

# NSW Submission to the National Water Reform 2024 Interim Report

Productivity Commission's 2024 inquiry into progress of water reform in Australia

## Preface

The NSW Department of Climate Change, Energy, the Environment and Water – Water Group (the department) welcomes the opportunity to make a submission on the Productivity Commission's inquiry into the National Water Reform 2024 Interim Report and its advice on future national water reform directions.

The department provided extensive input in response to two information requests from the Productivity Commission as part of the inquiry in early 2024. Considering the comprehensive information and advice NSW has already provided, this submission focuses on drawing the Productivity Commission's attention to errors, inaccuracies, or omissions, rather than providing extensive commentary on all findings and recommendations.

NSW has implemented major water reforms to address emerging challenges of water management as identified by the Productivity Commission. Notably, we have:

- Released the NSW Water Strategy which provides a strategic and integrated approach to improve the security, reliability, quality and resilience of our water resources over the long term.
- Strengthened our capacity to deal with the impacts of climate change by adopting a cutting-edge climate approach and using the best available climate modelling and science to underpin our strategic water planning including through the development of regional and metropolitan water strategies.
- Committed to increasing First Nations and Aboriginal people's involvement in water resource management through establishment of an Aboriginal Water Program, Regional Aboriginal Water Committees, and delivery of an Aboriginal Water Strategy which will identify ways of increasing water rights and ensure that First Nations/Aboriginal people are empowered to contribute to water management and planning decisions.

- Established several new reference and advisory groups including the Connectivity stakeholder reference group and the Reconnecting River Country Program Reference Groups which are intended to provide diverse perspectives and feedback on water management policies and programs in NSW.

The NSW Government is working collaboratively with the Australian Government and other jurisdictions to progress a new National Water Agreement that is ambitious, outcomes-focused, practical, and achievable. We thank the Productivity Commission for bringing together this Interim Report that acknowledges the progress made by jurisdictions in implementing the National Water Initiative (NWI) and providing valuable insights into future challenges and advice on what should be included in a renewed agreement.

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## Comment on the Interim Report

NSW would like to draw the Productivity Commission's attention to the following issues identified in the corresponding sections of the Interim Report. We kindly request that the Productivity Commission consider this input as it finalises its report.

### Chapter 2: First Nations' water interests

Section 2.3 Incorporating Indigenous objectives and strategies for achieving them in water plans

#### NSW comment:

The department would like to draw the Productivity Commission's attention to the published NSW Government submission made to the 2023 inquiry into the effectiveness and implementation of the Basin Plan and water resource plans that outlines how NSW incorporates Aboriginal cultural objectives, and strategies for achieving them, in water sharing plans, water resource plans and long-term water plans.

### Chapter 3: Water security in a changing climate

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#### NSW comment:

The department suggests that the narrative for Chapter 3: Water Security in a Changing Climate could be further expanded.

It could be emphasised that ‘water security’ must adapt to the shifting climate. That is, as rainfall decreases, traditional expectations regarding water supply reliability for various users will require adjustment which in turn may lead to decisions that require ‘trade-offs’ between competing priorities.

In section 3.2, it is crucial to ensure that while climate change poses a risk to Australia’s water security, the risk assessment processes capture the full spectrum of natural climate variability and consider the likely impacts of climate change.

The climate change outcomes for rainfall in many parts of Australia remain deeply uncertain and it is suggested that the discussion must acknowledge this uncertainty and frame it using risk management principles. The current framing implies that much of Australia has witnessed an ‘overall decline in rainfall,’ with the underlying assumption being that this decline is solely due to climate change, and it also overlooks the uncertainty of rainfall changes resulting from climate change. While global climate models generally agree on temperature increases, some models suggest that climate change might lead to increased rainfall, while others predict a significantly drier future.

In Section 3.4, it is important to recognise that possessing the technical tools is only one part of a broader need and further discussion is required to understand which future scenarios warrant planning, develop methods to address different decision-making timeframes and consider strategies to handle uncertainties associated with the range of available models.

