

24 April 2024

Commissioner Joanne Chong
Productivity Commission
GPO Box 1428 Canberra City ACT 2600

Dear Ms Chong

RE: Northern Territory Government submission on the National Water Reform 2024 Interim Report

Please find the Northern Territory's submission in response to the Productivity Commission's National Water Reform 2024 Interim Report which was publicly released on 4 April 2024.

Overall the Interim Report does not acknowledge or recognise the substantial progress the Territory has made with regard to water and its management in the Northern Territory since the 2021 Productivity Commission review, and detailed information provided to the Commission in the Northern Territory's submissions and submitted via formal requests for information (RFI) from the Commission which demonstrate continued improvement and reform in this jurisdiction have not been included in the published Interim Report.

The Interim Report also includes a number of errors of fact which are set out for your consideration in Attachment A of this submission.

Key progress since 2021

The Territory Water Plan was allocated \$13.5m for three years from 2023 to implement 16 priority actions across all areas of water security supply and management. It is notable that this is the Territory's first strategic plan for water overseen by a Minister with portfolio responsibility for Water Security. The strategy and its funding clearly signals a commitment by the Government and across Government agencies to improve water outcomes for Territorians. As a result the Territory is developing safe drinking water legislation applicable to all water service suppliers, has prioritised a strategic approach to improving both the infrastructure and service standards for safe and secure water in remote communities and homelands, is undergoing co design discussions with Aboriginal peak bodies on improved advisory mechanisms to Government on water, is finalising a water efficiency program across Government agencies, committed to and commenced changes to water planning to better reflect Aboriginal views and cultural values, is actively consulting on a water pricing framework based on the principles of the NWI, and agreed to a new Water Act to replace the current legislative regime for water resource management. The Territory is also positioning its water management for the future by working through models which will enhance Aboriginal participation in water decision making, address climate resilience and adaptation and prepare for a sustainable water supply for energy transition. These commitments are being led through a new Office of Water Security separate from the operational and policy responsibilities of other water agencies in the Northern Territory Government.

The Territory has undertaken significant new water licencing policy work since 2020. There are 9 new policies listed in section 2.3 of the Northern Territory's RFI. Two new water allocation plans were declared, and two draft plans have been released for public consultation. The Territory is now subject to 14% of its landmass subject to water allocation plans and 36% under water control districts.

There have been significant steps taken to improve drinking water safety and security in remote communities. To date, five infrastructure projects in Numbulwar, Maningrida, Milingimbi, Yuendumu and Gove Peninsula have been funded under the National Water Grid Authority's First Nations water security program. The Northern Territory is contributing \$38 million towards these 5 projects and together the Australian Government and Northern Territory Government will spend over \$83.9 million to enable much needed water infrastructure improvements in these communities.

The Territory through Power and Water Corporation and Indigenous Essential Services maintains a high level of transparency around reporting water quality in remote Indigenous communities, and water quality reports are produced annually online since 2004 for urban centres and 2007 for remote communities.

The Northern Territory is on a journey with Aboriginal partners to realise major improvements in Aboriginal control of water which also address outcomes and targets in the 2023 Intergovernmental Agreement on Closing the Gap. An Essential Services Working Group has been established, with membership from Land Councils and relevant Aboriginal organisations, to oversee the implementation of Target 9b actions in the Closing the Gap agreement and to improve information sharing to support decision-making, such as National Water Grid Authority proposals leading to safer and more secure water in remote communities. A Working Group is also being formed with the Land Councils to develop the Inland Waters target 15c and an action plan for the Northern Territory.

There has been significant growth in the Aboriginal water reserve (AWR) since 2020 increasing by about 30% and representing 20% of the consumptive pool in all water allocation plans. The AWR is 81,500ML of which 66,000ML is available for use. This volume will increase as water allocation plan areas grow, with new determinations through the Native Title Act and through compliance action which prioritises water returned through the recovery of unused licenced water entitlements to an AWR (if not fully provisioned) after environmental water requirements are met. The Department is also working with Land Councils to adopt a specific and solely Aboriginal decision-making framework for designating Aboriginal land eligible for the AWR and consenting to applications for water extraction licence applications from the reserve. The Department has been working to modify its water planning and management processes, and is focused on providing greater opportunities for Aboriginal Territorians to be consulted and involved in water planning processes, both through Water Advisory Committees under the Water Act, and through prioritised Aboriginal Reference Groups which provide a culturally safe opportunity for Aboriginal people to participate in planning and to inform decision makers on important values relating to water. These groups are under development or established in the Adelaide River catchment and Alice Springs/ Ti Tree region.

The Northern Territory Government has a priority action in the Territory Water Plan to partner with Aboriginal organisations to better understand the cultural values of water across the Territory. The action will support the community and decision makers understanding of water-related cultural values to underpin strategic land use planning and development activities. It will also help to build the water expertise of the Aboriginal community-controlled sector and support growing potential Aboriginal leaders in water governance.

Risk based management in Northern Territory context

As you would well appreciate the status, management and development of water resources around Australia is different and at a different stage in the process of achieving fit for purpose best practice in water management. Whilst the NWI allows for jurisdictions to apply a risk-based approach to entitlements and access rights frameworks that should be fit for purpose and may vary in relatively undeveloped

systems this is not acknowledged in the Interim Report and is contrary to previous reviews. Where it is appropriate the Territory's achievements in realising the objectives of the NWI through these conditional and risk-based approaches should be recognised.

A document summarising the context of water management in the Northern Territory is provided as Attachment B to assist appreciation of the level of development and how risk is managed under the current regulatory regime in the Territory.

An evidenced based evaluation of progress

I am concerned that the imbalanced commentary in the Interim Report privileges stakeholder claims without these comments being transparently tested, and without the balance or benefit of evidence based content provided in the Northern Territory Government's response to the RFI. The untested presentation of quotes from submissions in the Interim Report untested, could be taken to be the Commission's position on the matter.

The method for considering public submissions, request for information materials supplied by the Northern Territory Government and the Commission's own work in preparing the Interim Report is not clearly stated. While the report's methodology at Appendix B to the Interim Report clearly describes the ratings and indicators, it does not extend to outlining how the RFI and public submissions were considered in each assessment or what criteria were used to make the jurisdictional assessment. To achieve greater transparency around how the Commission made conclusions on the relative weighting of public submissions and information provided by the Northern Territory, more detail needs to be provided on the assessment criteria and process for the assessment provided in the final inquiry report.

We welcome this opportunity to provide feedback on the Interim Report in good faith to inform the assessment including the missing content, greater consideration of the Territory context and to correct factual errors. Please feel free to contact Nerida Horner, Executive Director Office of Water Security if you need further advice or information on (08) 8924 4116.

Yours sincerely

JO TOWNSEND
Chief Executive Officer

Attachments:

Attachment A: Factual errors

Attachment B: Northern Territory Context