



Australian Government

Department of Climate Change, Energy,  
the Environment and Water

# Committee on Aboriginal and Torres Strait Islander Water Interests

response to the

Productivity Commission Interim  
report on National Water Reform 2024

April 2024



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Department of Climate Change, Energy, the Environment and Water  
GPO Box 3090 Canberra ACT 2601  
Telephone 1800 900 090  
Web [dceew.gov.au](https://dceew.gov.au)

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### **Acknowledgement of Country**

We acknowledge the Traditional Owners of Country throughout Australia and recognise their continuing connection to land, waters and Culture. We pay our respects to their Elders past and present.

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## 2 Acknowledgement

The Committee on Aboriginal and Torres Strait Islander Water Interests (the Committee) wishes to acknowledge and thank the many Aboriginal and Torres Strait Islander-run organisations, peak bodies and body corporates, as well as Traditional Owner groups, researchers, scientists, and individuals who have worked tirelessly to establish your own agreement making platforms with government, so you are able to have a 'seat at the table' and meaningfully advocate for water rights and interests. The Committee encourages all Aboriginal and Torres Strait Islander Peoples to submit a response to the Productivity Commission to ensure your diverse views and perspectives are also heard.

## 3 Authors

The following members of the Committee developed this Response paper:

Mr Grant Rigney (Co-Chair)

Mr Rene Woods (Co-Chair)

Dr Rohan Henry (Co-Deputy Chair)

Dr Virginia Marshall (Co-Deputy Chair)

Ms Chontarle Bellottie

Mr John Locke

Ms Kay Blades

The Committee also wishes to acknowledge previous members who contributed knowledge and expertise, which informed the development of the Insights Paper which has informed CAWI's response to this report. Previous members include Associate Professor Bradley Moggridge (inaugural co-Chair of the Committee) and Professor (HonD) Leslie 'Phil' Duncan.

## 4 Indigenous Cultural and Intellectual Property

The Response Paper contains Indigenous Cultural and Intellectual Property (ICIP) and is underpinned by the principle of *free, prior, and informed consent* in relation to ICIP, as set out in the United Nations Declaration on the Rights of Indigenous Peoples. The Committee is the owner of all ICIP in the Response Paper. The Committee must be acknowledged as the owner of the Response Paper in any use of it. Further, the Response Paper must not be appropriated or used in any other way than its intended purpose without the consent of the Committee.

## 5 About the Committee on Aboriginal and Torres Strait Islander Water Interests

The Committee was established in 2020 and is led by a membership of Aboriginal and Torres Strait Islander Peoples with extensive expertise across western and Cultural water rights and interests, water science and management, and water policy and planning.

Committee members do not represent, speak, or act for any individual nation, organisations, or community groups. Committee members do not represent federal, state, or territory governments; however, where possible, the Committee does seek to have at least one representative from each state and territory to draw on their knowledge and experience at the local level to bring to the national discussion.

The Committee is supported by an Executive Officer, Secretariat, and secretariat policy team within the First Nations Water Branch in the Australian Government Department of Climate Change, Energy, the Environment and Water. First Nations Water Branch plays a significant internal and external role to increase the Committee's exposure, reputation, and reach.

The Committee plays a unique role in advising federal, state and territory governments on world-leading water reform initiatives occurring in Australia. The Committee recognises that Aboriginal and Torres Strait Islander Peoples have been advocating for an equal voice in Australia's water planning and management legislation since colonisation in 1788. Aboriginal and Torres Strait Islander Peoples never ceded sovereignty of lands and waters. It is the exclusive birth right of Aboriginal and Torres Strait Islander Peoples to be supported to honour their Cultural, spiritual, social, economic, and environmental water interests. The Committee operates within, and promotes, an environment of truth-telling about the impacts of colonisation on Aboriginal and Torres Strait Islander Peoples' water rights and interests. The Committee aims to elevate the Cultural, spiritual, social, economic, and environmental interests of Aboriginal and Torres Strait Islander Peoples within Australia's water policies, programs, and legislation, to ultimately ensure Aboriginal and Torres Strait Islander Peoples have enduring access to, ownership of, and management of water. More information about the Committee is available at [dceew.gov.au/water/policy/first-nations/cawi](https://dceew.gov.au/water/policy/first-nations/cawi).