Section 3.5 which highlights several water-dependent net-zero generation alternatives could be enhanced with additional detail. For example, beyond the feedstock and cooling requirements of the hydrogen generation process, there are often additional water needs associated with converting hydrogen into other forms for transport and storage, as well as cooling requirements during gas compression.

While the report suggests that solar and wind energy production may not significantly use water during the production phase, a rapid transition to a low-carbon future could still impact water sources. For instance, temporary work camps or an influx of workers to rural and regional towns for low-carbon energy projects and significant expansion of transmission networks could strain local water resources. These considerations should be part of upfront planning processes.

In addition to the water demand aspect of transitioning to net zero, significant waste streams must be addressed, and proposals need to consider the potential impact on water sources early in the planning process.

Furthermore, water demand related to adaptation measures should be accounted for. For example, actively watering trees to manage urban cooling might necessitate revisiting long-standing water

restrictions. Water restrictions may typically prohibit watering parks and gardens during periods of water shortfall, which contradicts the goal of managing temperature through increased evapotranspiration from trees.

**Draft recommendation 3.2: Consider all extreme climate events in water planning**

Over the past decade, climate change has been associated with an increase in extreme weather events, which disrupt and damage water supply and infrastructure. Where the NWI Climate Change and Extreme Events Module focused on the risks from drought, greater focus should also be given to other events, such as flooding, storm, and bushfires. In implementing the Commission's renewal advice 6.2 regarding water planning for climate change (including that historical climate outcomes may not be indicative of future outcomes), governments should adopt the principles set out in the National Water Reform report 2021, focusing on this broader range of events.

This recommendation could be enhanced by recognising the risks associated with extreme weather events – wet and dry - leading to poor water quality outcomes, as well as the risks linked to infrastructure failure and decreasing reliability of natural systems.

**Draft recommendation 3.3: Water for Net Zero**

All Australian governments should collectively model and plan for changed water demand as a result of necessary climate change mitigation measures. All solutions will have water demands that need to be estimated and planned for. Findings should be integrated into both net zero strategies and sustainable water strategies to ensure sufficient water is available to enable Australia's transition to net zero emissions.

Consideration of water demand for adaptation measures could be considered in framing this draft recommendation.

## **Chapter 6: Best practice pricing and institutional arrangements**

**Draft finding 6.1: Some governments have moved away from NWI commitments to deliver cost reflective and consumption-based pricing**

Some jurisdictions have maintained or strengthened pricing regulation to focus on the long-term interests of end users, such as the Victorian Essential Services Commission's application of the PREMO water pricing framework (performance, risk, engagement, management, outcomes) and the New South Wales Independent Pricing and Regulatory Tribunal adopting a 3C's approach (customers, costs, credibility). In some other jurisdictions, NWI pricing arrangements have been significantly eroded or remain well short of best practice. Jurisdictions that lacked independent

economic regulation in 2021 have not taken steps to improve water pricing regulation. Further, a number of jurisdictions have weakened independent regulation through:

- applying discounts or price caps to independently determined consumption-based prices.
- issuing ministerial directions that affect the decision-making processes of independent regulators.
- not using water price monitoring or review powers to determine if greater price regulation is needed.

**NSW comment:**

NSW welcomes the Productivity Commission’s assessment that NSW continues to have pricing processes and economic regulation that generally meet NWI requirements. However, we acknowledge there are areas where we are continuing to improve our approach and provide greater transparency.

As indicated in our February 2024 information request response, the NSW Regulatory and Assurance Framework (RAF) for local water utilities sets out clear expectations for sound pricing and prudent financial management that are aligned with the NWI Pricing Principles. These utilities are expected to achieve lower bound pricing consistent with the NWI Pricing Principles and move to upper bound where practicable.

However, the NSW Government recognises that for some local water utilities (which are generally regional councils), full cost recovery will not be possible, and subsidies are required to address their service risks and maintain financial sustainability.

