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Monday, 17th August 2020

National Water Reform 2020
Productivity Commission
Locked Bag 2, Collins St East
Melbourne VIC 8003, Australia

Inquiry into progress with the reform of Australia's water resources sector in achieving the objectives, outcomes and timelines anticipated under the National Water Initiative.

Thank you for the opportunity for the Murray Darling Association to make submission to the Productivity Commission's inquiry into progress with the reform of Australia's water resources sector under the Intergovernmental Agreement on a National Water Initiative.

The Murray Darling Association is the peak body for local government in the Murray-Darling Basin, informing policy and contributing local knowledge and regional solutions since 1944. There are 167 councils that sit within the Basin and whose communities rely upon water from within the catchment. The management of water is a matter that is of significant interest to local government.

The Murray Darling Association is committed to effective water reform and is a long-standing supporter of the Murray-Darling Basin Plan and other elements of water reform. The MDA is also cognisant of the hardship visited on communities impacted by water reform, and we seek constantly to contribute constructively to better policy, process and governance arrangements that will support a more effective implementation of water reforms.

The MDA is of the view that one of the most significant and fundamental barriers to progress in achieving the objectives, outcomes and timelines anticipated under the National Water Initiative is a lack of effective communications and consultation with Basin communities.

We remain firmly of the belief, as noted in our submission to the commission in 2018 that one of the most significant and fundamental risks to the effective reform of Australia's water resources sector rests in the combination of the omission of local government from any formal role in the institutional and governance arrangements of the Plan, and the absence of an agreed and meaningful framework and process for community consultation.

Local government is one of three tiers of government in Australia and is the level of government most intimately connected with the local areas, ecosystems, topographies, communities, industries, and interests that make up Basin environment.

Local government is adroit and well equipped in balancing complex and often competing social, economic and environmental needs within and across their municipalities. They do this within legislated standards of discipline and governance.

Local government has the skill and institutional capacity to inform policy development, has rich and established regional networks that offer an invaluable interface and an effective resource for state and federal policy makers.

Local government has detailed knowledge and experience in identifying structural adjustment requirements and regional economic development opportunities. Local government also has data and lived experience of social and economic impacts upon their communities and the ability to identify and distinguish the drivers of those impacts.

And local government has the networks, relationships and structural capability to undertake effective, consistent cross sectoral community consultation.

And yet, there is no role for local government in the institutional relationships outlined in the National Water Initiative.

Local government is generally regarded by governments and agencies responsible for the implementation of the Basin Plan as a 'community group' or as 'community advocates'. And while local government and councils certainly do represent our communities, and advocate effectively, the MDA believes that the omission of an entire level of government from any responsible role in the implementation of the Basin Plan has had catastrophic results in formulating and establishing the Plan.

Having a 2/3 government approach to formulating and establishing the Basin Plan has cost all levels of government and our communities significant financial, social, and emotional cost. The MDA recommends that local government be afforded a formal role in the implementation of the Plan and long-term management of the shared water resources.

INFORMATION REQUEST 1

The Commission welcomes feedback on:

- *whether the signatories to the NWI are achieving the agreed objectives and outcomes of the agreement*
 - *which elements of the NWI have seen slow progress*
 - *whether there are cases where jurisdictions have moved away from the actions, outcomes and objectives of the NWI*
 - *any other data and information sources that might be useful for assessing progress.*
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Outcome 93 & 94 of the NWI agrees to engage water users and other stakeholders in achieving the objectives of the NWI by:

- i) improving certainty and building confidence in reform processes;
- ii) transparency in decision making; and
- iii) ensuring sound information is available to all sectors at key decision points.

The Parties also agree to address adjustment issues raised by the implementation of this Agreement.

Progress on this area has been poor in some jurisdictions, with well documented deficits in improving certainty and building confidence within and across communities. Successive reports have noted a need for

greater transparency in decision making, and an absence of sound, reliable information readily accessible and available to all sectors at key decision points.¹

The Murray Darling Association and others have also called repeatedly on the signatories to the NWI to clearly address adjustment issues raised by the implementation of the agreement. Progress to achieving this outcome has not been adequate, clear or well communicated.

