
Next Steps in National Water Reform

RGA Submission to the PC¹ and DCCEEW²

May 2024

Introduction:

Thanks for opening public consultation on the PC's review of the *National Water Initiative* (NWI; 2004), and DCCEEW's proposed new approach to future national water reform. It's unfortunate that the two processes have overlapped, and appear to not have been coordinated by the Commonwealth in any useful way.

We think there's a strong risk for all water users – across Australia – if DCCEEW chooses to continue to ignore the PC's sound advice.

In the interests of reducing consultation fatigue amongst our own members, the RGA has chosen to provide the same submission into both the PC and DCCEEW feedback channels. We acknowledge and appreciate the PC working with us to ensure this could happen.

Where Is Irrigated Agriculture?

We're extremely disappointed that DCCEEW has ignored the linchpin role that irrigated agriculture plays in the Australian economy. Irrigation in the Murray-Darling Basin alone contributes \$30 billion to the nation's economy annually.³

Communities across regional Australia rely heavily on agriculture's successful utilisation of water. Using our industry as an example, between 2008-2009 and 2018-2019, an average of 629,000 tonnes of rice was grown each year. Over this time – annually – we contributed \$400 million into rice-growing communities, and provided 400 jobs across the Riverina.⁴ Rice is recognised as one of the Riverina's major enterprises and key economic drivers, which – along with dairy in the Murray and horticulture in the Murrumbidgee – has traditionally made-up around 75% - 90% of farm businesses.⁵⁶ None of this can be achieved without water.

Critically, these communities are also the ones that have been hardest hit by Canberra's repeated waves of reform over the past 20 years. This is something that's predicted to continue into the future.⁷

These matters must be explicitly addressed in any new national water reform agreement. The future security of irrigated agriculture must be provided for – to allow this fundamental industry to continue to meet the needs of the communities reliant upon it.

¹ Productivity Commission – Commonwealth.

² Department of Climate Change, Energy, the Environment and Water – Commonwealth.

³ [Why the Murray-Darling Basin matters | Murray-Darling Basin Authority \(mdba.gov.au\)](#)

⁴ SunRice, internal commercial data. The figure of '400 jobs' is direct employment; it doesn't reflect secondary employment.

⁵ [AppendixC Murrumbidgee community profile.pdf \(mdba.gov.au\)](#), p. 899.

⁶ [AppendixC NSW Central Murray community profile.pdf \(mdba.gov.au\)](#), p. 964.

⁷ [Water purchasing programs \(nsw.gov.au\)](#)

Don't Rewrite History:

We strongly support the PC's advice that: *a renewed NWI should improve and expand on the existing agreement while retaining its foundations.*⁸ It's unfortunate that DCCEEW is refusing to follow this path. In fact, DCCEEW's reinterpretation of key foundational elements is highly concerning, and appears to miss the point of the NWI entirely.

There's a reason governments gave absolute priority to water access entitlements back in 2004. *Clearly specified, statutory entitlements*⁹ are fundamental to all water management – past, present and future. They are also critical for successful market operation, and form the basis of actual discussion and negotiation regarding risk.

Referring to DCCEEW's discussion paper, it's completely inappropriate to relegate this fundamental component of all water use to a Commonwealth education exercise, where (apparently) all licence holders need is to passively trust that frameworks they'll be disconnected from will: *provide secure access rights.*¹⁰ It's also entirely unreasonable to require licence holders to merely accept a Commonwealth interpretation of: *clearly assigned risks for future changes to the resource.*¹¹ All licence holders need to actively participate in considerations of risk assignment that are likely to impact on them. They have a right to effectively negotiate fair and reasonable future water access.

We don't accept these critical elements being demoted to the lowest priority in DCCEEW's discussion paper. We also strongly reject the Commonwealth's thinking that it can reinterpret key components of the NWI. Property rights, and dealings with risk in relation to them, must keep their current reform status quo along with the language that established their collectively agreed significance in 2004.

Water Reform Must Be Rational, Logical and Functional:

The Commonwealth's assumption that it considers it appropriate to rewrite history appears to have also heavily influenced what DCCEEW wants to push for in a new national water agreement.

The 2004 NWI was drafted in a way that addressed significant water challenges, and followed a logical sequence towards their best-practice management. Critically, as observed by the PC, it also provided a: *consistent authorising environment for jurisdictions to implement and continue to improve on best-practice.*¹²

You can see that both of these principles strongly inform the way the 2004 document was drafted.¹³ Clearly defined property rights came first, were viewed as stand-alone and independent, and subsequently underpinned statutory planning for water availability and resource sharing. Both items were necessary, and needed to be established first in order to properly support the important role that markets now play.

⁸ [Overview - Interim report - National Water Reform 2024 \(pc.gov.au\)](#), p. 2.

