



Australian Government
National Water Commission

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Chair

Ms Christine McDonald
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Standing Committee on Environment and Communications Legislation Committee
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Dear Ms McDonald

Thank you for the invitation to provide a submission to the Inquiry into the National Water Commission (Abolition) Bill 2014. I note that the principal issue for consideration by the Committee is the impact of the Bill on the continuation of robust, independent and transparent monitoring and assessment of matters of national water reform and the management of Australia's water resources. The National Water Commission's (NWC) submission will be limited to some of the distinctive characteristics of this organisation which have proved important to transparent and robust outcomes, and the ongoing need for independent oversight of national water reform.

Background

The NWC was first established in 2004 as an independent statutory authority within the Prime Minister and Cabinet portfolio, moving to the Environment portfolio in 2007. The creation of the Commission had been agreed through the intergovernmental agreement on a National Water Initiative (NWI) under the auspices of the Council of Australian Governments (COAG). The NWC was established to help drive the objectives and outcomes of the NWI, which in turn built upon the achievements of the 1994 COAG water reform framework which was assessed under national competition policy arrangements. The NWC therefore has had reporting obligations to COAG and the public as well as to the Australian Government.

From its beginning the NWC has exercised its independence by initiating policy advice and engaging in public advocacy, by reporting publicly on the full picture of progress and activity, by working with and respecting jurisdictions without having to agree with their point of view, by being prepared to take a public view on important and emerging issues in "position statements", and by exploring emerging water issues where opportunities, risks or impacts to the agreed high-level water management objectives were observed.

The NWC has played a critical role in driving better water management through its four key operational strategies, comprising robust and independent assessments, transparent reports



on industry performance, thought leadership activities, and assisting the development of innovative, practical solutions to better manage our water resources. The NWC has:

- provided a valuable discipline for NWI implementation across jurisdictions
- delivered new levels of transparency in the operation of water service providers and water markets
- been the catalyst for important investments in areas of weakness in Australia's national water information and data capabilities, and groundwater knowledge
- initiated a suite of thought leadership actions and investments to identify new opportunities and risks to good water management, and assumed an important leadership role to progress Indigenous engagement in water planning
- promoted informed debate about water issues ranging from urban water management to improvements in the operation of water markets and responding to the emerging impact of coal seam gas developments on water resources, and
- invested in the development of new knowledge and tools to addressing practical barriers to improved water management.

In 2012 the *National Water Commission Act 2004* was amended to remove its sunset clause following a COAG review which examined what ongoing roles and functions should continue or commence, and which provided advice and recommendations on appropriate options and institutional arrangements for implementing such functions. The review report to COAG prepared by Dr David Rosalky, had found that:

'The elements of the NWI still to be implemented are, by their nature, the more difficult ones and the role that can be played by a specialist and independent body like the NWC is likely to be even more important in the future.'

Characteristics

The NWC has been unique in Australian water governance in its capacity to deliver a national interest perspective (as distinct from individual state, industry or Commonwealth perspectives), to provide independent, expert and credible advice, and to collaborate with partners in government, industry and academia to develop new ways to better manage water resources.

The independence and expertise of the NWC was established in the first instance through the appointment of the Commissioners, the nomination of which has been a matter for the states and territories as well as the Australian Government. Commissioners are required to have expertise in water resource management, natural resource program management or evaluation, relevant disciplines including freshwater ecology, hydrology or resource economics, or public sector governance. They come from different parts of Australia, but do not represent their jurisdiction, sector or any interest group. Commissioners have had a consistent aim to meet outside Canberra, in capital cities and regional centres, for at least half their meetings to increase opportunities for stakeholder consultation.



Prior to 2012, the NWC was able to recommend and administer funding for work which addressed barriers to water reform implementation and assisted jurisdictions and stakeholders through the Australian Government's Raising National Water Standards program (RNWS). From the outset, the RNWS program was established with distinctive design characteristics. Rather than simply being another grants scheme, the program was a flexible and strategic tool that enabled the targeting of problem solving and advanced practical, high-priority actions to support National Water Initiative reforms. The availability of such a flexible grants program to support applied research and implementation activities was influential in advancing reform and facilitated the sharing of information and experience between jurisdictions.

The Commissioners are supported by a small agency which has been agile in responding to the changing institutional and reform landscape, and which has ranged in size from 40 to 60 ASL. Despite its small size, the NWC's collaborative and consultative partnership approach to its roles and functions, underpinned by its structure as an expert and independent body with a dedicated remit, ensured that it built up a strong basis of expertise, as found by Dr Rosalky:

'There is a need for governments to capitalise on their investments. It is the judgement of this Review that the NWC constitutes one of the investments that has been producing valuable products in pursuit of the NWI objectives. It has built a skill base, expertise and an information base positioning it well to contribute significantly to the effort that is still required. Most non-government stakeholders and some government stakeholders place considerable value on the NWC's hard-won expertise and credibility and on its products.'

