

18 April 2017

National Water Reform inquiry
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Dear Commissioners Doolan and Madden

This submission to the National Water Reform Inquiry responds to your question '**How can the interests and needs of indigenous people be better accommodated and represented in water planning processes, including specific pathways to achieve indigenous objectives through water planning?**'.

This submission by Walker and Grey-Gardner presents findings from work by the authors who as employees of the Centre For Appropriate Technology Ltd (an Aboriginal owned company based in Alice Springs) collaborated over the past 35 years in projects related to water in remote and discrete Indigenous communities.

Our submission draws the Inquiry's attention to two aspects. The first relates to the observation in the issues paper that there had been no material increase in water allocation for Indigenous social, economic or cultural purposes.

The 1994 Water Report 'Water: A Report on the Provision of Water and Sanitation in remote Aboriginal and Torres Strait Islander communities' by the Federal Race Discrimination Commission (henceforth referred to as the 1994 Water Report, specifically examined rights and equity in the provision of water to Aboriginal and Torres Strait Islander Communities. The 1994 Water Report noted (p94) that whilst there was no specific right to water it was an implied right by virtue of the right of people to good health and improved living conditions. This aspect necessarily steered work in Indigenous water towards the health and lifestyle outcomes rather than the social and economic opportunities. As a consequence the main area of advance in Indigenous water planning has revolved around the health aspects and the linked water quality, compliance and equity agendas.

The 1994 Water Report also examined the Native American Water Rights (p84) that underpinned economic use of water flowing across Native American titled land. It is our contention that the failure to address allocation of water for Australian Indigenous water use is because at the point of awarding native title what flowed over the land or was under the land was not included in that native title. Any specific pathway to achieve Indigenous economic objectives through a water right or increased allocation will benefit from the insights set out in the discussion on Native American Water Rights in section 6.4.2 of the 1994 Water Report.

In relation to equity, the 1994 Water Report also addresses the difference between equality of inputs and equality of outcomes (p118) particularly as they relate to environments in remote Australia where for reasons of distance, technology, capability or cost it is not always possible to comply with an equality of inputs. Our submission describes our response to these constraints through the application of risk management planning rather than water supply compliance

approaches. We submit evidence from our work that suggests there may be more specific pathways to achieve safe and reliable water in remote areas through the application of a different water planning framework. On the basis of our experience we are not surprised by the finding reported in the issues paper that “despite some progress Indigenous participation in water management decisions was patchy and there had been no material increase in water allocation for Indigenous social, economic or cultural purposes.” Our experience would cause us to conclude that the interests and needs of Indigenous people are unlikely to be accommodated better or represented better through current water planning processes.

In response to your Inquiry question ***‘Do water and wastewater services delivered to regional and remote communities, including Indigenous communities, comply with relevant public health, safety and environmental regulations? If not, what policy remedies might improve performance?’***

Compliance with relevant health, safety and environmental regulations according to the measures used over the last 30 years or so, for regional and remote Indigenous communities has been in general poor. There are many publications that detail the poor compliance of water test results and condition of water infrastructure in regional and remote Aboriginal and Torres Strait Islander settlements (more recent publications include AECOM 2010ⁱⁱ; OAG 2015ⁱⁱⁱ).

A background to specific remedies to improve performance

Causal and systemic factors to poor performance and remedies that might improve performance were described in the 1994 Water Report. The Report raised the issue of compliance with externally imposed standards as a critical element that drove a technically-driven response to issues of water service provision. In turn this approach promoted a supply paradigm for service delivery with a high-cost high-maintenance approach.

The 2001 Review of the Water Report^{iv} found that since 1994 there had been significant investment in infrastructure and treatment technologies to provide safe water. However, without a risk-based foundation to water quality and reliability coupled with investment in local capacity building, sustainability (including cost effectiveness) of small outstations and homelands would remain a challenge.

The risk-based framework for water management has been in effect for more than ten years through the Australian Drinking Water Guidelines (ADWG) and the World Health Organization Drinking Water Guidelines. The multi-barrier approach to managing hazards and reducing risk inherent in the ADWG has been demonstrated as an effective method to manage water supplies in remote Aboriginal and Torres Strait Islander communities (Grey-Gardner 2008^v). What is crucial to success is a community development approach in the program design and implementation.

In 2009, the Community Water Planner Field Guide (AG 2009^{vi}), a tool to assist the management of small supplies in remote Aboriginal and Torres Strait Islander settlements was released. The tool was created to assist Aboriginal peoples living in small homelands and outstations, service providers, and relevant agencies to roll out water management programs which could be targeted to site specific priorities. An adoption program to broadcast the Field Guide ran from January 2010 to December 2010 whereby water service providers or agencies were funded by the NWC to run a limited

program of capacity building workshops and provide on-the-job training to assist in the application of the tool.

A recent survey of infrastructure and service provision in small homelands and outstations in the Northern Territory (NT) was undertaken in 2016 (CAT 2016^{vii}). The survey found that 25% of the small homelands and outstations had current water management plans. These sites represent almost the entire reach of the adoption program in the NT. There are no publically available data on water management planning for similar sized settlements in other jurisdictions.

