

Comments on Draft Report by Productivity Commission on *National Water Reform*, an inquiry into progress with the reform of Australia's water resources sector.

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We thank the Productivity Commission (PC) for giving us, and others, the opportunity to provide comments on the Draft Report '*National Water Reform*'. In addition to the comments provided below, attached is the submission we provided to the Parliamentary Inquiry on Water Use Efficiency. The attachment supplements our comments on return flows in the context of the Murray-Darling Basin (MDB).

1. We note that the Draft Report confirms, indeed highlights, the National Water Commissions (NWC) final report "*Australia's water blueprint: national reform assessment 2014*" which states "Governments should not backtrack on water reform. All Australian governments should fully embed National Water Initiative principles in water management decision making and maintain progress on reform" (NWC, p4) when the Draft Report, affirms that "...continued guardianship of gains to date and new reform priorities are strong reasons for Australian, State and Territory Governments to recommit to a renewed NWI." (PC, p2). Yet, in 2017 we do not see a commitment in current PC findings or recommendations for establishment of effective governance and institutional arrangements which will drive a renewed NWI and policy development to meet future challenges which are outlined in the Draft Report. This is a major shortcoming of the Draft Report.

What the NWC portended, namely that, "Water reform principles have not been fully embedded in government processes. Realising all the benefits of the efforts made so far is therefore at risk" (NWC, p3) remains a clear and present danger. Indeed, the risk that that the benefits of water reform are not sustainable in the long run has magnified over the past three years, not diminished. This is evidenced by: (a) the alleged failure of at least one jurisdiction to put into practice what they have signed up to do under the Basin Plan (Matthews, Interim Report); (b) decision by the federal government to abolish and discontinue funding for the NWC; (c) a legislated a cap on the purchases of water entitlements at 1,500 GL which is a constraint on trade, among other issues.

2. Three years ago, the NWC stated that "Comprehensive [water] reform is essential to ensure that Australia is positioned to respond effectively to future

opportunities and challenges posed by economic restructuring, global markets, climate change, technological evolution, and other fundamental shifts affecting the way we manage our water resources.” (NWC, p3). We affirm this goal, and also state our view that the Draft Report by its failures of omissions will not deliver for Australia the water reform it needs. These omissions include, but are not limited to:

- a. Failure to understand that First Peoples Water needs is not simply about the delivery of ‘cultural flows’ and that government engagement must actually result in real actions and water allocated to First Peoples (see item 5);
 - b. Complete absence of any significant discussion about return flows from irrigation although it was identified in ATSE submission and noted in the Draft Report (see Table 8.3 on p 259) as a research need. This is despite the fact that the Draft Report identified as one of the successes of past water reform as improved ‘water use efficiency’ (p. 7). This lack of attention to return flows in the Draft Report is a serious sin of omission that must be addressed in the Final Report. The PC should consult the very well documented peer-reviewed literature that shows that increased irrigation efficiency can (and frequently does) reduce return flows to groundwater and stream flow. Thus, we would not expect increased irrigation efficiency to result in public benefits in the form of greater stream flows unless irrigation extractions are reduced by at least the amount of the ‘water saved’. This is a critical point that must be acknowledged in the Final Report when evaluating the effectiveness and economic benefit of public expenditures to return water to the environment (see further discussion in item 4); and
 - c. Missing governance and institutional architecture and delivery mechanisms for water reform, such as the equivalent of the former NWC, and renewed COAG arrangements to deliver on a renewed NWI (see item 3).
3. The Terms of Reference to its Inquiry state that the PC should consider “the scope for improving the NWI, addressing current and future challenges”. But surely the advancement of national water reform requires a vehicle and architecture to bring this about? Australia once had this in the form of the NWC before its demise. We exhort the PC in its Final report to present the case for the reestablishment of an independent NWC or similar body. Without it, there will be no Federal/State arrangement to give leadership, and no mechanism to drive reform, audit and ensure compliance and progress. Absence a re-established NWC or the creation of a properly funded, independent like body, there is nobody on the ‘Bridge’ to bring about further, and necessary, water reform. Importantly, a NWC like body is required to respond to the “future challenges facing the water sector that will require

further water reform.” These include, but are not limited to: climate change and variability; fairness and justice for First Peoples; and the continued use of public funds to provide private benefits in the form of subsidies for irrigation infrastructure, but which is contrary to the principles of cost effectiveness and the stated goal to ‘restore balance’ to the MDB.