## 6 Progress to date

Since colonisation, Australia's water management laws and policies have disenfranchised and disempowered Aboriginal and Torres Strait Islander Peoples regarding their water rights and interests.

The Committee acknowledges and thanks the many Aboriginal and Torres Strait Islander Peoples that have worked determinedly since 1788 to uphold the water rights and interests of Australia's first peoples. There has been a steady increase, particularly in the last decade, in our advocacy and effort, but there is still much that needs to be achieved before Aboriginal and Torres Strait Islander Peoples are supported by all levels of government to honour their Cultural, spiritual, social, economic, and environmental water interests.

The Committee has developed a living, historical truth-telling representation of Australia's water management laws and policies and our advocacy efforts to ensure that these are not forgotten. As a living document, the timeline will be updated annually to capture new achievements as they come to light. These documents can be found on the CAWI website located here: <https://www.dcceew.gov.au/water/policy/first-nations/cawi>.

CAWI's ongoing efforts includes working with the Australian Government to elevate Aboriginal and Torres Strait Islander water rights and interests in a new, co-designed National Water Agreement (NWA), as well as implementation of Closing the Gap Target 15 (Aboriginal and Torres Strait Islander people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters) and the Aboriginal Water Entitlements Program. More information on these bodies of work can be found on the Department of Climate Change, Energy, the Environment and Water's website.



## 7 The Committee's response

The Committee acknowledges and pays respect to the feedback submitted to the Productivity Commission inquiry by Aboriginal and Torres Strait Islander People and organisations from across Australia. In line with decentralised Indigenous governance models, the Committee considers it important for the Productivity Commission to consider and support the diverse range of interests and perspectives across all Aboriginal and Torres Strait Islander Peoples.

The Committee appreciates the reform efforts to date to improve water management in Australia but concurs with the reports finding that there are significant gaps in the NWI in respect to Aboriginal and Torres Strait Islander Peoples' water rights and interests, resulting in a lack of outcomes being achieved.

The Committee welcomes the reports' advice that there should be a broader focus on Aboriginal and Torres Strait Islander Peoples' water interests and supports the inclusion of specific wording in the NWI's goal and objectives. This will help to lay the foundation for full consideration of Aboriginal and Torres Strait Islander Peoples' water interests, rights and perspectives across the entire NWI, and assist the delivery of important national policy agendas, such as **Closing the Gap** (particularly *Target 15* which includes maintaining cultural, spiritual, physical and economic relationships with land and waters, noting that water is also crucial to the achievement of other Targets on health, education, employment, housing, culture and social and emotional wellbeing).

It is important to note that there has been progress made on several areas and recommendations mentioned in the report (e.g. inclusion of a specific objective on Aboriginal and Torres Strait Islander Peoples. See Objective 2 under the NWA discussion paper available on the DCCEEW website), and all jurisdictions have already indicated their broad support for stronger inclusion of Aboriginal and Torres Strait Islander peoples in the new NWA.

The Committee strongly advises though against any 'opt-in' approaches on matters that affect Aboriginal and Torres Strait Islander Peoples: the NWI should aim to hold us all to account for achieving the highest level attainable with regards to Aboriginal and Torres Strait Islander Peoples water rights and interests, and not let this be derailed by jurisdictional differences or softer commitments to the broader NWA. While CAWI is committed to working with all governments in this regard, Aboriginal and Torres Strait Islander Peoples must hold all governments to account for signing up to a higher ambition when it comes to their water rights and interests, both in and outside of the NWA. Policy-makers must ensure that any proposed solutions can be taken up by Aboriginal and Torres Strait Islander Peoples without disadvantaging them in any way, shape or form.