Under outcome 90, the Parties agree that the outcome for urban water reform is to:

- i) provide healthy, safe and reliable water supplies;
 - ii) increase water use efficiency in domestic and commercial settings;
 - iii) encourage the re-use and recycling of wastewater where cost effective;
 - iv) facilitate water trading between and within the urban and rural sectors;
 - v) encourage innovation in water supply sourcing, treatment, storage and discharge;
- and
- vi) achieve improved pricing for metropolitan water (consistent with paragraph 66.i) to 66.iv)).

Progress on this outcome has been slow and disjointed, hampered further by the absence of a framework and resourcing for local government, which has responsibility for urban planning, to contribute to and support achievement of the outcome in a coordinated framework.

In 2019 many Basin communities suffered severe water shortages, with an absence of safe, reliable and healthy water supplies. Water trading between and within the urban and rural sectors has not seen adequate progress, and despite a chorus of initiative for innovation in water supply sourcing, treatment, storage and discharge there remains no clear pathway for such initiatives to be assessed, considered or funded in the context of the NWI.

A key element of the NWI is the initiation of a water access entitlements and planning frameworks that will (*inter alia*) be characterized by planning processes in which there is adequate opportunity for productive, environmental and other public benefit considerations to be identified and considered in an open and transparent way; provide for adaptive management of surface and groundwater systems in order to meet productive, environmental and other public benefit outcomes, and reflect regional differences in the variability of water supply and the state of knowledge underpinning regional allocation decisions;

Progress towards achieving these outcomes has been hampered by gaps in the institutional and governance arrangements, by the complexities of multi-jurisdictional arrangements, and by a failure to adhere to commitment outlined in items 18 and 19 the NWI, describing roles and responsibilities.

It is clear that the NWI contemplated a more inclusive consultation and referral framework than has occurred in practice. with reference to the Ministerial Council overseeing implementation of this Agreement, in

¹ Keelty Report: [Impact of lower inflows on state shares under the Murray–Darling Basin Agreement](#) (Interim Inspector-General of Murray–Darling Basin Water Resources, 17 April 2020)
[Murray-Darling Basin Plan: Five-year assessment, Inquiry report](#) (Productivity Commission, 19 December 2020)
Sefton’s Report: [Independent Assessment of Social and Economic Conditions in the Murray-Darling Basin Draft Report](#) (Independent Panel Report, 16 March 2020)
[Murray-Darling Basin water markets inquiry Interim report](#) (Australian Competition and Consumer Commission, 30 June 2020)
[Independent Review of Lower Lakes Science Informing Water Management](#) (Independent Panel Report, 29 April 2020)
Matthews Report: [Independent investigation into NSW water management and compliance](#) (NSW Department of Industry, 24 November 2017)
Murray Darling Association [Submission to Review of the Murray-Darling Basin Joint governance arrangements](#) (November, 2018)

consultation with other Ministerial Councils as necessary and with reference to advice from COAG; an addressing ongoing implementation issues as they arise. It also notes that the National Water Commission (NWC) will be responsible for providing advice to COAG on national water issues.

There has been inadequate mechanisms for and instances of those roles and responsibilities being acquitted.

Section 97 of the NWI outlines the parties' agreement to address significant adjustment issues affecting *water access entitlement* holders and communities that may arise from reductions in water availability as a result of implementing the reforms proposed in this Agreement, noting that States and Territories will consult with affected water users, communities and associated industry on possible appropriate responses to address these impacts, taking into account factors including possible trade-offs between higher reliability and lower absolute amounts of water; the fact that water users have benefited from using the resource in the past; and the scale of the changes sought and the speed with which they are to be implemented.

It is clear that progress in achieving these objectives has been slow, with some jurisdictions moving away from this commitment entirely, as evidenced by the frustration and despair experienced by those communities most directly impacted by changing water availability.²

INFORMATION REQUEST 2

Is the NWI adequate to help Governments address the identified challenges?

Are there any other current or emerging water management challenges where the NWI could be strengthened?

The MDA agrees with the Productivity Commissions 2017 finding that the NWI remains nationally relevant and its principles are sound.

We do not agree, however that there has been generally good progress by States and Territories has been made in implementation due largely to a lack of cohesion, consensus and commitment to some of the foundational roles, responsibilities and outcomes to which the parties agreed.

A significant water management challenge exists where periodic departure from the commitment to act in good faith may occur for political reasons. A revised NWI should include instrument to bind basin states and hold them more accountable to the NWI's goals and objectives.

We believe that the NWI is an important agreement that should be reviewed and strengthened where required to aid governments in addressing the identified challenges.

