



OneWater
Advocates

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National Water Reform: Productivity Commission Issues Paper, May 2020 - Submission from *OneWater Advocates*

Key Points

- OneWater Advocates (OWA) is a group of respected water industry professionals, advocating for the alignment of urban water policy with credible science and technical capability.
- In responding to the Issues Paper, our key question is:
 - **What is inhibiting progress in the implementation of the NWI and how might these inhibitions be addressed?**
- OWA consider these inhibitions to be:
 - While some improvements in water management may have occurred, much yet remains to be done.
 - The need for the long-term planning of water resources is incompatible with the short-term nature of the political cycle and priorities driven by immediate issues.
 - Water resource and supply risks need to be understood, priorities identified, and strategies identified, context by context.
 - There needs to be the political will, with a supporting governance structure having the agreed authority to bring parties along for the journey, participation of the community and a financial incentive – to bring about sound nationwide water resource management.
 - The NWI, as originally constituted, sets out all the direction that is required to ensure the appropriate management of water in Australia into the future.
- OWA's proposed solutions are:
 - A water minister's group should be reconstituted, under the new National Cabinet and that this group determine the state and territory water priorities (geographical and temporal) within the agreed framework of the NWI.
 - An independent group be set up by legislation through the Federal Government reporting to both the Federal Parliament and the national water minister's group to lead the NWI and its implementation and to update it, as necessary.
 - The intent of the NWI should be revisited and/or refreshed to ensure that a new consensus is reached between all jurisdictions as to the priorities for

water in Australia.

- An incentive programme should be created, equitably shared across the states and territories, but not necessarily focused on the same initiative in each state and territory, to support the implementation of the initiative (in agreement with the Commonwealth).

1. Introduction

The Productivity Commission was requested by the Treasurer, the Hon Josh Frydenberg MP and the Minister for Resources, Water and Northern Australia, the Hon Keith Pitt MP¹ on 22 May 2020 to review progress on the implementation of the National Water Initiative (NWI).

The Terms of Reference (ToR) for the inquiry, as set out in the Productivity Commission's Issues Paper of May 2020, are summarised below.

This submission is from *OneWater Advocates* (OWA²), a group of respected water industry professionals, advocating for improved alignment of urban water policy with credible science and technical capability. OWA have carefully considered the ToR and in this document, outline their view of the future directions to be taken to ensure the NWI delivers on its original intentions.

2. Scope of the Inquiry

The Australian Government has asked the Commission to assess the progress of the Australian, State and Territory Governments in achieving the objectives and outcomes of the NWI and evaluate the need for future water reform. Specifically, the Commission will:

- *assess the progress of jurisdictions towards adopting the principles set out in the NWI*
- *consider the outcomes (including benefits and opportunity costs) of reform efforts ISSUES PAPER 5*
- *consider the extent to which the NWI reforms help address emerging challenges faced by Governments, water providers and water users, such as climate change or changes in economic circumstances*
- *make recommendations on future reform priorities, and ways in which the NWI could be improved.*

The terms of reference also request the Commission to consider a number of other issues in undertaking the inquiry, including:

- *the interaction of water policy with other areas (such as land use planning and urban development)*

¹ <https://joshfrydenberg.com.au/latest-news/productivity-commission-to-review-national-waterinitiative/>

² <http://linkedin.com/company/onewater-advocates>

- *the impacts of climate change on water resources*
- *the provision of reliable water services to regional and remote communities*
- *the principles to be satisfied for any Government investment in major water infrastructure.*

These will form specific areas of focus for the Commission. The Commission also intends to consider issues identified in its 2017 inquiry, which in some cases went beyond the NWI.

