



# National Water Reform 2024

## Call for submissions

The Commission has released this paper to assist individuals and organisations to prepare submissions. It contains and outlines:

- the scope of the inquiry
- the Commission's procedures
- matters about which the Commission is seeking comment and information
- how to make a submission.

**The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.**

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### **The Productivity Commission**

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long-term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community.

Further information about the Productivity Commission can be obtained from the Commission's website ([www.pc.gov.au](http://www.pc.gov.au)).

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### **Call for submissions**

The Commission has released this paper to assist individuals and organisations to prepare submissions to the inquiry. It contains and outlines:

- the scope of the inquiry
- the Commission's procedures
- matters about which the Commission is seeking comment and information
- how to make a submission (see attachment B).

Participants should not feel that they are restricted to comment only on matters raised in this paper. The Commission wishes to receive information and comment on issues which participants consider relevant to the inquiry's terms of reference.

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### **Key dates**

Receipt of terms of reference	22 December 2023
Due date for submissions	2 February 2024
Release of interim paper	April 2024
Final report to Government	May 2024

### **Contact details**

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# Inquiry into the National Water Initiative

The Australian Government has asked the Productivity Commission to undertake an inquiry (Attachment A) into the reform progress of Australian governments towards achieving the objectives and outcomes of the 2004 Intergovernmental Agreement on a National Water Initiative (NWI). Where progress is lacking, the inquiry will also examine barriers to implementation, the opportunity costs of not implementing, and, where practicable, key issues related to water security.

The Commission has been asked to make recommendations:

- on actions that the parties to the NWI might take to better achieve the objectives and outcomes of the NWI
- to support all Australian governments in efforts to progress national water reform in light of current priorities, including water security and the involvement of First Nations communities in water management.
- on how the Australian Government can better utilise the *Water Act 2007* (Cth) as a framework for guiding national water reform policy.

This is the third inquiry the Commission will undertake on national water reform. The second inquiry (National Water Reform 2020) provided detailed advice on future national water reform directions, including advice on renewing the NWI to meet the challenges of climate change, population growth and changing community expectations.

The findings and recommendations from the 2020 inquiry, and the NWI renewal advice, remain relevant, as the Australian Government has committed to renew the NWI and is in the process of doing so.

The NWI renewal process affords an opportunity to address the findings and recommendations in the 2020 inquiry. In addition, a renewed NWI can also consider findings and recommendations made in this inquiry.

The Commission is calling for submissions from people and organisations that have an interest in national water reform policy. In addition to issues raised in the terms of reference, the Commission is also interested in:

- Whether the findings and recommendations and the NWI renewal advice from the Commission's 2020 inquiry should be strengthened or added to in light of policy developments, environmental or other changes over the past three years (since the completion of the last inquiry).

Submitters are encouraged to identify issues and provide suggestions for ways forward. The Commission would appreciate evidence in support of any views, such as data, research reports and case studies.

The Commission is to deliver its report to the Australian Government in May 2024 – a much shorter period than allowed for the previous national water reform inquiries. Because of this, submissions are requested by 2 February 2024 (figure 1). Alternatively, you can submit a brief comment through the Commission's webpage at any time.

Further information on the inquiry and the Commission's consultation process can be found at Attachment B, by visiting [www.pc.gov.au/inquiries/current/water-reform-2024](http://www.pc.gov.au/inquiries/current/water-reform-2024), or by contacting Yvette Goss on (03) 9653 2253 or Karen Godfrey on (02) 6240 3277.

**Figure 1– Key steps in the inquiry**



# Objectives and Elements of the National Water Initiative

Implementation of the NWI aims to result in a nationally-compatible, market, regulatory and planning based system of managing surface and groundwater resources for rural and urban use that optimises economic, social and environmental outcomes, by achieving the objectives of the NWI (Box 1).

## **Box 1 – Objectives of the National Water Initiative**

Jurisdictions agreed to work towards ten objectives through the National Water Initiative. These are:

- clear and nationally-compatible characteristics for secure water access entitlements
- transparent, statutory-based water planning
- statutory provision for environmental and other public benefit outcomes, and improved environmental management practices
- complete the return of all currently overallocated or overused systems to environmentally sustainable levels of extraction
- progressive removal of barriers to trade in water and meeting other requirements to facilitate the broadening and deepening of the water market, with an open trading market to be in place
- clarity around the assignment of risk arising from future changes in the availability of water for the consumptive pool
- water accounting which is able to meet the information needs of different water systems in respect to planning, monitoring, trading, environmental management and on-farm management
- policy settings which facilitate water use efficiency and innovation in urban and rural areas
- addressing future adjustment issues that may impact on water users and communities
- recognition of the connectivity between surface and groundwater resources and connected systems managed as a single resource.