Current or emerging water management challenges where the NWI could be strengthened include:

A more coordinated approach to projects, planning and water infrastructure investment. Our national investment in water infrastructure must be properly planned, cohesive and coordinated, delivering value for money and sustainable water management solutions that align with and support the objectives of the NWI.

Specifically, a current water management challenge is identified in the project space, with the MDA of the view that the deadline dates for the more complex Sustainable Diversion Limited Adjustment Mechanism (SDLAM) projects should be extended, and alternative options be considered in cases where the initial SDLAM proposals are found not to be delivering the efficiency mechanisms intended. Any review of the NWI should strengthen the ability for adaptive management and review where properly recommended.

² Sefton's Report: [Independent Assessment of Social and Economic Conditions in the Murray-Darling Basin Draft Report](#) (Independent Panel Report, 16 March 2020)

INFORMATION REQUEST 3

The Commission welcomes feedback on the matters that should be considered for inclusion in a renewed NWI.

Definition of Basin Governments

A renewed NWI should include a formal role for local government, as a collective, in the decision making process underpinning the implementation of the National Water Initiative, confirmed in its institutional and governance arrangements coupled with agreed roles and responsibilities and adequate resourcing.

The collaboration of all three levels of government is fundamental to ensuring the trust, unity, equity and growth required to implement of water reform under the NWI.

Agreed consultation framework and standards

The absence of consistent and effective consultation across Basin jurisdictions has undermined the success of the NWI, and the Murray-Darling Basin Plan.

While the existing NWI contemplates consultation, it is silent on the obligations and standards required. A renewed NWI should make provision for a unified and agreed, contemporary and fit-for purpose consultation framework, should map out the issues and objectives for which consultation will occur (thereby also setting the expectation on where it will not), and should include clear obligations for monitoring and review of consultation processes and outcomes.

INFORMATION REQUEST 4

How effective are water plans at managing extreme events such as severe drought?

Are NWI principles being applied at these times?

What steps have been undertaken — or should be undertaken — to plan for long term changes in climate?

What lessons have recent extreme events (bushfires and COVID-19) provided for planning?

It is clear from the experience of communities, particularly those in NSW, that water plans have not been effective at managing extreme events such as severe drought. These instances are well documented and as such it is not necessary for them to be documented here.

This can largely be attributed to the principles of the NWI having not been applied, and an absence of clear and reliable water plans being in place.

Severe drought and bushfires, evolving water markets, climate change, innovations in energy, agriculture, water infrastructure and now COVID-19 all contribute to the adverse experience of some communities.

The renewed NWI should contemplate the relationship between water reform and our other related plans and priorities, such as

- The Murray-Darling Basin Plan
- The National Water Infrastructure Grid
- The Commonwealth government's commitment to support the 2030 Agriculture Plan seeking to increase agricultural output to more than \$100 billion in the next decade
- the National Energy Plan, including Snowy 2.0
- and our National Climate Resilience and Adaptation Strategy

The success of the NWI and of these initiatives depends on them working together, operating in harmony and without conflict.

A renewed NWI should include provision for acknowledging the relationship of these plans and priorities and give consideration to how best to strengthen the planning for long term changes in climate.

INFORMATION REQUEST 5

How could the NWI be amended to support best practice monitoring and compliance across jurisdictions?

The challenge to best practice monitoring and compliance is in the multi-jurisdictional nature of the arrangements creating gaps, duplication and an absence of any consistency or recognition of the differing nature of regions across the footprint. The establishment of the Natural Resource Access Regulator has achieved strong outcomes, and the establishment of the Interim Office of the Inspector General provides an opportunity for more consistent approach to monitoring and compliance on a national scale.

The MDA has recently proposed that Basin governments agree on legislation to ratify the Office of the Inspector General and task that office to establish and maintain consistent and equitable metering and measuring of extraction across all states and regions, including flood plain harvesting, ground water extraction and river extraction to support best practice monitoring and compliance across the jurisdictions.

The NWI should be amended to support this objective.

INFORMATION REQUEST 6

Are environmental outcomes specified clearly enough in water plans to guide management actions, monitoring and accountability?

Are institutional and administrative settings effective in supporting these outcomes? Do environmental water managers have the necessary authority, resources and tools to achieve agreed outcomes?

Is environmental water management (including planning for use of held water, delivery of held water, use of markets and compliance with planned environmental water) sufficiently integrated with complementary natural resource planning and management frameworks?