The Safe and Secure Water Program (SSWP) is a grant program that supports councils to address key risks to regional water safety and security. Co-funding levels for grant funding are calculated using the average annual revenue received by the council from water and/or sewerage across the previous three financial years. Funding is prioritised to the most extreme risks, that are informed by multiple lines of evidence, including from NSW Health and NSW Environment Protection Authority. The NSW Government is working towards a more sustainable approach to remove the need for grant programs such as SSWP in future. The NSW Productivity Commission is currently investigating an alternative funding model for NSW local water utilities. The investigation is a step towards addressing these service risks in a financially sustainable and transparent funding mechanism which may involve structured and targeted subsidies as community services obligations.

**Draft Finding 6.2: Some government decision making for major water infrastructure is not fully compliant with the NWI**

The NWI requires governments to be satisfied that infrastructure investments are economically viable and ecologically sustainable. To be consistent with these principles, investments should be rigorously assessed, comparing all options available to meet identified needs. Ideally, this would also involve a transparent, independent assessment of proposals. This is currently not being achieved by all parties to the NWI, and the commitment to these principles appears to be waning:

- A significant proportion of major infrastructure developments funded by governments since 2021 have not been subjected to a transparent assessment of the costs and benefits of the proposal, or to independent scrutiny.
- Further, a number of successfully funded investment projects – including those funded under the Australian Government’s National Water Grid program – were funded even where the assessed costs of the project outweighed the measured benefits to the community

#### NSW comment:

In addition to information on NSW’s processes for assessing and funding major water infrastructure provided in our February and March 2024 responses, we wish to draw the Productivity Commission’s attention to the following further information to inform its final finding on this matter:

NSW major water infrastructure is subject to assurance using the Infrastructure NSW Investor Assurance (Gateway) process. This process is applied to major water infrastructure development projects in NSW, including those that receive funding through the National Water Grid program.

Grant delivery of water infrastructure programs has been strengthened with the legislated requirements detailed in the NSW Grants Administration Guide, which applies to all grants activities from 18 March 2024. The guide details the requirements to ensure that public money will deliver value and adopts key principles of transparency, accountability and probity. A number of materials including factsheets and templates to support the new Guide have also been published.

## Chapter 7: Integrated management of water for environmental and other public benefit outcomes

**Draft finding 7.1: Environmental and other public benefit outcomes are inconsistently specified**

There remain inconsistencies between jurisdictions about how environmental outcomes are defined in water plans, their level of detail and indicators.

Other public benefit outcomes continue to be undefined or defined only at a high level. While the achievement of environmental outcomes can also contribute to other public benefit outcomes, such



as recreational opportunities, amenity benefits and public health, the Commission has found no clear long-term performance indicators specified linking these outcomes.

**NSW comment:**

We note the observed challenges with specifying and reporting on environmental and public benefit outcomes. NSW has made recent progress in developing an improved Water Sharing Plan Evaluation Framework and Program. Draft methods to evaluate intended social, economic and environmental outcomes of water sharing plans (WSP) have been developed which includes identifying performance indicators to measure progress towards achieving public benefit outcomes like those listed in this chapter.

In 2022/23, the department undertook its first WSP Social Benchmarking Survey. The survey is a research tool to collect information on a range of performance indicators including amenity, wellbeing, recreational fishing and shifts in the water dependent social values of community and water users. The survey is underway for 2023/24 with information collected under this program to be used in evaluating achievement of WSP objectives for water sharing plans due to be replaced in 2026-28.

Despite these measures, it should be acknowledged that reporting specific indicators and outcomes for socio-economic factors like public wellbeing and recreational outcomes is technically difficult, particularly when there is limited funding for primary ecological monitoring, evaluation and reporting (MER) which should be the primary activity. MER efforts for socio-economic outcomes should be complementary and not detract from monitoring environmental outcomes, especially where there are resource constraints.

The department also observes that many of the issues raised by the Productivity Commission related to monitoring outcomes stem from funding issues (short-term funding cycles, inadequate funding and high uncertainty). For example, the Australian Government is yet to determine funding for Basin Plan related ecological monitoring activities for the 2025–26 financial year. A recommendation that addresses the need for a joint long-term funding strategy for monitoring activities would be welcomed.