Australia's water management framework should be underpinned by national and human rights principles which recognises and protects Aboriginal and Torres Strait Islander Peoples' Cultural, spiritual, social, environmental and economic water interests and values. The NWI should further seek to uphold international and national standards and principles outlined in documents such as the United Nations Declaration on the Rights of Indigenous Peoples and the 2007 Echuca Declaration, including ensuring Aboriginal and Torres Strait Islander Peoples' genuine, meaningful engagement based on free, prior, and informed consent, and the protection of Indigenous cultural and intellectual property. The Committee specifically recognises Aboriginal and Torres Strait Islander Peoples' traditional physical connection to their lands and waters, whether recognised under the Native Title Act s.62 (1) (c) (i) as part of any approved or current claim, or not.

Aboriginal and Torres Strait Islander Peoples are impacted by all aspects of water management and as such the NWI should inherently give effect to the aforementioned standards and commitments through the inclusion of Aboriginal and Torres Strait Islander people *across all aspects* of water management, service provision, planning, sharing ownership and governance. The lack of Aboriginal and Torres Strait Islander Peoples involvement in all aspects (including accounting, measurement,

valuation etc) severely disempowers and disenfranchises their water rights and interests. But inclusion of Aboriginal and Torres Strait Islander can bring unique perspectives (e.g. such as better landscape data needs from a customary perspective).

Each aspect of the NWA needs to be considered through a Aboriginal and Torres Strait Islander lens and not just be limited to a specific Aboriginal and Torres Strait Islander goal and objective. Furthermore, the language used both in the Interim report and the NWI should be consistently pitched at the appropriate level to ensure a strong policy foundation is set to guide practical action and outcomes.

It is critical that governments and all stakeholders clearly outline the practical actions and transactions that they will deliver to *enable* Aboriginal and Torres Strait Islander Peoples to realise their water rights and interests. The Committee is committed to working with all governments to ensure that the ambitions set out in the new NWA leads to real change on-the-ground for Aboriginal and Torres Strait Islander Peoples, so that it does not become another policy NWI-like policy that does not achieve outcomes for Aboriginal and Torres Strait Islander Peoples.

The Committee welcomes the recommendation to improve monitoring and reporting of the NWA. This will be important to ensure transparent and clear information is provided to Aboriginal and Torres Strait Islander Peoples to support their engagement, and if need be, to hold governments to account for the level of progress made and addressing key barriers and opportunities faced. While this will require additional funding, the Committee welcomes the proposal to play an integral role in developing the NWA's monitoring, evaluation and learning framework.

## 8 Response to specific renewal advice

This table provides a line-by-line response to the specific recommendations made by the Productivity Commission in their interim report.

The recommendations below have been summarised in some parts. Please refer to the full interim report to read the full recommendations.

**Table 1 Response to National Water Initiative (NWI) renewal advice.**

No.	Advice	Position	Response
3.1	Modernise NWI goals by including adaptation to climate change and recognition of the importance of water to Aboriginal and Torres Strait Islander people.	Agree in-principle	<p>See Section 8 for commentary on the inclusion of Aboriginal and Torres Strait Islander Peoples' water interests and rights in the NWI. The new NWA discussion paper outlines a new objective of: <i>"A water management framework, underpinned by national and international human rights principles, which recognises and protects Aboriginal and Torres Strait Islander Peoples' Cultural, spiritual, social, environmental and economic water interests and values."</i></p> <p>In line with the Insights Paper (see the CAWI website) and the 2007 Echuca Declaration, the Committee encourages the highest level of inclusion and commitment on Aboriginal and Torres Strait Islander water rights and interests, as opposed to servicing of 'needs'..</p> <p>This includes sufficient inclusion of the concepts of <b>Cultural Flows</b> (inherent water ownership and entitlement of Indigenous Nations for spiritual, cultural, environmental, social and economic purposes) and <b>Cultural Outcomes</b> (environmental, social and economic conditions of the Indigenous nations).</p>
3.2	Modernise NWI objectives by adding overarching objectives on water service provision and Cultural outcomes for Aboriginal and Torres Strait Islander people.	Agree in-principle	As above.
3.3	Modernise NWI objectives by adding overarching objectives on surface and groundwater resources, as recommended in the 2021 Interim report.	Agree in-principle	<p>Surface (creeks, rivers, billabongs and lakes) and groundwater (water in the soil, pores, aquifers and other groundwater systems) holds Cultural, spiritual, social economic and environmental significance for Aboriginal and Torres Strait Islander Peoples.</p> <p>Both are considered as living entities, which Aboriginal and Torres Strait Islander Peoples have strong Cultural obligations to protect and be custodians of.</p> <p>Water reform and planning processes for surface and groundwater must consider Aboriginal and Torres Strait Islander rights and interests.</p>
3.4	Agree to the following principles, as recommended in the 2021 Interim report	Agree	The Committee encourages inclusion of the principles related to Aboriginal and Torres Strait Islander people, as outlined in the Insights Paper.