Can environmental outcomes be more cost-effectively achieved with greater and more innovative use of water markets and market-like mechanisms?

Is the monitoring and assessment of environmental outcomes sufficient?

How effective has adaptive management and planning decision-making been during the recent drought?

Do environmental water managers maximise opportunities to achieve social or cultural outcomes alongside environmental watering? How could this be improved?

The NWI states that the measures adopted should be 'primarily on the basis of cost-effectiveness, and with a view to managing socio-economic impacts.

Continuing conflict, an absence of consensus over the recovery targets (450GL), and the work by Victoria and NSW to establish discrete assessment standards for social and economic impacts clearly indicate that more needs to be done to meet the objectives of the NWI, and the Basin Pan.

The MDA has made the case that a revised definition of Basin governments and an agreed consultation framework and standards. We believe that these inclusions, coupled with a renewed commitment to the key principles and outcome described under the Knowledge and Capacity Building in the NWI will be beneficial.

We also acknowledge that environmental water managers will be well placed to make recommendations on improvements to the NWI under this information request.

INFORMATION REQUEST 7

What progress are States and Territories making on including Indigenous cultural values in water plans, and how are they reporting progress?

How could a refreshed NWI help Indigenous Australians realise their aspirations for access to water, including cultural and economic uses?

The MDA is committed support fair and equitable water to meet the social, cultural needs and economic development of Indigenous communities.

As noted above, the inclusion of an agreed consultation framework and standards coupled with a renewed commitment to the key principles and outcome described under the Knowledge and Capacity Building in the NWI will be beneficial.

We also acknowledge that aboriginal community leaders and peaks will be best placed to make recommendations on improvements to the NWI under this information request.

INFORMATION REQUEST 8 and 9

The MDA is not qualified to respond to information requests 8 and 9.

INFORMATION REQUEST 10

Do water service providers supply high-quality water services in regional and remote areas? Are there examples of poor water quality, service interruptions, or other issues? Have regional water service providers adequately planned for extreme events?

Are there sources of data that could be used to benchmark smaller providers' water service levels (with fewer than 10 000 connections)?

Regional communities across the Murray-Darling Basin have experienced interruptions to high quality water services and remain anxious about water quality and security in their areas. Much of this anxiety focuses more on total water availability rather than focus on planning by and support from service providers.

Better education and knowledge sharing would be beneficial.

The [Cross Dependency Institute XDI](#) may provide, or have the capacity to access and collate valuable sources of data that could be used to benchmark smaller providers' water service levels.

The XDI Platform brings together asset level data sets with extensive climate models to provide deep analysis of an organization's exposure to climate change and extreme weather risk. XDI provides quantitative insights for decision makers from high level assessment to granular detail with experience in identifying probabilities of failure and collating data supporting the case for adaptation.

Local government hold and collects vast amounts of data on services in their community that if properly collated could support this outcome.

Smaller, and indeed all water service provider must be adequately resource and enabled to effectively plan for extreme events. A renewed NWI should recognize this challenge.

INFORMATION REQUEST 11

What steps have been undertaken to address the priority areas for urban water reform identified in 2017?

Is further guidance on implementing an integrated water cycle management approach for delivering water supply, wastewater and stormwater management services required?

How does jurisdictional urban water service planning interface with urban land-use planning at different scales? Are the roles and responsibilities clearly set out?

Is the role of water in delivering amenity and liveability outcomes clear? How are the trade-offs with other NWI outcomes considered? Is it clear how the level and type of amenity delivered by urban water services will be funded?

The relationship between jurisdictional urban water service planning and urban land-use planning is elemental to the success of the NWI, and to healthy thriving Basin communities.

The roles and responsibilities as currently set out are not clear and are not consistent. The absence of a framework to coordinate urban water reform at the local, regional, jurisdictional, and national scale has created a haphazard and highly inefficient system that is contributing significantly to the identified delivery shortfall risk.

The establishment of an effective peak agency for local government, adequately resourced and tasked with a coordinating role to provide policy advice and local knowledge for coordinated urban water reform should be considered in the renewed NWI.

INFORMATION REQUEST 12

Are there examples of projects that have not met the NWI criteria for new water infrastructure investment?

What principles should inform government funding or financing of new water infrastructure?

Currently, a rigorous and transparent process for assessing new water projects is lacking and there is little confidence that some of the more complex projects proposed under the SDLAM are worthwhile or will deliver value for money.

