

The Recreational Fishing Alliance of NSW

Promoting Sustainable Fishing



28 October 2020

The Hon. Melinda Pavey MP
Minister for Water, Property and Housing
GPO Box 5341
SYDNEY NSW 2001

Funding of mitigation of environmental damage caused by irrigation pumps in NSW waterways

Dear Minister,

The Recreational Fishing Alliance (RFA) has recently written to the Minister for Fisheries, The Hon Adam Marshall, seeking clarification about why recreational fishers' licence money is possibly being used to investigate and fund the screening of irrigation pumps on our NSW rivers. A copy of that letter is attached.

The RFA is concerned that use of Recreational Fishing Trust funds (the Trusts are legislated under the *Fisheries Management Act 1994* – Sect 233) for this purpose is at odds with various legislations affecting the process of selling, storing and using water for profit in NSW.

The harm to fish caused by irrigation pumps is not new: 'In fact, millions of fish die each year, either by being sucked into dam storages and crop fields, or being lost in irrigation canals. NSW alone has more than 4500 irrigation pumps. In May 1946, the *West Wyalong Advocate* decried the "thousands probably millions of little Murray cod and other fish ... going to waste" in Leeton's irrigation canals off the Murrumbidgee River. Fifty years on, NSW Fisheries staff labelled as "hypocritical" the limit on an average angler's take when irrigators sucked up "large numbers" of fish and spawn with water pumps extracting 100 million litres or more each day. Worse, some irrigators sold their "illegal" harvest, a document from December 1995 shows.'¹

The RFA believes that because of its role in the control of irrigation in NSW, WaterNSW is responsible for the millions of fish that die each year, and we wonder how this is allowed to continue, considering multiple legislations that ostensibly protect fish and habitat. The unregulated killing of fish and aquatic animals has impacts for the recreational anglers of NSW who pay a fee to fish, and it will continue to have environmental impacts if it not addressed immediately.

WaterNSW's activities would seem to be affected by the following significant pieces of legislation:

Water NSW Act 2014—Apart from establishing WaterNSW, the objectives of the *Water NSW Act 2014* focus on WaterNSW's 'capture, store, release', water quality, declared catchment and storage functions.

¹ <https://www.smh.com.au/environment/conservation/emerging-technology-could-solve-ludicrous-fish-loss-from-irrigation-20200522-p54vnq.html>

Water Management Act 2000 and the Water Act 1912—The *Water Management Act 2000* controls the extraction of water, the use of water, the construction of works and the carrying out of activities on or near water sources in NSW. The *Water Management Act 2000* will eventually replace in full the long-standing *Water Act 1912*, which remains in force in some areas of the state. The objectives of the *Water Management Act 2000* are to provide for the sustainable and integrated management of the water sources of the state.

Protection of the Environment Operations Act 1997—The *Protection of the Environment Operations Act 1997* is the primary NSW statute regulating pollution of the environment. Its objectives include the protection, restoration and enhancement of the environment, providing public access to information on pollution and reducing risks to human health and the environment. Relevantly for WaterNSW, it includes offences involving harm to the environment and land pollution, for non-scheduled activities that affect or are located within the WaterNSW declared catchments and controlled areas.

Environmental Planning and Assessment Act 1979—The *Environmental Planning and Assessment Act 1979* is the primary NSW planning legislation. Its focus is on ensuring development meets the needs of people, protects the environment and encourages the proper management, development and conservation of resources (natural and artificial).

Biodiversity Conservation Act 2016—The *Biodiversity Conservation Act 2016* is focused on the maintenance of a healthy, productive and resilient environment consistent with the principles of ecologically sustainable development (as described in the *Protection of the Environment Administration Act 1991*).

How is it possible that fish are killed as part of the water extraction process under the *Fisheries Management Act 1994* and the legislations mentioned, all of which contain objectives that include the protection, restoration and enhancement of the environment and protection of fish? One of the objectives of the *Fisheries Management Act 1994* is to ‘conserve key fish habitats’. This would presumably cover any waterbody known to support or that could be confidently expected to support threatened species, threatened populations or threatened communities listed under the provisions of Part 7A of the *Fisheries Management Act 1994*.

We are not experts in legislation, but even as uneducated fishers we can see that the extraction, sale for profit and storage of water must contravene the *Fisheries Management Act 1994* by allowing:

- The taking of prohibited size fish
- The trafficking of fish
- The possession of fish illegally taken
- Taking fish without a licence
- Interfering with Habitat Protection Plans
- Offering no protection to spawning fish
- Damage to Critical Habitats
- Harming Threatened Species
- The possession of Threatened Species.

WaterNSW is a statutory state-owned corporation. Its ultimate parent is the NSW Government and its activities should be bound by the *Fisheries Management Act 1994*.

The RFA is concerned that despite the available protective legislations mentioned above, protection of the environment and native fish stocks have been ignored in the chase for profit by a NSW Government corporation. Indeed, the latest WaterNSW financial report states 'total shareholder return was \$75.0 million and WaterNSW reported a net profit after tax for 2018-19 (excluding revaluation of property, plant and equipment) of \$30.3 million. This performance was \$11.0 million above budget expectations.'²

Given this profitability, why are recreational anglers being asked to fund irrigation pump fish screen technology? Why are recreational anglers asked to foot some of costs associated with cleaning up the outcomes of poor environment management and stewardship by WaterNSW?

We request access to all the documentation in relation to the reviews of environmental factors, approvals and any updated research associated with irrigation pumps in NSW, to help us ascertain the real impacts of continued non-screening of irrigation pumps. The last detailed and comprehensive information we can access is dated 2007.³

The RFA is seeking a response and plan from the NSW Government, WaterNSW and you as Minister, about how and when it will screen every irrigation pump in NSW. We also ask what funding will be made available to complete this project.

Yours sincerely



Stan Konstantaras
President
Recreational Fishing Alliance of NSW

CC:
The Hon. Dominic Perrottet MP
Treasurer

The Hon. Damien Tudehope MLC
Minister for Finance and Small Business

² https://www.watnsw.com.au/__data/assets/pdf_file/0014/152060/WaterNSW-Annual-Report-2018-19.pdf

³ http://www.dpi.nsw.gov.au/__data/assets/pdf_file/0005/185036/Baumgartner---The-effects-of-selected-irrigation-practices-on-fish-of-the-Murray-Darling-Basin.pdf