

Comments from Labor Senators

Labor has concerns about this Bill.

The Bill, as drafted and amended, provides that the NWC has a role in advising the Minister, COAG and the Commonwealth on matters relating to water. In relation to the NWC's functions under **clause 7**, the Minister instructs the NWC in relation to its tasks and receives the NWC reports. The Minister is the key conduit for the advice and appears to have the discretion to act, or not act upon the NWC's advice. The Minister is *not* required to publish the NWC's advice or recommendations.

The NWC has a structure which appears to be more what one would expect of a ministerial advisory council than an 'independent statutory authority'. The following clauses highlight concerns about the level of structural independence of this NWC model:

- **Clause 4** states that all advice and recommendations given and made by the NWC are made through the Minister.
- Under **Clause 7** there is no enumeration of a power for the NWC to instigate any 'own motion' studies – the NWC's powers are triggered by directions from the Minister. The Minister has very broad control of the functions and investigations undertaken by the NWC.
- **Subclause 7(4)** provides that the NWC 'gives advice' by giving advice and making recommendations to the Minister.
- **Subclause 8(2)** provides that the Commonwealth must nominate a person to be appointed as the Chair in consultation with the other parties to the NWI.
- **Clause 9** provides that the Chair must keep the Minister informed of the general operations of the NWC in respect of the performance of the NWC's functions.
- Under **Clause 25**, the CEO of the NWC is appointed by the Minister.
- **Subclause 44(1)** provides that assessments can only be made available to the public with the agreement of the Minister.
- **Subclause 44(2)** further provides that NWC *must not* make any other advice or recommendations available to the public; and
- **Clause 45** requires the NWC to prepare an annual report for the Minister - however there is no explicit obligation on the Minister to table the report in Parliament.

Labor believes that there are measures that could be taken to enhance the independence of the NWC including:

- Allowing the NWC to publicly table the findings of its investigations; and

- Ensuring that NWC's annual report is tabled in the Parliament.

Labor is concerned that the NWI does not address water quality – the other half of the water resource management agenda. Water resource management and catchment management are not addressed in the NWI . This is in contrast to the 1994 COAG Water Reform Framework, achieved principally through adoption and implementation of the National Water Quality Management Strategy.

Senator Stephen Conroy
7th December 2004

Senator Kate Lundy
7th December 2004