

8 February 2024

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Productivity Commission
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Dear Commissioner,

Watertrust Australia welcomes the opportunity to make a submission to the Productivity Commission Inquiry into the water reform progress of Australian governments.

Effective, efficient and equitable management of Australia's water resources is critical to achieve our economic, environmental, social and cultural objectives. The *2004 Intergovernmental Agreement on a National Water Initiative* (NWI) was an important milestone in Australia's water reform journey. However, the reform process requires updating and redirection to meet changing community aspirations in some key areas. A major ongoing challenge that needs to be overcome for successful implementation, is that there is not always the broad social consensus on reform objectives or the means by which these objectives should be achieved.

Water reform has been, and will continue to be, political and often polarising. Water is so important to every Australian and to every facet of our society that there will inevitably be multiple conflicting views on how it is best managed. Governments will continue to be required to make difficult decisions and trade-offs. The debates and disagreements that accompany the reform process should not be seen as a hindrance but rather an essential part of living in a vibrant and flourishing democracy and a means to address multiple and sometimes competing societal goals.

Watertrust's extensive consultations across Australia have identified that reform processes with limited effective stakeholder and First Nations' involvement have contributed to a growing mistrust of governments, increased mistrust among stakeholders, undermined reforms' legitimacy and constrained policy implementation. The Commission's previous inquiries have identified similar limitations in reform processes, as have other independent reviews. For example, the *Independent assessment of the social and economic conditions in the Basin, 2020 (Sefton Review)* captured community sentiment in its finding that:

“We heard from people caught in a one-way conversation—over-consulted and under-

listened to. They were frustrated that decisions are being made ‘for’ them, often with short term objectives as the predominant driver. They want to be part of a conversation that sets a coherent vision and drives sound policy that deals them in again. First Nations communities have also expressed deficiencies in current and future water planning, management and access arrangements” (p.7).

We recommend that the Productivity Commission’s present Inquiry closely examine governments’ approaches to the engagement of stakeholders and First Nations in defining reform objectives and identifying effective actions to meeting them. While the Commission made important recommendations in its *National Water Reform 2020* report, we believe significant further reform is required across the following issues:

1. Applying proven and new approaches that genuinely involve stakeholders and First Nations in identifying reform objectives and actions with consideration of trade-offs between differing interests
2. Involving stakeholders and First Nations in identifying and evaluating evidence that supports reform, recognising the importance of local contextual knowledge for good water management
3. Establishing collaborative governance arrangements to inform the implementation of actions and enhance reform outcomes
4. Building the capacity and capability required to involve other governments, stakeholders and First Nations effectively in reform processes.

Applying proven and new approaches that genuinely involve stakeholders and First Nations

The NWI drove significant policy reforms but provided limited recognition of the need for and value of broad and consequential involvement of communities, all levels of government, consumptive users, First Nations peoples, environmental interests and water sector representatives in the reform process itself. Our discussions with governments and stakeholders across Australia suggest that in some regions and for some issues, top-down reform processes have led to sub-optimal outcomes, policy gridlocks, reduced trust in governments and limited legitimacy for the resulting policy changes.

The Productivity Commission’s *National Water Reform 2020* Inquiry Report provided important advice on this issue, including “Communities are engaged effectively before decisions that impact them are made” (Renewal Advice 3.4); effective engagement with stakeholders to inform trade-offs (6.2); “Environmental objectives.....set through collaborative, stakeholder and community processes that consider the relative community value of outcomes” (8.1); and “ensuring that all stakeholders have the opportunity to meaningfully input to the engagement process” (15.1).

However, our engagement reveals that limited progress has been made in this area. Reform processes would greatly benefit from governments increasing the genuine involvement of stakeholders in decision-making across the policy cycle to work through the inevitable conflicts that arise. A wide range of demonstrated approaches exist that can help shift unproductive gridlocks and partisan positioning to more productive deliberation of options and negotiation of trade-offs. Such approaches to engagement, deliberation and public dispute resolution should become part of governments’ standard reform toolkit and be embedded within the majority of reform processes. We believe the Productivity Commission has an important role in identifying, evaluating and disseminating

knowledge about pragmatic actions governments can take to deliver against principles identified to date and in the report of this Inquiry.