Source: NWI paragraph 23, available at [pc.gov.au](http://pc.gov.au).

The outcomes of the NWI are arranged into key areas for reform, known as elements (Box 2).

**Box 2 – Elements of the National Water Initiative**

Jurisdictions agreed to pursue the objectives (Box 1) through reform actions in eight key areas.

1. Water access entitlements and planning frameworks
2. Water markets and trading
3. Best-practice water pricing and institutional arrangements
4. Integrated management of water for environmental and other public benefit outcomes
5. Water resource accounting
6. Urban water reform
7. Knowledge and capacity building
8. Community partnerships and adjustment.

Source: NWI paragraph 24, available at [pc.gov.au](http://pc.gov.au).

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# NWI Renewal Advice from National Water Reform 2020 Inquiry Report<sup>1</sup>

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Table 1 **NWI renewal advice: high-level summary by area**

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## **A refreshed intent**

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- Modernise the National Water Initiative (NWI) goal by including references to climate change and Traditional Owners. (3.1)
  - Increase emphasis on water service provision, provide more detail for water resource management and refer to cultural outcomes in NWI objectives. (3.2, 3.3)
  - Embed six overarching principles in all policy areas. (3.4)
  - Develop new elements covering Aboriginal and Torres Strait Islander people's interests in water, and infrastructure development. Significantly enhance the environmental management and water accounting (system integrity) elements. (3.5)
  - Update references to interactions between the NWI and other key initiatives. (3.6)
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## **Governance of the agreement**

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- Water ministers should convene periodically to oversee development of a renewed NWI. (4.1)
  - The renewed NWI should clearly link desired outcomes to objectives and limit prescriptive actions, instead setting out principles for best-practice, fit-for-purpose policy approaches. (4.1)
  - Jurisdictions should prepare 3-year rolling work programs, with progress independently assessed on a triennial basis. (4.1)
  - There should be a comprehensive review of national water policy every 10 years. (4.1)
  - The National Water Reform Committee should provide transparent on-going oversight of the agreement. (4.1)
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## **A framework for water resource management**

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- Embed the concept of fit-for-purpose water resource management in a new NWI. (5.1)
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## **Water entitlements and planning**

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- Recommit to the key outcomes and actions related to water access entitlements, and ensure entitlements and access rights frameworks are fit for purpose. Remove the special provision for mineral and petroleum industries; consider exemptions on the basis of context, not industry or user; establish a process to determine whether alternative water sources can be incorporated into water access entitlements frameworks; and adopt a risk-based approach to managing significant interception activities. (6.1)
  - Enhance water planning provisions to better reflect current best practice and embed processes to better account for climate change including in relation to: dealing with extreme scenarios; water quality issues; rebalancing; modelling climate; and provisions for allocating risk. (6.2)
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<sup>1</sup> A copy of the Commission's National Water Reform 2020 Inquiry Report is available at [www.pc.gov.au](http://www.pc.gov.au)

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**Table 1 NWI renewal advice: high-level summary by area**


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**Trading and markets**

- Emphasise that the purpose of water trading and markets is as a tool within a water resource management framework to increase efficiency. Market arrangements need to be fit-for-purpose. (7.1)
- Recommit to the NWI water trading and market principles. Reshape principles covering governance, regulatory and operational arrangements for water trading and markets to provide leading practice foundations for developing markets. (7.2)
- Provide information to support efficient water markets. (7.3)

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**Environmental management**

- Adopt best-practice development of environmental objectives and agreed environmental outcomes. (8.1)
- Integrate management of environmental water and complementary natural resource management. (8.2)
- Where not in place, establish a formal institutional oversight responsibility for wetland and waterway management. (8.3)
- Establish clear processes for reviewing progress on environmental outcomes. (8.4)
- Embed criteria for prioritising environmental watering, and objectives for environmental watering under different climate scenarios. (8.5)
- Ensure environmental water holders' trade strategies are in place and transparent. (8.6)
- Environmental water holders should pursue innovative market approaches. (8.7)
- Enable environmental water holders to vary their entitlement portfolio over time. (8.8)
- Actively pursue public benefit outcomes where they do not compromise environmental outcomes. (8.9)
- Independently audit the adequacy and use of environmental water entitlements every three years. (8.10)
- Obligate system managers to use their best endeavours to achieve agreed outcomes. (8.11)
- Commit to adaptive management. (8.12)