**Draft finding 7.3: Independent review of environmental outcomes is absent in many jurisdictions**

There is no consistent basis for independent audit of whether environmental and public benefit outcomes from environmental water have been achieved, the adequacy of water provision for these objectives, or the performance of environmental water managers. While most jurisdictions have built-in reviews of their water management plans, these are not always undertaken in a timely manner or by an independent body.

**NSW comment:**

The Department of Climate Change, Energy, the Environment and Water - Biodiversity, Conservation and Science Group's five-yearly reviews of its Water for the Environment Program together with the NSW Natural Resource Commission reviews of NSW water sharing plans meets the criteria of independent review (in part).

We note this section's proposed updated wording to the NWI renewal advice 8.10 on independent managers and auditing, which indicates the Productivity Commission's view that decisions on the use of held environmental water (HEW) should be made independently of agencies who manage environmental water. While the value of independent bodies involved in decision making and reviewing use of HEW is recognised, the department suggests that this does not need to be at the exclusion of agencies responsible for managing HEW. An integral part of managing HEW is making decisions on where and how it is delivered.

## Chapter 8: Water Resource Accounting

**Chapter 8: Water Resource Accounting****NSW comment:**

The NSW Government continues to roll out its robust metering framework to measure and meter non-urban water take in NSW. This includes ensuring comprehensive and transparent reporting of AS4747 metering. However, we would like to correct some issues and add further information to the content on NSW water accounting contained in the Interim Report.

The NSW telemetry rebate program does not provide rebates for AS4747 metering purchases as stated in the Interim Report. The telemetry rebate provides water users with a rebate to assist with the cost of installing telemetry. This is an additional mandatory requirement of the NSW metering policy over and above the installation of an AS4747 compliant meter.

NSW provides sized-based exemptions for surface water pumps less than 100mm in diameter and for groundwater bores less than 200mm in external casing diameter. As currently written, it appears water users with less than 10ML are exempt, which is not correct. NSW also has an additional domestic and stock water user exemption as referenced in the Interim Report, however we note that there are several criteria to meet to access the exemption.

Section 3.1 of the Metrological Assessment Framework 2 requires that 'all take via water entitlement to be metered by June 2025'. This is distinctly different to the Interim Report's interpretation for all water take to be metered by 2025.



The statement: ‘Victoria, New South Wales and South Australia have all recorded increases in AS4747 metering, but the level of compliance remains low’ is inaccurate. Since NSW’s Non-Urban Metering Policy commenced on 1 December 2018, NSW has seen an increase in the number of AS4747 compliant meters and has reported an increase in metered water take. NSW has not reported the volume of water which is taken using AS4747 compliant meters, so the level of compliance cannot be implied. Additionally, NSW has not indicated the number of meters it expects to have compliant with AS4747, so again the level of compliance or compliance progress cannot be inferred.

**Table 8.2 – Metered water use by jurisdiction**

NSW comment:

The figures for NSW in columns 3-5 of Table 8.2 are incorrect and should be removed. These figures appear to be derived from data reported in the Inspector-General of Water Compliance’s (IGWC) Murray-Darling Basin – New South Wales Metering Report Card, but that data does not have a relationship with the data in table 8.2. We suggest that NSW be included with the NT, WA and QLD as not reporting these figures.

**Table 8.3 – Jurisdictions progress on metering 2019-2022**

NSW comment:

The data represented in table 8.3 relates to NSW’s progress on metering water take 2019-2022, which is not the same information as ‘progress on metering’. We recommend that the table heading be re-worded to reflect the IGWC report card data to be 'Jurisdictions progress on metering water take 2019-2022.'

**Draft Finding 8.1: Jurisdictions are not projected to meet their AS4747 metering installation commitments.**

No states or territories are on track to meet their commitment to have all new and replacement meters AS4747 compliant by July 2025. This undermines the ability of states to conduct proper measurement of watering limits and increases the risk of unreported water use and overextraction. The private benefits for water users to upgrade their water meters to AS4747 standard are low and therefore not a sufficient incentive to upgrade.