Federal Government should prepare and publish a short, medium and long-term water infrastructure plan in collaboration with all Basin governments to ensure new water infrastructure investments meets NWI criteria, are cohesive and coordinated, delivering value for money and sustainable water management solutions that align with and support the objectives of the NWI.

Strategic communications between the NWI Authority and Basin communities should provide factual and reliable information regarding Basin governments' investment in water infrastructure and contribute local knowledge and expertise to enhance the value and connectivity of those investments.

To meet the demands of the 21st century, Australia's water infrastructure must look beyond the extension of storages to the development of assets that provide nuanced and interconnected systems of efficiency.

Local knowledge and expertise are fundamental to achieving this objective.

Local government has a rich network of councils and communities invested in the future of the Basin's water security. That network of knowledge and awareness, and access to is essential to the success of the NWI.

Local communities stand to benefit significantly from major infrastructure investments in their regions. This benefit can only be realized with adequate consultation, preparation, and participation.

In the post Covid-19 recovery it will be essential that every dollar spent on infrastructure delivers maximum benefit to local economies.

A National Water Infrastructure Communications and Consultation Working Group aligns with objectives identified in the Interim Inspector General's report Impact of lower inflows on state shares under the Murray–Darling Basin Agreement for a single authoritative platform that combines information from various Commonwealth and state agencies to provide higher levels of transparency and trust and to improve water literacy. A National Water Infrastructure Communications and Consultation Working Group aligns with Recommendations 7 & 8 of the Independent Socio-Economic Assessment Panel Draft Report (the Sefton Report).

A renewed NWI should establish and resource a National Water Infrastructure Communications & Consultation Working Group in partnership with local government.

Any economy looking to develop and grow should look to do so through increasing productivity. Investment in water infrastructure ensures that a scarce resource can be allocated more efficiently and ultimately contributes to greater productivity.

INFORMATION REQUEST 13

Are there any areas for future reform of the NWI that have not been raised in this issues paper that should be investigated for inclusion?

The NWI is a world-leading agreement designed to fix an existential challenge for our nation 100 or more years in the making. We were, and still are taking more water from the river than it is able to give us. But the execution of the agreement must be improved. There is no mechanism for an agreed start point, sparking bitter conflict from the beginning. There was no mechanism for the dignified transition of industries. And too often, the politics has overshadowed good policy.

Many industries, environment, community, First Nation groups and even some governments that the MDA works with share the view that a consensus framework is essential to the future of water reform.

Over recent months the MDA has been working not only with local government but with a range of groups representing farmers, irrigators, First Nations people, science, and environmentalists. We have been finding that even among these diverse groups there is an increasing willingness to work together to build consensus.

The MDA recommends that parties to the NWI support a Local Government Centre for Excellence providing a space for local government, communities, and interest groups to collaborate and innovate constructively in response to changing water availability, climate conditions and water reform.

As noted in IR5 a renewed NWI should include function of the Office of the Inspector General or similar, with responsibility for monitoring and compliance water take and extractions, and reporting on the Basin states' performance under the agreement.

Recommendations: A revised National Water Initiative should

- a) Establish and describe clear and constructive roles for all three levels of government to collaborate in informing the decisions required to optimize the implementation of water reform.
- b) Establish a formal role for local government, as a collective, in the decision making process.
- c) Establish mechanisms of monitoring, review and accountability for the responsible parties to the agreement.
- d) Require the development of an agreed and effective consultation framework and engagement standards.
- e) Establish the Office of the Inspector General (or similar) with responsibility for best practice monitoring and compliance across jurisdictions.
- f) Establish a process to develop and publish a comprehensive, integrated national water infrastructure investment plan.
- g) Consider a National Water Infrastructure Communications and Consultation Working Group
- h) Establish an effective peak agency for local government, adequately resourced and tasked with a coordinating role to provide policy advice and local knowledge for coordinated urban water reform.
- i) Consider a Local Government & Communities Centre for Excellence providing a space for local government, communities, and interest groups to collaborate and innovate constructively in response to changing water availability, climate conditions and water reform.

CONCLUSION

The MDA would like to commend the Productivity Commission for its work in strengthening the processes underpinning water reform, and we look forward to providing further positive contribution to this review.

Yours sincerely,

Emma Bradbury
Chief Executive Officer
Murray Darling Association