While the Commissioners remain in their roles at the time of preparing this submission, the expertise of the office dispersed rapidly following the announcement earlier this year of the Government's intention to abolish the agency. All subject matter specialists within the Commission (excluding corporate functions) have already left, or will be leaving shortly.

Future oversight

The Commission's overarching value proposition has been the way in which it has integrated and linked its activities under its advice and facilitation roles to achieve impact. This has enabled the Commission to advance water reform at multiple levels by providing formal advice to COAG and contributing to its work program; by promoting public discussion and debate about water reform issues; through multilateral and bilateral collaboration with NWI parties on key reform projects; and by working with the wider stakeholder community in water reform, including irrigation, environmental, Indigenous and industry stakeholders as well as science and research partners.

The National Water Commission (Abolition) Bill 2014 transfers two statutory functions to the Productivity Commission (PC) - assessments of progress in the implementation of the NWI and inquiry into the effectiveness of the implementation of the Murray-Darling Basin Plan and associated Basin State water resource plans. It has also been announced that monitoring and reporting on water markets will be addressed by the Australian Bureau of Agricultural and Resource Economics & Sciences, the Department of the Environment will take on the assessment roles in regards to the National Partnership Agreement on



Implementing Water Reform in the Murray-Darling Basin and the Carbon Credits (Carbon Farming Initiative) Regulations 2011 and the PC will produce a biennial National Water Planning Report Card. The Bureau of Meteorology has taken an interest in the coordination of national performance reporting for urban water utilities.

While the NWC is very encouraged that these roles will continue, a concern is that the splitting of the NWC's various roles will inevitably lose the synergistic advantages of integration. Importantly, the NWC has sought to address water reform through a lens which values economic, social and environmental objectives, and in collaboration with stakeholders. While assessment and reporting roles are planned to continue, at risk are the 'soft' outcomes whose value is often underestimated in implementation of the complex water reform agenda – facilitation, knowledge sharing, advocacy and collaboration. We remain concerned that these roles and a 'triple bottom line' focus will be lost through the abolition of the NWC.

We also urge timely, regular and public reporting against these ongoing assessment functions most particularly for the audit of implementation of the Murray-Darling Basin Plan - where much work and collaboration remains to be undertaken by governments and industry if enduring beneficial outcomes are to be achieved - and for the triennial assessment of national water reform which holds all governments to account and maintains the NWI as a contemporary and evolving framework.

Under the *Water Act 2007* the NWC was to audit the effectiveness of the implementation of the Murray-Darling Basin Plan and the associated water resource plans at least every five years. The first report was due on 3 March 2013. However because the Basin Plan commenced in late November 2012 there had been insufficient activity to allow an audit of implementation by March 2013. Our report at that time instead addressed the preparedness of governments to implement the Plan, and there has been no full audit of implementation of the Murray-Darling Basin arrangements since the Water Act was enacted.

The National Water Commission (Abolition) Bill indicates that the referral of an inquiry into the effectiveness of implementation of the Murray-Darling Basin Plan to the PC must occur by 31 December 2018. This timeline is potentially too late to allow the inquiry to influence key implementation processes should they be found to be off track. The usual focus of the Productivity Commission on a more productive economy – while a crucial objective of water reform – is also rather narrower than the full objectives of the Plan. The NWC considers that a much earlier referral would be appropriate, and had intended to conduct its own first full audit in 2015.

In its 2014 assessment of the progress of water reform, to be released on 20 October 2014, the NWC found that while the outcomes and objectives which comprise the reform framework remain relevant and enduring, many of the gains of reform are now taken for granted and the multi-party support which has been a hallmark of the NWI is at risk of breaking down. Water has less presence on the national political agenda with the ending of the 'Millennium' drought, and as fiscal constraints place pressure on all governments to reduce funding and capacity. With the recent abolition of the COAG Standing Council on Environment and Water and the forthcoming closure of the NWC, water and the NWI agreement will no longer have a clear position within the COAG forum.



As a generalisation, Australian governments pay attention to water reform when supply is threatened, and remove resources from water management in times of good supply. This waxing and waning does not reflect the productivity gains from more efficient water management, both rural and urban, nor does it encourage innovation. It also risks Australia not being well positioned to respond effectively in the future to the opportunities and challenges posed by economic restructuring, global markets, climate change, technological evolution, and other fundamental shifts in the external context for water management.

Commissioners strongly support the continuation of independent oversight and public accountability of governments and government-owned enterprises beyond the life of the NWC. Strengths of the NWC have been that it reports to all Australian governments and to COAG, its Commissioners were nominated by all states and territories as well as the Commonwealth for their specific expertise, and it provided a skills-based national perspective not driven by shorter term interests. In the national interest, independent oversight and public reporting of the progress of water reform in achieving economic, social and environmental outcomes should continue and governments should not be left to 'mark their own scorecards'.

Thank you for the opportunity to provide this submission. I would value the opportunity to expand on it in person should you consider that useful to the Committee.

Yours sincerely

The Hon Karlene Maywald
14 October 2014