The fact that these plans have remained in operation for six years after the adoption program is testament to their relevance. These plans however, will weaken without continued promotion and resourced interest by the regulators and/or service providers.

A sustainable and resilient future

Our work experience suggests there are three key aspects of a pathway to better accommodate the interests and needs of Indigenous people living in remote communities.

1. Build on the strengths already present in the communities

The future for these small homelands and outstations is to utilise the expertise of the people living there and to ensure trusted technical advice is available when needed. In the 2016 Review of Homelands and Outstations in the NT, CAT found that many people living in remote outstations were working to operate and maintain their own services without recognition or pay, removing rubbish, managing landfills and operating the water supplies. There is demonstrated capacity from which to build the management of water supplies at scale. No program can minimise costs or be effective without the people living at the site being fully involved and positioned to be able to take responsibility.

2. Invest in local priorities that are based on existing knowledge and skills

Given the remoteness of the settlements, socio economic issues and cultural context, a program to improve water supply management should focus on risk management as a means to provide a safe supply. The application of a water management plan that is created in partnership with service providers and community people can meet regulatory requirements. The regulatory body too, would require resourcing to provide assistance for surveillance and provisions for reporting.

The water management plans provide an opportunity to bolster resilience using a range of health and work strategies that are valued by Aboriginal and Torres Strait Islander peoples. Success of the Community Water Planning process stemmed from a focus on bolstering local capacity, using low technology options and just in time technical advice. This is an approach that has proven difficult for service providers and governments, impatient to close gaps and achieve externally conceived targets, to appreciate the comparative benefits, specialist expertise, time or funds required to facilitate such a program.

3. Recognition and effort to overcome persistent barriers

There are some persistent barriers to shifting the paradigm toward local capacity and sustainable outcomes and changing this approach will require systemic change^{viii}. A key barrier is the typical

deficit model analyses, based on infrastructure and mainstream standards that are applied to remote areas leading to the subsequent effort to normalise services. In addition the sporadic reviews and audits that have been undertaken, lead to crises responses rather than strategic investments in asset maintenance or upgrades over time that embrace user experiences and local livelihood priorities.

Compliance driven approaches and normalising services and infrastructure leads to escalating of costs, limits end user information and is a strategy governments are increasingly unable to fund. Without an alternative approach the end result of compliance is arguments to close down small Aboriginal and Torres Strait Islander settlements.

A Governance Framework for Water Planning in Remote Communities

We would like to take the opportunity to direct the Inquiry's attention to the 2012 Report "Fixing the Hole in Australia's Heartland: How government needs to work in remote Australia". It is our belief that the framework for a more specific pathway to improve performance of water planning in remote communities is to be found within the principles set out in this report. We believe that the consultation processes that underpinned the work described in this submission coupled with a local governance framework that provides for place-based solutions and decision-making around risk management will lead to improved and sustained outcomes in water reform in these small isolated communities.

Yours sincerely

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ⁱ FRDC 1994, Water: A Report on the Provision of Water and Sanitation in remote Aboriginal and Torres Strait Islander communities, Federal Race Discrimination Commissioner Australian Government Publishing Service: Canberra.

ⁱⁱ AECOM 2010, Review of Regional Water Quality and Security, Volume 1 – Review and Reform Strategy prepared for Infrastructure Australia, AECOM Australia Pty Ltd, Sydney

http://infrastructureaustralia.gov.au/policy-publications/publications/files/Review_of_RegionalWaterQuality_and_Security_Volume2_251010.pdf

ⁱⁱⁱ OAG 2015, Delivering Essential Services to Remote Aboriginal Communities, Office of the Auditor General Western Australia, 8 May 2015, Perth https://audit.wa.gov.au/wp-content/uploads/2015/05/report2015_08-AbServices.pdf

^{iv} HREOC 2001, Review of the Water Report, Human rights and Equal opportunity Commission, Sydney. <https://www.humanrights.gov.au/our-work/race-discrimination/publications/review-1994-water-report-2001>

^v Grey-Gardner 2008, Implementing risk management for water supplies: a catalyst and incentive for change, *The Rangelands Journal*, **30** pp149-156, <http://www.publish.csiro.au/rj/RJ07046>

^{vi} Australian Government 2009, *The Community Water Planner Field Guide*, National Water Commission, Canberra. <http://www.waterra.com.au/publications/community-water-planner/>.

^{vii} CAT 2016, Homelands and Outstations Assets and Access Review, Centre for Appropriate Technology Ltd, Alice Springs. <https://static1.squarespace.com/static/5450868fe4b09b217330bb42/t/57f6f64746c3c4ab7345af96/1475802710933/Final-Master-HOAR-Report-Oct2016-1.pdf>

^{viii} Walker, B.W., Porter, D.J. and Marsh, I. (2012). Fixing the Hole in Australia's Heartland: How government needs to work in remote Australia. Desert Knowledge Australia, Alice Springs. <http://www.desertknowledge.com.au/Files/Fixing-the-hole-in-Australia-s-Heartland.aspx>