No.	Advice	Position	Response
	<ol style="list-style-type: none"> <li>1 Capacity to contend with droughts, floods and shocks, and to adapt to a changing climate, is strong.</li> <li>2 Regulation, governance and management are fit for purpose.</li> <li>3 All decisions are based on the best available evidence and information.</li> <li>4 Innovation and continuous improvement are encouraged and adaptive management is required.</li> <li>5 Communities are engaged effectively before decisions that impact them are made.</li> <li>6 Communities are provided with sufficient information to enable effective engagement.</li> </ol>		<p>In particular, the principles of:</p> <ul style="list-style-type: none"> <li>• incorporating Aboriginal and Torres Strait Islander Peoples’ rights and interests, as well as knowledge and perspectives, into all aspects of water planning, management, trade/accounting and governance.</li> <li>• Ensuring free, prior and informed consent, as well as robust knowledge sharing pathways.</li> <li>• Protecting Indigenous Cultural Intellectual Property and Knowledge.</li> </ul>
3.5	<p>Inclusion of various elements to effect the goal, objectives and principles</p> <p><b>Water resource management</b></p> <ol style="list-style-type: none"> <li>1 Water access entitlements and planning frameworks</li> <li>2 Water markets and trading</li> <li>3 Environmental management</li> <li>4 Aboriginal and Torres Strait Islander people’s interests in water</li> <li>5 System integrity</li> </ol> <p><b>Water services provision</b></p> <ol style="list-style-type: none"> <li>1 Pricing and institutional arrangements</li> <li>2 Urban water services</li> <li>3 Infrastructure development</li> </ol> <p><b>Supporting arrangements</b></p> <ol style="list-style-type: none"> <li>1 Community engagement, and adjustment</li> <li>2 Knowledge, capacity and capability building</li> </ol>	Agree	<p>The Committee welcomes the inclusion of an element on Aboriginal and Torres Strait Islander People’s water interests.</p> <p>The Committee encourages the NWA to ensure consistent language is used, as in the Insights Paper.</p>

## 9 Response to specific recommendations and findings

This table provides a line-by-line response to the specific recommendations made by the Productivity Commission in their interim report.

The recommendations below have been summarised. Please refer to the full interim report to read the full recommendations.