Certain matters are excluded from the scope of this inquiry. In undertaking this inquiry, the Commission will:

- *avoid duplication between this inquiry and its 2018 inquiry into the effectiveness of the implementation of the Basin Plan and the State and Territory water resource plans (PC 2018). This inquiry will not address Murray-Darling Basin matters, except where they relate to substantive and nationally relevant policy issues*
- *avoid (to the extent possible) any duplication between this inquiry and the ACCC's Murray–Darling Basin Water Markets inquiry. Depending on the timing of the ACCC's final report, the Commission may consider its findings where pertinent to assessing progress against the NWI's objectives and outcomes for water markets and trading, and any potential modifications to these as a part of a renewed NWI.*

3. Background to the *OneWater Advocates (OWA)* Submission

In 2017 the Productivity Commission undertook the last tri-annual review of the NWI and found broadly that:

- The NWI covered most if not all the areas required to be considered in good water management including the need to address climate change, environmental water needs, Aboriginal water needs and need to consult with the community to resolve many of the policy positions.
- Significant progress had been made in many areas and it was important that that momentum not be lost.
- Limited progress had been made in other areas since the previous review. For example, WA still doesn't have an updated water resources management act and a recent Auditor General's report in NSW³ highlighted the lack of action by the Department of Planning, Industry and Environment and Sydney Water on water conservation.
- Additional policy settings are required for areas such as climate change, incorporating extractive industries, aboriginal water, environmental water, urban water management and linking water and developments.
- Potable reuse is still silent as a realistic and economic alternative to traditional sources of water

³ www.audit.nsw.gov.au

These findings came on the back of the abolition of the National Water Commission in 2014, which it is noted, occurred largely due to a financial and department restructure within the Federal Government and to some degree, left the NWI without stewardship. Responsibility for various parts of the NWI were spread among a number of agencies within the Federal government (parts went to the Federal Department of Agriculture and the Environment, while other parts went to BOM) thus reducing the overall focus.

The Productivity Commission reports to the Federal Treasurer based on his brief and while the Federal Government expressed support for the findings of the 2017 report (as stated in this ToR), no further funding or leadership was proposed and further implementation was left to the states and territories.

There have been several published reports indicating that while some improvements may have occurred, much yet remains to be progressed. Examples include:

- Western Australia has yet to implement many of the water resource management changes originally proposed or update its water resource management act.
- The NSW Auditor General recently highlighted the lack of action by the Department and Sydney Water on water conservation.

OWA are not in a position to provide comment on the progress of the NWI in various jurisdictions. Our observation, however, is that as water does not appear to be a political priority, other than if extreme situations and crises arise, and management is then reactionary rather than being part of long term and sustainable planning. It is unlikely that progress will have been made across the nation since the last audit in 2017.

To illustrate this point, various advocacy groups have been attempting to have policies such as a prohibition on the consideration of recycled water for drinking in integrated water management plans lifted or reconsidered. These attempts have not been enthusiastically supported, and yet the consideration of *all* water supply options is a fundamental component of the NWI

The OWA sees the following as a key question:

What is inhibiting progress in the implementation of the NWI and how might these inhibitions be addressed?

Water in Australia constitutionally rests with the states and territories and therefore issues related to water, its sharing, knowledge, management, regulation etc are arguably state issues, leaving the Federal Government with not much more than an opportunity to negotiate or to use coercive strategies if they seek to influence outcomes in this area. It is not easy and leads to inconsistencies across the nation.

The NWI was created at a time when there was a water COAG (Council of Australian Governments) group. It was created after much negotiation between the states and federal government. To ensure leadership of the initiative, the National Water Commission was created as an independent authority to steer the NWI's implementation. As indicated previously, this has now been disbanded by subsequent government action.

In the one major area where water does not respect state borders, another authority was put in place, the Murray-Darling Basin Authority (MDBA) that was formed under the Commonwealth Water Act 2007 and which was established with the agreement of the states and a substantial injection of Federal funds, to develop a management plan and implementing it. This agency remains in place but appears from recent media reports to be struggling to achieve all of its goals.

Water and its management require consistent and focused attention over time. Outcomes are not achieved over night. The need for the long-term planning of water resources is incompatible with the short-term nature of the current political cycle and priorities that are driven by immediate issues. Inaction can limit political fallout through good luck rather than good management while action can involve significant cost and leave the proponent open to political criticism, albeit often unjustified. For example, desalination in Western Australia has never been criticised by either the community or politicians and yet desalination plants built in the east coast capitals have received almost constant criticism. Both were built on the same water planning basis however climate change has been less severe on the east coast which prompted the criticism.

Climate change has complicated the position as it manifests in different ways in different parts of the country; floods versus long-term drought or permanent change in water availability, or as bushfires etc. In some areas there are large multipurpose dams (flood mitigation and drinking water supply) which when full, give some years of grace from needing to do anything, which makes it easy for politicians to either ignore the issue or to assume that any issue that does arise while they are still responsible can be managed in the short-term.