4. The Draft Report does not mention the words ‘return flows’ nor does it define ‘water use efficiency’, yet bizarrely highlights (without supporting evidence) improvements in on-farm irrigation efficiency in the cotton industry (PC, 2017, p. 7). Indeed, the Draft Report’s failure to discuss, or even mention, the fact that increased irrigation efficiency reduces return flows is a shocking omission. Yet the PC in its own previous report (see pp. 123-126 of the PC Report ‘Market Mechanisms for Recovering Water in the Murray-Darling Basin’) identified this as a serious problem as far back as 2010. Attached is our submission to the Parliamentary Inquiry on Water Use Efficiency which details our concerns about the possibility that billions of dollars already spent on subsidies for improvements in irrigation infrastructure in the MDB may have reduced stream flows. Shockingly, and we take care to note that this is not a responsibility of the Productivity Commission, Australia does not have adequate measures of return flows in the MDB. Thus, how do we know there has been ‘economically efficient provision of water infrastructure’ that is part of the terms of reference for Productivity Commission Inquiry? While it may be true these issues of reduced returns flows, as a consequence of irrigation infrastructure subsidies, can be covered in the 2018 Inquiry into the effectiveness of the implementation of the Basin Plan, the more than 4 billion dollars (see PC, p. 19) already spent on such subsidies, and the fact that it is seen by many as a cornerstone of water reform, requires a detailed evaluation and set of recommendations in the Final Report.
5. The draft recommendations 3.2 and 3.3 are, in our view, grossly inadequate to meet the water needs of First Peoples. As noted by the NWC in its 2014 assessment (see p. 114), there has been no material increase in water allocation for First Peoples over the decade 2004-2014. This still remains true in 2017. We urge the PC in its Final Report to go beyond platitudes and recommend the creation of a First People’s Water Council that is both adequately funded and independent. Such a council would allow for real engagement over an extended period of time (minimum of 10 years) and would, as part of its mandate, not just seek to engage but would actually be charged to provide actual water to meet First People’s needs.
6. The Draft Report provides a series of recommendations (see chapter 4) on Water Trading. Yet, it fails to mention the Australian government legislated cap on purchasing water entitlements by government at 1,500 GL. While the

Australian Parliament can legislate as it sees fit, this is clearly a significant constraint on trade and should be called out in the Final Report.

7. The Draft Report provides a number of recommendations (see 3.1, 5.3, 5.6, 6.2, 7.1, 7.3, 8.2, among others) that highlight the absolute need for independent monitoring, reporting and assessment. The Matthews Interim Report (Matthews, 2017) demonstrates the importance of the National Water Commissions second recommendation (National Water Commission, 2014) *'that Governments should not 'mark their own scorecards' on water reform.'* Independent oversight and public reporting of the progress of water reform in achieving economic, social and environmental outcomes should continue. We really do need independent policemen 'on the beat' in support of the national interest. Yet, the Draft Report remains silent as to which body or bodies would actually provide such reviews and assessment. Thus, it is critically important that a dedicated and independent body (or bodies) be established. We do not believe that the 'Inquiry mode' as practised by the PC is sufficient. Instead, based on the successes of the NWC of its decade of existence, we believe that a dedicated and water-focused statutory body (or bodies) is required. As we highlighted in item 3 above, this could be in the form of a NWC-like body. Whether or not such a body is created there is still a need for regular, evidence-based and transparent assessments of a range of decisions in relation to water. It is simply not sufficient to do this every few years through the PC or the MDBA. Instead, it demands effective, regular and on-going independent auditing and feedback. We exhort the PC in its Final Report to provide recommendation(s) about how such auditing and evaluation, independent of government influence, can be delivered so as to achieve on-going and adaptive water reform in the national interest.
8. We conclude by stating that the Draft Report builds on and supports many of the NWC's of 2014. In this respect, it provides a strong case that action is need by government to further water reform and policy development for future generations of Australians. But what is missing in the Draft Report are recommendations (sins of omission) that will actually allow the insights in the Draft Report to truly deliver on the water reform that Australia needs. As stated in the Draft Report, "there is still a real need to continue with water reform" (PC, p. 12). We agree, but this can only be realised if the recommendations in the Final Report actually deliver the pathways for this reform and, of course, these recommendations are implemented by Australian governments. We remain willing and able to discuss and engage with PC staff in relation to our submission, should any follow up be requested.

References:

National Water Commission, 2014. *Australia's water blueprint: national reform assessment 2014 – Part One of two parts.*

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Productivity Commission, 2010. *Market Mechanisms for Recovering Water in the Murray-Darling Basin'* <https://www.pc.gov.au/inquiries/completed/murray-darling-water-recovery/report/water-recovery-report.pdf>

Productivity Commission, 2017. *National Water Reform, Draft Report*, September 17 2017, <http://www.pc.gov.au/inquiries/current/water-reform/draft/water-reform-draft.pdf>

Matthews, Ken., 2017. *Independent review of water management and compliance- Interim report.* <https://www.industry.nsw.gov.au/about/our-business/independent-review-water-management-and-compliance>

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