Involving stakeholders and First Nations in identifying and evaluating evidence

Our engagement with governments and stakeholders of water and catchment policy across Australia suggest that the evidence informing policy decisions is often not shared effectively with stakeholders and stakeholders are rarely engaged in identifying and evaluating evidence relevant to policy decisions. This contributes to:

- limiting the extent of the evidence base used to inform decisions
- unproductive debates about the evidence used to inform policy decisions rather than productive debates on values, priorities and trade-offs
- the partisan deployment of evidence in attempts to narrow the scope of policy debate to the option preferred by one party
- growing mistrust between governments and stakeholders and among stakeholders
- implementation challenges arising from reduced support for the policy options chosen.

We support the Productivity Commission's *National Water Reform 2020* Inquiry Report advice that "Communities are provided with sufficient information to enable effective engagement" (NWI Renewal Advice 3.4) and effective knowledge generation (16.1). However, we believe this advice does not go far enough because it overlooks the value of including stakeholders in identifying, gathering and evaluating an evidence base for reform as part of inclusive decision-making processes. There are many advantages to more robust approaches to including stakeholders in establishing an evidence base for reform, including building trust between and among governments and stakeholders, expanding the knowledge base upon which decisions are made, ensuring the evidence is consistent with the on-ground experience, and building important capacity and capability among stakeholders.

Establishing collaborative governance arrangements

Our engagement with different levels of government and stakeholders across Australia suggests that top-down approaches to developing the 2004 NWI and delivering its reforms provided little opportunity to consider the most effective actions for particular geographic, climatic, political or stakeholder contexts. This has ultimately limited the effectiveness of specific policy solutions in some regions and for some issues. Increasing the level of national to regional and local collaboration would allow for important lessons to be shared and differences between regions to be considered in the development of more effective actions to achieve agreed objectives.

While the objectives of the NWI and Productivity Commission's *National Water Reform 2020* Inquiry Report included recommendations regarding collaborative arrangements for water trading, it did not include recommendations related to collaborative governance for implementing reform more broadly. Some Inquiry findings and recommendations highlight the importance of context-specific reform, including NWI Renewal Advice 3.4 (regulation, governance and management), 4.1 (approaches to achieving outcomes), 6.1 (entitlements and access rights frameworks) and 7.1 (market arrangements). The development of such fit-for-purpose reforms requires collaborative governance arrangements that include different levels of government and stakeholders in an effective manner.

This is an area the Inquiry should consider developing further, including advice that goes beyond statements of principle. In addition, we see significant value in complementing formal government committees with independently convened cross-government and stakeholder forums that can contribute to identifying pragmatic actions able to help ensure reform objectives, outcomes and principles can be usefully applied across Australia.

Building the capacity and capability for effective engagement

We are acutely aware of the challenges governments face in engaging stakeholders in decision-making and building workable agreements for contentious policy decisions in the context of conflicting values and finite water resources. While the Productivity Commission's *National Water Reform 2020* Inquiry Report identified the need for capacity and capability of decision-makers for making evidence based decisions and discharging their functions (NW Renewal advice 16.1), building capacity and capability for engaging stakeholders is critical for achieving the above recommendations and should form part of the Commission's Inquiry.

In summary

Achieving successful reform with the consequential participation of stakeholders is not a simple matter. There are no panaceas or optimal outcomes. However, Australia's water reform journey demonstrates that enduring progress comes from improvements in decision-making processes. More inclusive decision-making processes take time and may increase initial costs; but in the longer-term help reduce overall costs by identifying workable reform objectives, increasing effective implementation, avoiding policy gridlock, growing support for reform, and enhancing public good outcomes.

Our recommendations are based on:

- considerable analysis of international literature on inclusive decision-making approaches that formed the basis for the establishment of Watertrust's role in Australia
- discussions with governments and stakeholders of water and catchment policy across Australia
- our work across Australia, which is providing important insights on the value of different approaches to policy and reform decision-making within the Australian water context.

Watertrust's senior management team is available to brief you and members of your team on insights gained on inclusive decision-making approaches and would welcome an opportunity to appear before the Inquiry. For further information please contact us directly.

Yours sincerely,

Dr Kane Aldridge
Interim Chief Executive Officer

Rod Marsh
Director, Strategy and Projects