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**Aboriginal and Torres Strait Islander people's interests in water**

- Co-design a new NWI element dedicated to Aboriginal and Torres Strait Islander people's interests in water and involvement in water management. (9.1)
- Improve cultural outcomes using existing frameworks. (9.2)
- Improve access to water for economic development. (9.3)

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**System integrity**

- Build system integrity through a renewed element. (10.1)
  - Ensure system integrity through fit-for-purpose metering and measurement, registers and effective compliance and enforcement systems. (10.2)
  - Ensure the integrity of water system management via effective information provision. (10.3)
  - Ensure information on the broader water context aligns with users' needs. (10.4)
-

**Table 1 NWI renewal advice: high-level summary by area**

**Pricing and institutional arrangements**

- Maintain core principle of cost-reflective, consumption-based pricing with full cost recovery. Maintain institutional separation of water resource management, standard setting and regulatory enforcement from service delivery. (11.1)
- Adopt principles for best-practice independent economic regulation. Commit to light touch economic oversight for small regional and remote urban water providers and a framework for applying different models where the benefits exceed the costs. (11.2, 11.3)
- Maintain water service provider performance monitoring and reporting. (11.4)

**Urban water services**

- Update the *National Water Urban Planning Principles* and embed them in the NWI. (12.1)
- Update and recommit to the *NWI Pricing Principles*. (12.2)
- Subject all urban water service providers to performance monitoring and reporting. (12.3)
- Commit to ensuring affordable access to a basic level of water services for all Australians. At a minimum, these would include safe and reliable drinking water. Where subsidies are needed, they should be provided as transparent community service obligation payments. (12.4)
- Include principles for governance of regional and remote water services where local governments retain ownership of utilities. (12.5)
- Monitor and report on water quality and service outcomes in remote Aboriginal and Torres Strait Islander communities. (12.6)

**Infrastructure development**

- Develop an element to guide investment in water infrastructure. Restate the high-level requirement for all infrastructure to be assessed as economically viable and ecologically sustainable prior to the commitment of funding, with cost recovery from users the norm. Add a further requirement that infrastructure development processes are culturally responsive to Traditional Owners' interests to ensure deep engagement and, at a minimum, protection of cultural assets. (14.1)
- Agree to criteria on how major projects can demonstrate adherence to the NWI requirements for infrastructure. (14.2)
- Clarify institutional roles and responsibilities underpinning government investment. (14.3)

**Community engagement, and adjustment**

- Include guiding principles clarifying how governments can respond to any significant community adjustment pressures resulting from policy-induced reductions in water availability. (13.1)
- Recommit to best-practice, cost-effective engagement with communities on all water matters. (15.1)

**Knowledge, capacity and capability building**

- Commit to a culture of evidence-based decision making, innovation and continuous improvement to underpin successful implementation. (16.1)

This table is a very high-level summary of the detailed policy advice presented in the [National Water Reform 2020 Inquiry Report](#).

## A. Terms of reference

### National Water Inquiry

I, Senator the Hon Katy Gallagher, Acting Treasurer, in accordance with Parts 2 and 3 of the *Productivity Commission Act 1998* and Section 88 of the *Water Act 2007* (the Act), request the Productivity Commission (Commission) undertake an inquiry into the reform progress of Australia's water resources sector.

The Inquiry should advise on the progress of all Australian governments in achieving the objectives, outcomes and timelines anticipated under the *2004 Intergovernmental Agreement on a National Water Initiative* (NWI) and where practicable on key aspects of water security for Australia, as set out below.

### Background

Reform of the Australian water sector has been ongoing over several decades, reflecting the fundamental importance of water to all aspects of our society and environment, and the significant challenges involved in managing a shared natural resource impacted by climate change and periods of scarcity. A national approach to water reform started in 1994 through the landmark COAG water reform framework and has continued through subsequent initiatives such as the NWI (2004), Commonwealth *Water Act 2007* (the Act) and *Murray–Darling Basin Plan 2012*.

The Australian Government has committed to renew the NWI. This inquiry provides an opportunity for the Commission to examine in more detail the issue of water security, as a key driver of national water reform.

