

DRAFT ONLY for background to assist Senate Inquiry

What was agreed in the National Water Initiative	National Water Commission Bill	Comment on conformity with NWI
Provisions in IGA relating to National Water Commission (NWC) are in paragraphs 10,11,19, 63, 104-108 of the IGA Main document plus further details in Schedule C.		
1. Establishment of the National Water Commission		
Be established by the Commonwealth as an independent statutory body (Schedule C);	Clause 3	Yes
Funded by the Commonwealth	Part 6 – Clauses 40-42; National Water Commission to be funded out of the Australian Water Fund (Clause 42b)	Yes
Up to seven members including a Chair (Schedule C);	Clause 8(1)	Yes
Appointed for up to 3 years and eligible for re-appointment subject to agreement (Schedule C);	Clause 11(2)	Yes
With expertise in the areas of: audit and evaluation, governance, resource economics, water resource management, freshwater ecology and hydrology (Schedule C); and	Clause 11(3)a-e <ul style="list-style-type: none"> Note 3b) specifies freshwater ecology or hydrology. 	NWI implies expertise in both freshwater ecology and hydrology. These are quite different and relevant scientific disciplines. Suggest need one of each
Commonwealth to appoint four members (including the Chair) and States and Territories to appoint three members (Schedule C);	Clause 8(2) and (3)	Yes
Have an office to carry out secretariat services for the Commission and to prepare or manage the preparation of draft Commission reports as directed, including (Schedule C):		
An Executive Director and a small staff appointed by the Commission at its discretion;	Part 4; Division 1 and 2	Yes- except Minister appoints CEO
The ability to make use of staff employed by a Party with the agreement of the relevant Party; and	Clause 36	Yes

The ability to use consultants	Clause 37	Yes
2. Agreed FUNCTIONS – NWC to have the functions and responsibilities as set out below ;		
Role (general): To provide advice on national water issues and, in particular, to assist with the effective implementation of the National Water Initiative (NWI) Agreement (Schedule C);	Clause 7	Yes Bill also includes additional functions (i.e. not part of NWI IGA) to advise and make recommendations on Australian Water Fund and other relevant Commonwealth programs.
Specific functions agreed by CoAG – the NWC will provide advice to COAG on the following matters:		
<ul style="list-style-type: none"> a baseline assessment of water resources and governance arrangements nationally, based on existing work by the Parties and undertaking further work only where required (Section 105(i); Schedule C); 	Clause 7(2) a and b	Yes
<ul style="list-style-type: none"> accreditation of State and Territory implementation plans developed for the NWI Agreement by each jurisdiction, in accordance with paragraph 9 of the Agreement (Section 105(ii); Schedule C); 	Clause 7(2) c and d	Yes
<ul style="list-style-type: none"> Assess the implementation plans toward achieving objectives and outcomes of NWI agreement within time frames based on NWC's baseline assessment and the jurisdiction' self assessment of their respective implementation plans (section 105iii) 	Clause 7(2) c	Yes
<ul style="list-style-type: none"> Report to CoAG on accreditation of implementation plans by 2006 (section 105iv) 	Clause 7(2)d	Yes (– but no specification of deadline 2006)

<ul style="list-style-type: none"> Commencing in 2006-07, biennial assessments of progress with the NWI Agreement and State and Territory implementation plans, and advice on actions required to better realise the objectives and outcomes of the Agreement (Schedule C; Section 106a) 	Clause 7(2) h	Yes
<ul style="list-style-type: none"> the third biennial assessment in 2010-11 will take the form of a comprehensive review of the Agreement (Schedule C; Section 106b); 	Clause 7(2) I	Yes
<ul style="list-style-type: none"> the performance of the water industry against national benchmarks, in areas such as irrigation efficiency, water management costs and water pricing; biennial assessments (Schedule C; Section 106c); 	Clause 7(2) g	Yes
<ul style="list-style-type: none"> compliance with any outstanding commitments under the 1994 COAG strategic framework for the efficient and sustainable reform of the Australian water industry; report to Commonwealth (Schedule C; 105v) 	Clause 7(3) a-c	Yes
<ul style="list-style-type: none"> In consultation with the Natural Resource Management Ministerial Council, develop by mid 2005 a comprehensive national set of performance indicators for NWI agreement. The indicators should, where possible, draw on existing indicators and include initialisation of water access entitlement, environmental water, water use efficiency, water pricing and water trading. (section 104ii) 	Clause 7(i) refers to role of NWC in developing performance indicators but no specific function listed. As this will encompass a comprehensive set of indicators and possibly appropriate to prescribe specifics in Regulations [Clause 7(f)]	?need reference in clause 7 as a general function of NWC . Details via regs?
The Parties agree to work cooperatively with the NWC including through providing open access to relevant officers and timely provision of information necessary to assist the NWC in carrying out its role.		(Up to parties to NWI to do this as agreed in NWI)
In preparing its advice, the NWC will consider the views of stakeholders.	Nothing formal or specific in Bill in relation to stakeholder relations.	No
The NWC will provide annual reports of its activities.	Clause 45	Yes

3. Public access to reports All reports of the NWC will be publicly available (Schedule C); NWC reports to COAG will be publicly available		
	Annual Reports will be publicly available [Clause 45(4)]	Yes Annual Report: Bill includes some specific disclosures in relation to recipients and amount and purpose of funding provided and identification and role of any consultants and independent contractors
	NWC may only release the following assessments/reports publicly with Minister's approval [Clause 44(1)]: <ul style="list-style-type: none"> • Baseline Assessment [Cl 7(2)a; • 2006-07 and 2008-09 assessments [Clause 7(2) h]; • 2010-11 comprehensive review [Clause 7(2) I] • Biennial water industry performance [Clause 7(2) g] • 2005 COAG water reform framework assessment [Clause 7(3a) and 3(b)] Advice to COAG on the above will not be publicly available where not explicitly provided for in Clause 44(1).	Available with Minister's approval. The Commonwealth has agreed in the NWI that all reports of the NWC will be publicly available. Hence, the expectation is that these reports will be available publicly.

	<p>The following assessments and advice will not be publicly available from the Commission (Clause 44)</p> <ul style="list-style-type: none"> • Assessment/accreditation of NWI implementation plans [Clause 7(2)c] and advice to COAG on these (Clause 7(2)d) • Advice to Commonwealth or COAG on whether the parties to the NWI are implementing their commitments under the NWI (Clause 7(2)e) • Advice on interstate trading impacts (Clause 7(2)f) • Advice to COAG on baseline assessment (Clause 7(2)b) • Advice to Minister on progress toward COAG Water Reform Framework beyond 2005 (Clause 7(3)c) 	<p>Clarify if Minister and/or COAG will make these available.</p> <p>Note COAG will be advised on all these matters. This information should be available publicly.</p>
<p>Review of the NWC: In 2010-11, COAG will review the ongoing role and function of the NWC following consideration of its third biennial assessment. A report on the outcome of the review is to be tabled in each House of Parliament by the end of 2011. (Schedule C; Section 108)</p>	<p>Part 5- Clause 38</p>	<p>Yes</p>