We have the position we have, no matter what the reason and we must now focus on what will ensure better water outcomes for the whole country in the future.

The NWI, which was negotiated with all the states and territories, sets out all the direction that is required to ensure the appropriate management of water in Australia into the future. There are however a large number of strategies and prioritisation that need to occur. The priorities should be based on particular needs in particular areas, an example being securing water supplies in our regional areas, particularly in NSW, with a long-term view of addressing the highest priority needs in each state progressively over what might be several decades before all components are in place.

For this plan to be put in place there needs to be the political will, a supporting governance structure with the agreed authority to bring parties along the journey, the goodwill and participation of the community and finally a financial incentive to deliver the NWI, or at least, relevant sub-components of the NWI.

With the development of the National Cabinet and subsequent processes for Ministers to work together following the closing down of COAG, OWA would argue that a water minister's group be reconstituted and that this group should determine the priorities from the NWI that should be given focus in each state and territory at any particular time.

Based on agreement with the Commonwealth, an incentive programme, equitably shared across the states and territories, but not necessarily focused on the same initiative in each state and territory, should be put in place to support the implementation of the NWI. It might be the metering of groundwater users in WA or Water Resource Planning in rural NSW etc. with strict timeframes for completion and monitoring of implementation status.

There will need to be an independent federally funded agency reporting to the Water Ministers on delivery, with the power to provide or withhold funding based on agreed performance and providing updates as initiatives are finalised and become business as usual. This agency should be set up by an Act of Parliament with a requirement that it be funded on an ongoing basis. OWA do not believe all the issues of water management will be resolved in a foreseeable timeframe due to the complexity of the issues involved, their ongoing evolution and changing community attitudes. Progress under this proposal will depend on the funding provided and the management that drives performance. Once in place funding may vary based on Federal Government priorities and the nation's overall water resource position, but there should be a guaranteed minimum level of funding as this will be a very long-term programme of national significance.

4. OWA Recommendations for Future Reform Priorities

OWA proposes the following in response to the TOR dot point "make recommendations on future reform priorities, and ways in which the NWI can be improved" (4th bullet point in Section 2 on page 2 of this paper):

- The NWI be recognised as a long-term strategy that may never be completed.
- Under the new National Cabinet, a national water ministers' group be reconstituted and made a standing group recognising the importance of water to the nation.
- A process is put in place to prioritise the initiatives in each state and territory to ensure the orderly and progressive implementation of the NWI across all jurisdictions.
- An independent group be set up, under legislation through the Federal Government reporting to both the Federal Parliament and the national water minister's group to lead the NWI and its implementation and to update it, as necessary. This group can also help develop business case formats to assist those making major capital decisions. The legislation for this group could be similar to that of OFWAT (the independent pricing regulator in the UK that reports to Parliament and not a minister), but in this instance the role would be a facilitator role, supported with ongoing, secure funding, in the development and implementation of water policy nationally.
- An appropriate level of continuous federal funding be allocated to ensure the implementation of the NWI and the maintenance of the independence of the NWI governance arrangements.

Water and good water management and stewardship are fundamental to the continued prosperity of our nation, but it must be given the prominence and priority by our leaders and key aspects quarantined from manipulation and exploitation in the political process. This must be supported by a base level of administrative and incentive funding. If an

implementation program similar to that suggested above is not put in place, OWA believes future water management in Australia will fail the national interest.

We do recognise that major capital spending will still be subject of government funding decisions but with the right policies, practices, governance and leadership in place, there will be a better fact base to support any funding decisions and political impact can be minimised.

5. Closure

OWA trusts that this submission will be of interest to the Commission. Should the Commission wish to contact OWA to clarify any of the above comments, the contact persons are:

1. Adjunct Professor **Ian Law** (OWA Co-founder)

and/or:

2. **Peter D Moore, PSM** (ex Federal President, Australian Water Association)

6. Acknowledgements

Significant inputs and support from OWA members **Graham Dooley, David Sheehan** and **Annette Davison** (OWA Co-founder) are gratefully acknowledged, as are all the other review comments from the OWA membership.