### Scope of the inquiry

In addition to the requirements in the Water Act, the scope of the inquiry should examine whether the national water reforms agreed in the NWI, along with any other subsequent national water reforms collectively adopted by Australian governments, are achieving their intended outcomes.

In undertaking the inquiry, the Commission should assess:

- progress in jurisdictional adoption of NWI principles, objectives and key outcomes and, where not adopted, issues that may influence implementation, and the opportunity costs of not doing so
- outcomes to date of the NWI and related water reform efforts, taking account of other reform drivers
- where practicable, implications for key water security and management challenges for Australia, including economic, environmental, social and cultural.

The Commission should provide recommendations:

- on actions that the parties to the NWI might take to better achieve the objectives and outcomes of the NWI
- to support all Australian governments in efforts to progress national water reform in light of current priorities, including water security and the involvement of First Nations communities in water management.
- on how the Australian Government can better utilise the Act as a framework for guiding national water reform policy.

In conducting the inquiry, the Commission should consider:

- the objectives provided for in clause 23 of the NWI
- any current Commonwealth, state or territory reform initiatives relevant to the Inquiry scope
- the perspectives and cultural rights of First Nations Australians.

## **Process**

The Commission is to undertake a public consultation process including, where appropriate:

- establishing a stakeholder working group in accordance with section 89 of the Act
- inviting public submissions
- holding public hearings
- releasing a draft report to the public.

The Commission should consult broadly, including with Commonwealth, state and territory governments, relevant sectors and stakeholders and First Nations peoples.

**Senator The Hon Katy Gallagher**

Acting Treasurer

[Received 22 December 2023]

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## B. How to make a submission

### How to prepare a submission

Written submissions may range from a short comment outlining your views on a particular topic to a much more substantial document covering a range of issues. Where possible, you should provide evidence, such as relevant data and documentation, to support your views.

### Publishing submissions

- Each submission, except for any attachment supplied in confidence, will be published on the Commission's website shortly after receipt, and will remain there indefinitely as a public document.
- The Commission reserves the right to not publish material on its website that is offensive, potentially defamatory, or clearly out of scope for the inquiry or study in question.

### Copyright

- Copyright in submissions sent to the Commission resides with the author(s), not with the Commission.
- Do not send us material for which you are not the copyright owner – such as pictures, photos and newspaper articles – you should just reference or link to this material in your submission.

### In confidence material

- This is a public review and all submissions should be provided as public documents that can be placed on the Commission's website for others to read and comment on. However, information which is of a confidential nature or which is submitted in confidence can be treated as such by the Commission, provided the cause for such treatment is shown.
- The Commission may also request a non-confidential summary of the confidential material it is given, or the reasons why a summary cannot be provided.
- Material supplied in confidence should be clearly marked 'IN CONFIDENCE' and be in a separate attachment to non-confidential material.
- You are encouraged to contact the Commission for further information and advice before submitting such material.

### Privacy

- For privacy reasons, all **personal** details (e.g. home and email address, signatures and phone numbers) will be removed before they are published on the website.
- You may wish to remain anonymous or use a pseudonym. Please note that, if you choose to remain anonymous or use a pseudonym, the Commission may place less weight on your submission.

## Technical tips

- The Commission prefers to receive submissions as a Microsoft Word (.docx) files. PDF files are acceptable if produced from a Word document or similar text based software. You may wish to search the Internet on how to make your documents more accessible or for the more technical, follow advice from Web Content Accessibility Guidelines (WCAG) 2.0: <https://www.w3.org/TR/WCAG20/>
- Do not send password protected files.
- Track changes, editing marks, hidden text and internal links should be removed from submissions.
- To minimise linking problems, type the full web address (for example, <http://www.referred-website.com/folder/file-name.html>).

## How to lodge a submission

Submissions should be lodged using the online form on the Commission's website. Submissions lodged by post should be accompanied by a submission cover sheet, available from the Commission's website.

Online\*            [www.pc.gov.au/inquiries/current/water-reform-2024](http://www.pc.gov.au/inquiries/current/water-reform-2024)

Post\*             National Water Reform 2024  
Productivity Commission  
GPO Box 1428  
Canberra City ACT 2601

Phone             Please contact the Administrative Officer on 02 6240 3277 or 03 9653 2253

\* If you do not receive notification of receipt of your submission to the Commission, please contact the Administrative Officer.

## Due date for submissions

Please send submissions to the Commission by **2 February 2024**.