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The Productivity Commission  
4 National Circuit  
Barton ACT 2600

By email to: [water.reform.2024@pc.gov.au](mailto:water.reform.2024@pc.gov.au)

## INQUIRY INTO THE NATIONAL WATER INITIATIVE

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The National Parks Association NSW (NPA) appreciates the opportunity to submit comments on the Productivity Commission's inquiry into the national water initiative.

NPA's mission is to protect nature through community action. Our strengths include State-wide reach, deep local knowledge, evidence-based input to policy and planning processes, and over 65 years' commitment to advancing the NSW protected area network and its professional management. We also provide outstanding opportunities for experiencing and learning about nature through our unrivalled program of bushwalking, field surveys, bush regeneration and other outdoor activities.

The NPA believes it is important that Australia protect and sustain healthy and resilient freshwater ecosystems and their associated biodiversity (flora and fauna). This requires actions to i) protect and sustain healthy and resilient freshwater ecosystems and their associated biodiversity (flora and fauna) and that ii) Natural flows and flow regimes must be protected and managed so that riverine connectivity and associated floodplains remains healthy from the source to the sea (or from sources to naturally terminal wetlands).

We understand under the NWI, all states have agreed to work towards ten objectives set out in paragraph 23 of the initiative and that there are eight key areas of reform. Being a state-based organisation, the NPA's perspective will large draw on its experiences in NSW but include the wider Murray-Darling Basin. The situation in NSW may be reflective of what is occurring across the nation.

### **Water access entitlements and planning frameworks.**

- NSW has a number of water planning processes that are not well-integrated. These components include: regional water plans, long term water plans (20-year plans), around 80 water sharing plans (10-year plans) of which 56 are in force. These sharing plans can cover different resources in the same region (thus raising the issue of connectivity). There is also the MDB process which includes twenty water resource plans for inland water units. The inability of NSW to have its water resource plans approved speaks for itself.

For many years we have come to understand our inland rivers are often 'over allocated'. For example, it has been estimated more than 66 per cent of the water that would normally reach the sea from all rivers in the basin is now diverted for use. This stems from a large increase in diversions after 1950s and more particularly in the 14 years to 1996 which saw almost a 60 per cent increase in the use of surface water for irrigation in the basin. This overallocation has been recognised and led to a variety of initiatives such as 'the cap', the NWI, 'the living Murray' and the Basin Plan.

Given this history which has created the current situation, it would be expected that the NSW water planning framework would 'align' and implement adaptive change. That is; reviews and



revisions of water sharing plans and the development of regional water strategies would focus on the transition to healthy water ecosystems and provide the community structural adjustments required to realize the goals within the long-term water plans and minimise the impact of such change on rural communities. However, they do not.

- The NSW water planning framework also includes a role for the Natural Resources Commission to give guidance to such change. The Natural Resources Commission has published two papers on issues with Plan Limits. One identifies the need for a numeric volume to establish compliance and the other identifies the lack of ecological assessment to determine a sustainable Plan Limit. These recommendations- and indeed even the specific NRC recommendations for changes to individual water sharing plans- seem to largely be ignored by the department. Instead, the draft replacement WSPs continue to lock in history of water extraction prior to the adoption of the Water Management Act 2000.

This would suggest that the PC review finding in 2020 that identified state governments were backsliding against early reform commitments continues today. Some governments appear to have forgotten the reasons for agreeing to water reforms and given predictions about future water availability under climate change, it is simply making implementing the changes necessary more difficult – and perhaps more unfair to marginalised members of rural communities. In our view, the evidence indicates that transformational rather than incremental change will be required unless NSW changes its emphasis from ‘business as usual’ to actually trying to achieve its long-term goals for water environments.

- There is also a perverse management situation regarding flows down the Darling. The river environment operates as system, but our administrative system has divided it into two different units where: i) environmental water once it reaches Menindee can become part of the consumptive pool; ii) there appears to be a lack of community transparency about flow agreements from Queensland to NSW; and iii) whether environmental water is being consumed or used to as substitute to provide water to prevent fish kills which should be PEW. The lack of transparency also includes when the Commonwealth or State have control over flows. That is, while the triggers are publicly available, there appears to be situations that can arise where the differing objectives of these two different jurisdictions can impact environmental outcomes. It is ‘perverse’ because our administrative ‘straight jacket’ ignores that the system -in reality- is connected.

## **Integrated management of water for environmental and other public benefit outcomes**

The NPA makes the following points:

- There is a need for stronger considerations about the wellbeing and resilience of rural communities. Most of Australia has low rainfall. For regional towns, their water utilities often rely on a single supply source, with no physical link to an alternative bulk water supply. This lack of supply diversification creates further water security risks for these communities. Moreover, the dependency for on in-stream extraction makes the fish communities more prone to mass kills events during times of stress.

Infrastructure interventions for towns and cities could involve new water sources, such as additional groundwater sources, off-stream storage, recycling and desalination. In the next decade, particularly if drought continues in the short term, thought will need to be given to addressing the need for alternative water supplies in remote and regional Australia, especially in New South Wales and Queensland where local government-managed water utilities have prime responsibility for supply.

