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Committee Secretary
Senate Standing Committees on
Environment & Communications
PO Box 6100
Parliament House
CANBERRA ACT 2600

12 April 2012

Dear Committee Secretary,

RE: NATIONAL WATER COMMISSION AMENDMENT BILL 2012

The Australian Water Association provides the following submission to the Environment and Communications Legislation Committee in respect of the National Water Commission Amendment Bill 2012.

AWA has previously spoken in support of the continuation of the National Water Commission and accordingly is pleased to support this Bill. The rationale for this support and additional observations regarding the Bill follow.

AWA's role in the water sector

The Australian Water Association is the leading water sector body in Australia, representing over 10,000 water sector professionals across all disciplines. Formed in 1962, AWA is an independent and not for profit association, providing a voice for water professionals around Australia on a wide range of sector issues.

A national role in Water Reform

The Australian water industry has a very successful history of reform. Through the mid to late 1990's, these were stimulated by the National Competition Policy (NCP), but are not merely a response to it. Indeed, reform paralleling the notion underpinning the NCP – that “competitive markets will generally best serve the interests of consumers and the wider community” – was first introduced by Dr John Paterson, President of the then Hunter District Water Board in the early 1980s.

Nevertheless, National Competition Policy had a profound effect on the Australian water industry, particularly in urban areas. What had been a heavily subsidised industry, under the control of disparate local governments – either directly or through their participation on governing boards – has become a competitive, financially secure industry, under the management of skilled boards and which prices its services to recover its costs and achieve a return on investment. Furthermore, these reforms and others have led to a rationalisation in water use, and a highly strategic approach to asset management that has reduced maintenance, improved asset life and reduced service interruptions. Environment protection and water quality has also improved significantly.

Water reform has been a success. This is a view shared not just by industry representatives in Australia. This nation has been an exemplar for water practitioners globally who are seeking means by which governance can be improved and water services made more affordable and sustainable.

The stimulus provided by National Competition Policy, and its offspring, the 1994 COAG Water Reform Agreement and the National Water Initiative demonstrate that the Commonwealth can play a useful role in water reform, despite limited Constitutional power. The 1994 Water Reform Agreement, while collaborative, encouraged achievement through the incentive of Commonwealth government ‘tranche’ payments. The National Water Initiative does include such payments, but there is a strong element of moral suasion



exercised through the Biennial Assessments prepared by the National Water Commission. Regardless of the incentive, the agreements demonstrate the power of collaboration, under the leadership of the Commonwealth through COAG.

AWA believes the effectiveness of the National Water Initiative has been greatly enhanced by the National Water Commission. The NWI is agreed to by COAG and is therefore a multi-jurisdictional agreement. The 1994 Agreement had a similar structure. However, while under the 1994 Agreement payments to the states by the Commonwealth were dependent on various milestones being met; no such arrangements exist with regard to the NWI. Thus, the force for progress, aside from the goodwill of participants, is the mutual commitment inherent in a true 'agreement' the soundness of the central institution (NWC) and the leadership and talent within the NWC. It is submitted that an independent entity, accountable to all participants, has advantages over a single government department in overseeing the NWI. A government department will always be seen as the instrument of the (federal) Minister to whom it reports. As the Commonwealth itself is party to the NWI, it risks being seen as conflicted in a role of judging the others. The NWC's independence allows it to offer constructive criticism as necessary: to highlight exceptions, slowness in implementation and obfuscation by governments. There is no other body that could play this role comprehensively.

The National Water Commission's successes have extended beyond the Biennial Assessments, the principal mechanism through which progress against the National Water Initiative is evaluated. Subsidiary reports, such as the June 2010 volume, The impacts of water trading in the southern Murray-Darling Basin and, importantly, the National Performance Reports have provided insight and value. Each of these has benefitted from having been compiled by an independent agency. Among the NWC's other successes should be included:

- The promotion of national water standards across the industry;
- The development of a National Water Sector Training Strategy, and subsequent Business Plan (compiled, under contract by AWA);
- Advocacy, stimulating the development of water markets;
- Commissioning of a Community of Practice for Environmental Water Managers, a practical outcome of a finding, included in the first Biennial Assessment, that Environmental Water Managers were poorly resourced and supported in carrying out their work;
- Supporting the cause of water reform and, in particular, identifying targeted reforms otherwise unaddressed.

The National Water Initiative is unfinished business. It has been noted on a number of occasions that some governments have been slow to implement aspects of the NWI and on others that some important matters have not been dealt with. If its independence and expertise is valued, it follows that the National Water Commission should have a role into the future.

A note is also needed regarding changing priorities within the sector. The east coast and some other areas have in the past year received drought breaking rains. To some degree, this has resulted in a lack of attention by policy makers to water management issues, due to a perception that the crisis has passed. This is a false perception. There are important reform questions to be addressed regardless of climatic conditions, and, in any case, drought remains severe in the west. Furthermore, it is obvious from Australia's climatic record that drought will return. Under most climate change scenarios its impacts may be more severe than experienced in the past. It remains vital then that policy attention still be paid to water. As a clear example, there is a need to progress development of Water Plans for each catchment across the country – as required under the NWI – to determine (among other things) the responses that should be taken in the event that river systems are over allocated.

The continuation of the National Water Commission will be a useful element in the drive for continued commitment to strategic water reform.



The Bill

AWA provides the following observations regarding the Bill:

1. AWA supports the continuation of the National Water Commission (NWC) as an independent statutory body beyond its current sunset date of 30 June 2012. The removal of a further sunset clause is also supported.
2. AWA understands that the Bill refocusses the NWC's role to oversight and assessment of national water reforms (primarily the National Water Initiative (NWI) and Murray-Darling Basin (MDB) reforms). This role is not disputed, however AWA also supports an ongoing role for the NWC in thought leadership as part of pursuing a challenging reform agenda.
3. The Independent Review of the NWC commissioned by the Commonwealth Government on behalf of CoAG found that implementation of the NWI is occurring within a highly complex and evolving environment and that this complex environment requires an independent and specialist institution to credibly engage with, and report on, the progress of water reform. AWA agrees wholeheartedly with this finding.
4. AWA encourages all parties to ensure that the NWC is adequately funded to deliver on its critical role.
5. The Bill will reduce the number of NWC Commissioners (including the Chair) from seven to five, "due to the NWC's refocused functions." The diversity of stakeholder interests in water reform should not be underestimated and AWA suggests that adequate processes are maintained to ensure that stakeholder engagement can be maintained with a smaller Commission.
6. The Bill provides that the NWC's performance will continue to be evaluated with a statutory review to be conducted once every five years. This is considered adequate.

Should the Committee have any questions, I will be happy to provide further information.

Yours sincerely

Tom Mollenkopf

Chief Executive

Australian Water Association