however contends that in the administration of all laws relating to water resources in the Murray Darling Basin by federal, state and local government agencies, the economic objectives of a narrow group of large commercial interests are given significant priority over the broader economic objectives of the community and over social and environmental objectives. In the case study presented, the broader social and economic objectives have been detrimentally supplanted, with the co-operation and support of state and local government agencies, to the advantage of large commercial economic interests.

6. In providing this priority to large and politically influential commercial interests, government employees at federal, state and local government agency levels fail to ensure compliance and enforcement of various laws in ways that range from negligence to deliberate evasion.

Hay Roma Dam facility and construction of public flood mitigation infrastructure in Roma

7. In support of the above assertions, the submitter presents a case study from Roma which is located on Bungil Creek in the Condamine-Balonne catchment area (surface water SDL resource unit – SS26). The case study is a facility called Hay Roma Dam which is an asset associated with Australian Country Choice Pty Ltd. This company is a primary supplier of beef to Coles Supermarkets in eastern Australia.

8. The current dam facility would appear to be the apparent cause of the more severe flooding events that occurred in Roma in 2010, 2011 and 2012 – causing multi-million dollar damage to largely residential properties and also significant insurance company losses - however the relevant state and local government agencies have ignored investigation of the dam as the cause of increased flooding and opted to adversely impact residents (including with the compulsory acquisition of land) with the construction of elaborate and expensive flood mitigation structures funded with taxpayer-sourced funds.

9. Hay Roma Dam is adjacent to Bungil Creek and is located immediately south-east of the township. The facility has constructed 4.5 metre dam walls that extend 1.6 kilometres across the flood plan such that flood waters have only around 200 metres in the immediate watercourse where floodwater may flow unimpeded.

10. Until September 2017, the Hay Roma Dam facilities had no approvals under any state government or local government laws whilst investigatory and

construction work on the flood mitigation infrastructure commenced in 2012 - 2013.

11. As noted in a letter dated 26 February 2018 from the manager of Water Services, South Region for the Queensland Department of Natural Resources Mines & Energy (DNRME) to the Maranoa Regional Council, the writer stated that the owner of Hay Roma Dam provided an 'existing works' notice on 28 September 2017 with 'existing works' meaning works commenced prior to 20 September 2000 when the current Queensland Water Act 2000 came into effect.

12. Satellite imagery is available for various dates (generally at 16 day intervals but subject to cloud cover conditions) from July 1999 onwards which illustrate that construction of the Hay Roma Dam was not commenced until some months after 20 September 2000 which means that the facility is not eligible to be considered 'existing works' under current laws and in fact should have obtained approvals prior to its construction. More detailed and relevant information on this and related matters are available if required.

13. The acceptance by relevant officials from the Queensland DNRME that the current Hay Roma Dam facility was eligible to be considered as 'existing works' under the Queensland Water Act 2000 and s. 46 of the Water Plan (Condamine and Balonne) 2004 is illustrative of the manner in which official evasion of the relevant laws arise.

14. As a consequence, the acceptance by the Queensland DNRME of the Hay Roma Dam facility as 'existing works', the facility was provided with formal approval under relevant laws to take 'overland flow' which now gives the appearance of state and local government legitimacy to a structure that has contributed to significant flood damage in the Roma township. Notably these approvals were only obtained after Roma residents commenced questioning the Maranoa Regional Council with its aggressive imposition of the flood mitigation infrastructure construction program across the Roma township.

15. Undocumented and non-transparent dealings between the owners of Hay Roma Dam, the Maranoa Regional Council and the Queensland DNRME occurred during the 2017 calendar year which has culminated in the above approval decision.

16. Modelling of the option for removing the dam facility had been undertaken by a firm called Engeny in 2012 where the outcome from removal of the Hay Roma Dam was stated to have limited afflux impact in reducing flooding. It is unclear if the hydraulic modelling had been based on less accurate Digital Elevation Model data as the LIDAR data collected under a Queensland Government program during 2011 was not fully available at the time of this study. With less precise DEM data, it is possible for the elevation assumptions for the dam walls to be inaccurate.

17. The Maranoa Regional Council at a general meeting on 14 November 2012 decided to exclude the removal of the dam as an option in preference to construction of a complex arrangement of levees and diversion channels that – as plans continue to emerge - appear integrated with the Hay Roma Dam facility in ways that enhance the dam capacity to capture increased overland waterflow.

18. Critically following the decisions of the 14 November 2012 general meeting, the Maranoa Regional Council abruptly ceased the consulting services of Engeny who had been conducting flood mitigation studies for the council since 2010 and re-allocated the consulting work to GHD with, significantly, the Hay Roma Dam area scoped out of the flood mitigation study area which has continued unchanged to date.

19. It should be noted that in 2005 at the time the owner of Hay Roma Dam sold the facility to the current owner, the predecessor local government body of the Maranoa Regional Council was reported to have a commercial agreement with the dam owner to sell 500 megalitres annually of recycled water through a 30 year transferrable agreement. This commercial relationship with the owners

	<p>of Hay Roma Dam has never been disclosed in all council's dealings for construction of flood mitigation infrastructure that commenced from 2010 onwards. Additionally there are known long-term commercial dealings between Hay Roma Dam entities and the incumbent councillors during the critical years of 2012 and 2013 that were never disclosed publicly.</p> <p>20. On account of the complexity of the matters at hand (the legislation, the science, the engineering concepts) and the full weight of state and government resources working in hand with a large commercial interest, the task of challenging the decision to use taxpayer funds to construct flood mitigation infrastructure that is designed to protect the assets and business of a large private commercial interest is difficult and arduous.</p> <p>21. It is in this context that state and local government agencies are in position to subvert the environment and broader social and economic objectives, including through non-compliance and non-enforcement of the relevant laws, and favour the economic objectives of large commercial interests to the social and economic detriment of local residents and the broader environment.</p> <p>22. Aerial photographic evidence of the manner in which the Bungil Creek floodwaters were held back by the Hay Roma Dam wall is at http://dnrm-floodcheck.esriaustraliaonline.com.au/floodcheck/ where images are available for both the 2011 and 2012 flood events.</p> <p>23. Statistical analysis of historical flood peak events in the Bungil Creek at the Roma township from 1917 to the present indicates that when flood levels reach the flood plain level at Hay Roma Dam, the frequency of higher flood peak events increases in the years following the construction completion of the Hay Roma Dam in 2003. Additionally a range of information provided in the three (3) flood mitigation reports prepared by Engeny in 2010 and 2012 also points to the Hay Roma Dam facility being a contributor (report references and documents are available on request).</p> <p>Conclusion</p> <p>24. Whilst failure to properly enforce and administer the laws relating to water resources at federal, state and local government levels is able to continue unchecked because of the culture of non-compliance and poor enforcement where the chances of being caught are low due to the lack of community transparency and adequate resources for community residents to be informed, the management of water resources in the Murray Darling Basin will continue to favour large commercial interests to the detriment of environmental outcomes and the broader social and economic benefit. In particular, the achievement of sustainable environmental outcomes for the Murray Darling Basin system will be the most challenged.</p> <p>25. In order to create the necessary change, it would appear necessary for the agencies and the water users who fail to comply with relevant water resource laws are subjected to sufficiently harsh penalties that make the cost of non-compliance seriously uneconomic as is occurring with the Royal Commission in financial services.</p> <p>26. Additionally greater amount of transparency and improved scientific review from the wider community should be facilitated to ensure better environmental, social and economic outcomes for the Murray Darling Basin communities.</p> <p>Paul Stevens 01 June 2018</p>
DOCUMENTS UPLOADED?	No