⁹ [Intergovernmental Agreement on a National Water Initiative \(dcceew.gov.au\)](#)2, p. 4.

¹⁰ [Discussion paper - Seeking views on a future national water agreement. March 2024 \(storage.googleapis.com\)](#), p. 19.

¹¹ [Discussion paper - Seeking views on a future national water agreement. March 2024 \(storage.googleapis.com\)](#), p. 19.

¹² [Overview - Interim report - National Water Reform 2024 \(pc.gov.au\)](#) p. 2.

¹³ [Intergovernmental Agreement on a National Water Initiative \(dcceew.gov.au\)](#)

Latter parts of the NWI then recognised good information as key water management input, alongside fully cooperative and transparent community engagement.

None of this logic is apparent in DCCEEW's scattered list of water-related things that it might like to focus on in the future. For licence-holders and water experts with strong familiarity with the 2004 document, there's no clear 'following-on' from where we've already come from. In the absence of any actual context, we also have to assume the seven objectives are presented to us in a descending order of priority.

*Objective One: Securing Water for All Uses*¹⁴ completely ignores the fact that for 20 years, identifiable, ownable and tradeable water rights have been the critical instrument for providing security. The wording and placement of *Objective One* seems to imply that this will no longer be the case, and another process will be used to meet urban supply needs, deliver on community expectations for resource management and determine how issues of competing demand will be resolved.

By comparison, in the PC's more expert opinion, it recommends retaining the NWI's existing 10 objectives essentially in their current order, and largely in their current form.¹⁵

In providing feedback on DCCEEW's proposed *Objective Two: Supporting Aboriginal and Torres Strait Islander Peoples' Water Interests and Values*, *Objective Three: Climate Resilient Water Management*, and *Objective Seven: The Efficient Use of Water*, the RGA wishes to make it clear that it's undeniable that Aboriginal water access should be a component of any effective, modern, water management framework. However, our concern with these three Objectives is based on how they've been interpreted by DCCEEW, and the potential for them to supersede the property rights and statutory planning frameworks that have been built by jurisdictions over the past twenty years.

Providing water for specific uses and specific groups must be done through existing property rights and/or statutory planning arrangements. This is the only way to ensure there's no duplication of effort¹⁶, or unreasonable third party impacts¹⁷. It also provides those groups with comparable access, that's fairly in-line with other users in the system.

With regard to *Objective Seven: The Efficient Use of Water*, it's unclear why this concept has been singled-out for special attention. 'Efficient use' is already a key driver for every existing water plan, every utility, and every industry that operates under the NWI.

¹⁴ [Discussion paper - Seeking views on a future national water agreement. March 2024 \(storage.googleapis.com\)](#), p. 12.

¹⁵ [Overview - Interim report - National Water Reform 2024 \(pc.gov.au\)](#), p. 7.

¹⁶ For example, the PC has long recommended that cultural outcomes be delivered alongside those for the environment ([Overview - Interim report - National Water Reform 2024 \(pc.gov.au\)](#), p. 25). The PC also notes that access to quality drinking water, especially in remote communities, remains an unfinished commitment under the 2004 NWI (ibid. p. 14).

¹⁷ While purchase is the preferred method under the *Aboriginal Water Entitlements Program*, all licences acquired through the market will remain in the consumptive pool ([Murray-Darling Basin Aboriginal Water Entitlements Program - DCCEEW](#)).

Finally, as we'll explain in the next section of this submission, NWI-consistent water plans already address climate change. This essentially makes *Objective Three: Climate Resilient Water Management* redundant as well.

NWI-Consistent, Statutory Water Plans Already Address Climate Change:

Anyone who uses a licence for their water access knows full-well that NWI-consistent statutory water plans already factor in climate variability when determining allocations. This is a fundamental part of ensuring compliance with externally-derived sustainable extraction limits.

To illustrate, to address perceived overallocation across the Murray-Darling Basin, under the Basin Plan arrangements were immediately implemented in 2012 to ensure that new sustainable diversion limits (SDLs) would be met on 1 July 2019. Basin jurisdictions delivered a 97% success rate in the first year, increasing to 99% in the second.¹⁸ Where SDLs weren't met, this was from reasonable, methodological matters, not water theft.

Fundamental to continued SDL compliance success, is the Basin Plan's requirement that jurisdictions clarify annually the volume of water resource available¹⁹, based on rainfall and other prevailing climate factors. When it's not raining, and storages are low, all licence holders expect their allocations to reflect this climatic reality.

It's highly concerning that DCCEEW's discussion paper and the PC's interim report both seem to primarily assume that the only way to fix environmental issues is to take more water out of the consumptive pool and lock it away in perpetuity. This is despite the PC also recognising that: (i) 'complementary natural resource management'²⁰ may be needed to fully ensure some environmental outcomes are delivered; and (ii) under climate change, some environmental outcomes may no longer be 'realistic'²¹.

