

Jonathon Howard

Dear Sir

I wish to provide some comments on Productivity Commission's draft report 'National Water Reform 2020'. Overall I support many of the recommendations in the report and welcome the strong focus on bringing climate change impacts into water management. I wish to make the following points:

- The basis for any renewed NWI must be on retaining water not only to keep environmental systems functioning, but also the ecological processes that maintain a functioning river (i.e. we need to be able to re-use water rather than have 1000kms of algae). Thus the focus must be on a clear and transparent process of calculating an Environmentally Sustainable Level of Take, which allows for a 'bottom line' to be known. My understanding is that they do this in several countries overseas. In terms of making it clear and transparent, the South Australian Royal Commission into the Murray-Darling made many findings and recommendations about aligning ESLT with the Water Act
- Following from the above I do not believe the Commission's Report goes far enough in addressing historic over-allocation and the impact of climate change on river health. Water sharing arrangements need overhauling to provide more equitable sharing between the environment and consumptive use. We need to not just keep a river functioning but maintain the health of wetlands, riparian communities and aquatic fauna. A more reliable environmental share and better protection for low flows, would achieve this. Particularly if it is combined with active manage strategies such as protecting first flushes and maintaining connectivity. It would have the added benefit of protecting the quality of water supply in times of water shortage.
- I would suggest we as a nation are fairly primitive in our thinking about Indigenous water allocation. There are several articles in "The Conversation" about this. It seems to me we have various sorts of licences for European users, yet we cluster all Indigenous water into one category. If we are to secure the interests of Aboriginal and Torres Strait Islander people in water resource management, then I think we need to allow at least three different types of licence: one for country; one for cultural and spiritual purposes, and one for productive use. There may be others, but First Nations and FN organisations are sophisticated enough to identify their needs and uses for water. Overall I think indigenous communities have a right to manage and access the water in our rivers.
- I would like to see the establishment of independent oversight body, with functions similar to the previous National Water Commission. There seems to be enough evidence coming out from various quarters that some sort of national oversight and monitoring

authority is needed to ensure not just compliance, but progress in a space that is highly contested.

- The current nonsense in NSW- that we should build a series of new dams without i) a demonstrated business case; or ii) due consideration of the impact on downstream users- is indicative of a very antiquated and fixed ideology about how we manage this important resource. Superimposed on this idea in NSW is a legacy of failing to realize previous commitments about fish passage for previous projects. This is why the Commission's advice to include a new element in the NWI 'that all infrastructure is to be assessed as economically viable and environmentally sustainable prior to the commitment of funding, with cost recovery from users as the norm' is vitally important for all stakeholders.
- Finally, I am heartened to see there is a section (14) on community engagement, but the points do not go far enough. The reviews by other organisations (e.g. the NSW NRC) provide evidence that community engagement processes are skewed. The widely held view in some sectors of the community that we should 'Pause the plan' shows how mistruths can rise above the scientific and economic evidence that is available. It is important that people have a 'fair' community engagement process. Fairness has both a procedural and distributional element. In terms of distribution, there is a need to engage all stakeholder- and in a way that is equal or has some element of equity to it. In terms of procedure it is about providing legitimacy, influence and trust. I refer you to this paper for more detail: HOWARD, J. (2010). Managing for justice in community-based water planning: A conceptual framework. *Environmental Conservation*, 37(3), 356-363. [doi:10.1017/S0376892910000627](https://doi.org/10.1017/S0376892910000627)

Fairness is a much more important overall guiding principle than specific activities such as "clarifying institutional roles and responsibilities".

Kind Regards

23 March 2021