

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

Dear Joanne

RE: Submission on the Productivity Commission National Water Reform 2024 Interim Report

I would like to make a submission to the Productivity Commission regarding the National Water Reform 2024 Interim Report released on 4 April 2024, which includes an assessment of progress implementing the National Water Initiative (NWI).

Congratulations on establishing the enquiry, opening submissions and curating the interim report in a very short, and extremely challenging, timeframe. I appreciate that this time frame has limited the opportunity to assess the veracity of conflicting claims between activists' groups and other commentators with jurisdictional submissions. That said, there are many valuable perspectives of those involved in service delivery and practice captured in the submissions and Interim Report.

I was surprised to see the classification "backsliding" being the assessed outcome on multiple occasions in new areas in the Interim Report in comparison to the Productivity Commission National Water Reform 2020 No 96 of 28 May 2021. In 2021 the conclusion that "backsliding" had occurred against NWI commitments was used only once (Pp150) in relation to pricing practices of some urban water providers and irrigation water pricing by crop type in Queensland.

The evidence from jurisdictional submissions does not appear to support such a significant shift in the Commission's assessment of "backsliding" of NWI commitments from three years earlier. Indeed, it appears totally unsubstantiated in relation to the Northern Territory (Pp112) given the substantial policy and legislative reforms acknowledged in the Interim Report. Further analysis of this assessment is strongly recommended, along with an analysis of the benefits of the adaptive approach through the use of term-based extraction licences rather than perpetual entitlements.

The scope of the current inquiry asks the Commission to assess "*progress in jurisdictional adoption of NWI principles, objectives and key outcomes and, where not adopted, issues that may influence implementation, and the opportunity costs of not doing so*". It is recommended that the inquiry look more closely at why key outcomes have not adopted by jurisdictions outside of the Murray Darling Basin for less developed systems and recommend policy reform. Policy reform that provides a framework for adaptation to the increasing velocity of climate change which prioritises the protection of cultural and environmental values. Policy reform that supports economic development for the benefit of Aboriginal and Torres Strait peoples, and the broader regional economies.

The 2004 NWI undertaking in s28 is that "*The consumptive use of water will require a water access entitlement, separate from land, to be described as a perpetual or open-ended share of the consumptive pool of a specified water resource, as determined by the relevant water plan (paragraphs 36 to 40 refer), subject to the provisions at paragraph 33*".

However, s33 of the NWI permits fixed term or other types of entitlements such as annual licences where it is demonstrably necessary (such as in Western Australia, and the Northern Territory). In Northern Australia, term-based extraction licences have been retained, rather than lock-in perpetual entitlements, which provide the ability to adapt to the changing climate, and recover water for reallocation where not used and reduce water-banking.

The NWI does provides flexibility in water planning in s38 *“The relevant State or Territory will determine whether a plan is prepared, what area it should cover, the level of detail required, its duration or frequency of review, and the amount of resources devoted to its preparation based on an assessment of the level of development of water systems, projected future consumptive demand and the risks of not having a detailed plan”*. In Northern Australia this allows a risk-based approach, depending on the level of development of a system.

Policy reform recommendations by your inquiry should include consideration of the advice of Commission’s National Water Reform 2020 Report 96, including Advice 5.1 for a “Fit-For Purpose Water Resource Management” approach. This advice proposed a conceptual framework with four indicative water system classifications of:

1. relatively underdeveloped;
2. developing systems;
3. Fully developed systems; and
4. over allocated systems.

The “one size fits all” focus of the NWI outcome in s28 for a *“water access entitlement, separate from land, to be described as a perpetual or open-ended share of the consumptive pool”* was designed for highly developed, or over allocated systems such as the Murray Darling Basin (with exemptions in subsequent sections recognising different approaches in Northern Australia). This NWI outcome requires recasting for water systems where there is a low level of competition for water, and low risks to eco-systems, or where the dominate consumptive use is from groundwater.

The Interim Report’s Information Request 4.1 asked the question *“How can a renewed NWI assist jurisdictions in establishing a consistent approach to developing climate change triggers and rebalancing processes? How can common principles help manage uncertainty, and jurisdictional and regional differences?”*

A risk-based approach, as proposed in the conceptual framework above, should be the starting point for responding to the emerging scenarios for less water in the systems, for longer, due to the changing climate. The aspiration should be to achieve a consistent language and definitions in a national water policy – but recognised differences in the needs for water resource management depending on the level of development, the characteristic of the water system and source of water (ground or surface) for consumptive use.

My submission draws on personal reflections on the implementation of the Council of Australian Governments 1994 Water Reform Framework and the 2004 NWI where the narrative has been dominated by the extreme challenges of over allocated in the Murray Darling Basin.

Yours sincerely

Darryl Day

Wongulla Waters Pty Ltd (Darwin)