NSW comment:

Despite not having all works metered yet or upgrading all historical meters to AS4747 compliance, NSW requires all new and replacement meters to be AS4747 compliant. Therefore, NSW maintains that it is meeting this commitment under the NWI.

### Draft finding 8.2: Improving the rollout of AS4747 meters

To better allow water users and the public to benefit from the improved AS4747 standard, jurisdictions should take steps to accelerate their rollouts. Jurisdictions should:

- Report annually on non-urban water users' compliance with the AS4747 metering standards.
- Actively engage with non-urban water users to improve understanding of their metering compliance requirements.
- Set a higher bar when approving interim standard or grandfathered water meters. For both interim and grandfathered meters, water users should be required to actively prove their meter is accurate to within  $\pm 5\%$  of AS4747 meters as is the requirement in Victoria, New South Wales and the Australian Capital Territory.

#### NSW Comment:

NSW is committed to improving and accelerating the roll out of our metering framework. The NSW Government is carrying out a thorough review of the non-urban water metering rules to assess the progress that has been made since the rules came into effect. The review aims to identify what is and isn't working and how the rules can be improved to make it quicker and easier for water users to comply. Further information on the review is available on the department's [website](#).

An ongoing problem that the Productivity Commission should consider in tracking the success of implementing the Metrological Assurance Framework (MAF) is the lack of good reporting. To improve this, clear and achievable reporting metrics need to be developed that reflect the desired outcome. The incorrect assumptions regarding the AS4747 compliant metered entitlement in Table 8.2 reflect metrics that do not align with the intended outcome. It is also important to develop metrics in collaboration with the relevant states to ensure the necessary data for reporting is available.

## Chapter 9: Urban Water Reform

### Draft finding 9.1: Some regional and remote areas still do not have access to safe drinking water supply

There continues to be drinking water quality issues in some remote areas of Australia caused by exceedances in the chemical health standards outlined in the ADWG. In addition, exceedances of

aesthetic parameters such as colour, palatability have led to acceptability issues. This is leading to a loss of confidence in the water supply amongst the community in these areas.

**NSW Comment:**

In NSW, delivery of clean and reliable water to most regional and remote communities is the responsibility of the local water utility (which are generally regional councils). The department recognises the difficulties being faced by local water utilities, particularly in small regional and remote areas such as in Walgett, and therefore provides operational and technical support for councils in the management of complex water and wastewater issues.

As detailed in the information provided in our February and March 2024 responses, the department has several programs in place to support regional communities to address key risks to regional town water safety and security in NSW.

We wish to draw the Productivity Commission’s attention to the following actions we have undertaken:

- Supporting the NSW Productivity Commission’s review of sustainable funding models for local water utilities.
- Investing in water infrastructure through the \$1 billion Safe and Secure Water Program.
- Finalising regional water strategies which are identifying actions to address major water security risks across the state.
- The Aboriginal Communities Water and Sewerage Program aims to improve water and sewerage services in eligible Aboriginal Communities throughout NSW.
- The Regional Leakage Reduction Program, which is a collaboration with the NSW Water Directorate and local water utilities to identify leaks and fix leaks as part of their asset management frameworks.

## **Chapter 11: Community partnerships and adjustment**

**NSW Comment:**

Section 11.1 Community Partnerships

NSW has made considerable positive progress and improvements in stakeholder engagement including in the Aboriginal engagement space and this is being acknowledged by many of our stakeholders. The final report should represent more balanced feedback from stakeholders and acknowledge the progress made by NSW in stakeholder engagement.

The NSW example text acknowledges the creation of a dedicated engagement team and improvements in information provision, transparency and coordination of engagement which does not support the icon indicating 'no change.'

The department makes ongoing efforts to improve community engagement practices and incorporate best practice advice. It should be acknowledged however that governments cannot always take stakeholder feedback into account where it is irrelevant, biased or not supported by evidence.