Instead, we have 36 proposed supply projects - intended to provide the same environmental benefits with less water recovered for the environment- as those that arise from the purchase of water specifically for environmental outcomes. However, even this questionable water recovery for the environment has been abused, by governments allowing irrigation

infrastructure subsidisation to count. It has been used by previous Commonwealth Governments as a de facto rural development strategy (see '1200 bridges too far' report by the Australia Institute). Indeed, more than half of 1000 southern Basin irrigators surveys in 2015-16 believed that such expenditure was wasteful and one-fifth of them believed it should have been spent on other services in the community. It is wasteful (and politically indulgent) use of taxpayers' money.

It is time that economic and social development in rural communities was taken more seriously and proper rural economic development (and structural and exit adjustment) strategies be developed.

- It is the NPAs view that our 'understanding' of environmental water remains narrow and wider conceptualisation of its function as a management tool will be needed. Part of this arises from the good monitoring work that has been associated with its implementation. These wider considerations include:
  - A changed 'environment'. The Commonwealth and various state governments have agreed to support the 30x30 Kunming-Montreal global biodiversity framework. Which should be implemented using 'CAR' principles. This means there is now an international obligation to increase the current network of protected areas in Australia.
  - That the NSW Government has spent considerable financial resources purchasing land to create additional protected areas and spends considerable financial resources to maintain these areas. While the planning approach includes consider: plans of management, fire management plans, and sometimes visitor management plans- many of the important wetland areas have no allocation of environmental water or environmental water management plans associated with them.
  - Our understanding from the 2023 fish kills has helped us understand it is important to ensure carbon build up in upstream wetlands is prevented from occurring by allowing water flows into the floodplains more frequently.
  - That fish in our rivers and streams are not distributed 'evenly', That is there are some parts of the connected basin that provide important hubs and or refuges for breeding. That is not all parts of the river should be treated equally.
  - That extremes of climate change can lead to 'mega' events (bushfires/flood) which can cause secondary events (mudslides) which can critically impact endangered species or breeding sites and thus require us to re-think our approach to endangered species management.

Unfortunately, our environment water management use seems to be quite 'surgical': focused on specific activities designed on specific fish species and creating bird breeding events rather than maintaining overall health of the ecosystem through both time and space.

## Water resource accounting

In relation to water accounting the NPA notes:

- Water theft, poor enforcement and inaccurate or absent measurement of diversions are inextricably linked. Both Queensland and NSW have a patchy network of metering, are challenged in measuring unmetered take such as floodplain harvesting and lack real-time accurate water accounts. This situation is especially problematic during times of stress.
- In NSW NRAR is responsible for the enforcement of water laws in NSW through monitoring compliance and education. However, the NSW Government metering policy, water gauge network and failure to establish numeric Long-Term Annual Average Extraction Limits (LTAAEL) or Plan Limits in inland unregulated WSP has caused an ongoing lack of commitment to meet the objects and principles of the Water Management Act 2000. This lack of metering

requirements, lack of gauges and lack of a numeric LTAAEL in inland unregulated water sources hinders management of compliance, regulation and improved water availability for water dependent ecosystems, threatened species and water quality. Improved connectivity with downstream water sources and communities is also compromised. For example, many reaches in draft replacement inland unregulated WSPs still have rules allowing pumping to 'no visible flow' (see Castlereagh, Lower Murray-Darling, Murray, WSPs). The justification being that no suitable gauges are available to establish flow protection rules. There has been a failure in NSW to meet the Matthews Report recommendation of 'no meter, no pump'. The resultant lack of data on extraction, flow levels, capture of overland flow and other water interceptions is a key issue for the implementation of NWI objectives in NSW.

### **Community partnerships and adjustment.**

The NPA wishes to make the following points:

- An important component of managing the introduction of new technologies to achieve greater diversity of supply is how the community is brought into the communication and decision-making process.
- Water law in Australia has previously been underpinned by the erroneous assumption of aqua nullius, and attempted extinguishment of Indigenous water rights. While the NSW department states it is committed to improving water management in NSW by giving greater recognition to 'Aboriginal water rights and interests as well as improving access to and ownership of water for cultural, spiritual, social, environmental and economic benefit to communities'- much more needs to be done. Specifically:
  - Planning processes seem out of sequence. An overall NSW Aboriginal water strategy is still under development despite 56 water sharing plans having been approved and now in force. This is exacerbated when a plan's renewal emphasises a continuation of 'business as usual'.
  - The indigenous consultation that underpins many water sharing plans and regional water strategies indicates that department is not very good at community engagement with such 'marginalised' communities. They are much better a broader community consultation.
  - The finalised water sharing plans show that indigenous people are yet to realise that 'self-determination is protected, defined, and realised in water management' (DEECCW 2023). That while the plans state a desire to provide " the spiritual, social, customary and economic benefits of water to Aboriginal communities" the irony is that they then go onto to limit that by specifying specific uses (e.g., see Part 5 rules for NSW Border Rivers Unregulated WSP)

I hope our submission informs your deliberations.

Yours sincerely

Gary Dunnett

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