In terms of the remaining challenges faced by the Basin's ecological systems in particular, it could be argued that we've reached 'peak water'. It's now other measures (e.g. carp control; catchment management; interventions to protect native species) that have become a necessity and not a luxury. In addition, if hard questions need answering about the environmental outcomes that can feasibly be achieved under climate change, this must be done before the consumptive pool is exposed to any further reductions in access.

¹⁸ [Annual Water Take Report 2020-2021 \(mdba.gov.au\)](https://www.mdba.gov.au/annual-water-take-report-2020-2021)

¹⁹ [Federal Register of Legislation - Basin Plan 2012](#), s.10.11(2).

²⁰ [Overview - Interim report - National Water Reform 2024 \(pc.gov.au\)](#), p. 24.

²¹ Ibid. p. 29.

DCCEEW also seems to have made a troubling oversight in its discussion paper. The PC is very clear in its advice that one of the emerging functional risks for Australia's water management will be the 'demands of the transition to net zero emissions'.²² The figures provided by the PC can be described as both bleak and stark. By 2023, the global freshwater demand for 'clean energy mitigation measures alone' could be almost 25% of current use.²³

If correct, this is highly significant. Stakeholders must be given clear advice from the Commonwealth about its proposals for dealing with this anticipated demand. Where difficult action is required, jurisdictions and licence-holders alike must be involved in deciding what's to be done, and how.

Markets Will Continue to Evolve:

It's disappointing that DCCEEW has completely missed the point when it comes to the critical role that markets play in Australian water management, especially within the southern Murray-Darling Basin.

Markets are only lightly touched on in the lowest-priority objective in DCCEEW's discussion paper. Even here, they're assumed to be static, and in no need of any further or future attention. This is an alarmingly inaccurate depiction of our markets, and their continued evolution over time.

The PC's interim report provides a comprehensive assessment of the current status of market reform, and critically, firmly places this assessment within the context of interjurisdictional water management.²⁴ Three very important sets of renewal advice are presented, all of which are ignored by DCCEEW in its discussion paper.

The purpose of markets as a tool within national water management must be clearly articulated, especially the fact that there is no 'guaranteed supply of water, by location, time and quality'.²⁵ Ensuring 'leading practice' governance is applied to market operation is critical.²⁶ Registers for entitlements and trade should also be underpinned by the principle of continuous improvement.²⁷

For the rice industry especially, we need to make certain that the markets we have access to provide for: (1) fairness and equity for all users; (2) a diverse and resilient sector; (3) full utilisation of all productive water; and (4) community co-design and participation.

All of Australia's governments have a responsibility to ensure this happens, and also ensure that appropriate governance is in place to provide for these outcomes. Ignoring these aspects of market operation in a new water reform agreement is a huge risk.

²² [Overview - Interim report - National Water Reform 2024 \(pc.gov.au\)](#), p. 2.

²³ *Ibid.* p. 12.

²⁴ [Overview - Interim report - National Water Reform 2024 \(pc.gov.au\)](#), pp. 30 and 31.

²⁵ [Overview - Interim report - National Water Reform 2024 \(pc.gov.au\)](#), p. 30.

²⁶ *Ibid.*, p. 30.

²⁷ *Ibid.* p. 31.

The Forward Process Has To Be Better:

This is a very poor start to what has historically been a comprehensive and highly consultative task. To illustrate, effective external consultation was deemed so important to the first NWI's success that it was explicitly written into the COAG communique that initiated its drafting.²⁸

To attempt to crunch a new agreement by the end of 2024, via closed-door bilateral conversations with each jurisdiction, is incredibly poor. Alongside this, fast-tracking a 'one-shot' public feedback round, using a discussion paper so high-level that it's virtually devoid of meaning, is absolutely not the way to: *sustain community trust and confidence in government*.²⁹

DCCEEW has to do a much better job going forward. Commitments around multi-decadal water reform are too important and serious to be taken so lightly. External stakeholders must be involved every step of the way. Jurisdictions must collectively put forward the items that they want to focus on – in full recognition of what has come before. Proper assessment needs to be undertaken regarding the costs involved in what jurisdictions collectively want to do, so that all water users understand the economic implications.

An improved process of the type we've advised in the previous paragraph must commence as a matter of urgency, and must be faithfully followed while a new agreement is transparently negotiated and eventually signed by all parties.

²⁸ [Council of Australian Governments' Meeting \(COAG\) Communique - 29 August 2003 \(ncc.gov.au\)](https://www.ncc.gov.au/council-of-australian-governments-meeting-coag-communique-29-august-2003)

²⁹ [Discussion paper - Seeking views on a future national water agreement. March 2024 \(storage.googleapis.com\)](https://storage.googleapis.com/...), p. 18.