**Table 1 Response to specific recommendations and findings.**

No.	Recommendation	Position	Response
<b>Governance for a renewed national approach to water reform</b>			
<b>GENERAL COMMENTARY</b>			
<p>The Committee supports the strengthening of water governance arrangements. Particularly, strong political leadership at all levels will be required to continue the momentum gained and achieve progress over the life of the next NWA. Transparent and regular reporting of progress – with specific data disaggregation for Aboriginal and Torres Strait Islander Peoples – will be required to ensure implementation is on track and ensure a continuous improvement approach.</p> <p>The Committee stresses the ongoing importance for governments to engage with Traditional Owners and a broad range of Aboriginal and Torres Strait Islander organisations and communities to ensure their diverse voices and views are considered.</p> <p>With that said, the proposal for the Committee to play an integral role in working with government to draft the NWA is welcomed. The Committee reiterates its commitment to continuing to actively work with the Australian Government and jurisdictions to ensure the highest consideration of Aboriginal and Torres Strait Islander Peoples in the draft NWA. Consideration of additional funding will be required to ensure the Committee and Secretariat is adequately resourced to fulfil this important function. This should not replace the need for early, often and genuine engagement with the diverse range of Aboriginal and Torres Strait Islander Peoples.</p>			
<b>First Nations' water interests</b>			
<b>GENERAL COMMENTARY</b>			
<p>The Committee concurs with the report's findings that:</p> <ul style="list-style-type: none"> <li>• there has been little progress on Aboriginal and Torres Strait Islander Peoples' water ownership and the sourcing of water for people;</li> <li>• Aboriginal and Torres Strait Islander Peoples are under-represented and often not meaningfully engaged by governments in water planning and management decision-making processes;</li> <li>• Aboriginal and Torres Strait Islander Peoples' access to water remains low, with governments not meeting water commitments under the National Agreement on Closing the Gap; and</li> <li>• Aboriginal and Torres Strait Islander People have deep traditional physical and knowledge connections with water and how to manage and improve river resilience and health.</li> </ul> <p>The Committee welcomes the reports reference to national and international mechanisms such as the United Nations Declaration on the Rights of Indigenous People (UNDRIP) and the National Agreement on Closing the Gap. These outline key rights-based standards and commitments that all government policies should align with. Gaining important momentum is the recognition of rivers as legal entities, although there is much more that needs to be done to embed this in Australia's national water frameworks. The Committee view the NWA as a key mechanism in which to implement this concept.</p> <p>The Committee also welcomes reference to several of the values and principles outlined in the Insights Paper, such as the concepts of protection of Indigenous Cultural Intellectual Property and Knowledge, and that water and land, in all their forms, are interconnected living entities. The Committee recommends that the report further consider the remaining values, principles and actions outlined in the Insights Paper. The Committee is developing 'water actions' that align with these values and principles, which can be used by governments when developing frameworks, strategies and water plans.</p>			

No.	Recommendation	Position	Response
	<p>The Committee reiterates the importance of engaging Aboriginal and Torres Strait Islander peoples in a genuine and meaningful way which supports their free, prior and informed consent. It is only through this way that Aboriginal and Torres Strait Islander water interests can be fully identified, understood and included.</p> <p>Particularly, the Committee fully supports the explicit inclusion of cultural objectives in water plans and monitoring and evaluation processes.</p>		
<b>Water security in a changing climate</b>			
<b>GENERAL COMMENTARY</b>			
<p>Access to sufficient, safe and affordable water is a basic human right under international law. <i>The United Nations Declaration on the Rights of Indigenous Peoples</i> also outlines international Indigenous rights to conserve, protect and economically develop water.</p> <p>Like many non-Indigenous communities, Aboriginal and Torres Strait Islander people’s water security and access to water will be increasingly impacted by climate change. There are distinct differences here though that need to be taken into account.</p> <p>We know that many Aboriginal and Torres Strait Islander people have lower access to water than non-Indigenous Australians, particularly those in remote and very remote communities. This may be further compounded by long periods of drought, less marine (sea or river) resources as a result of worsening weather and sea level rise and bushfires. Capacity to respond to climate change disasters also reduces with increasing remoteness. For example, reduced rainfall, damage to water desalination infrastructure or supply chain disruptions in Torres Strait Islander communities have required island communities to ration water or, failing that, migrate to other islands or the mainland to access clean water. Further, noting the relationship between Indigenous people’s cultural vitality and resilience, and waters and its resources, climate change may impact Indigenous people’s identity and belonging, culture, customs, practices and sharing of cultural knowledge. Aboriginal and Torres Strait Islander people have vital traditional ecological knowledge which can assist in developing local climate and disaster mitigation strategies to help protect the broader community. This will require inclusion in local planning processes and conscious efforts to protect Indigenous Cultural and intellectual knowledge and property.</p>			
3.1	<p><b>DRAFT RECOMMENDATION:</b> Develop a shared understanding or common definition of water security that includes setting out what outcomes are to be achieved, recognising the risks to water security will differ between jurisdictions and within jurisdictions – which will be a matter for each party to transparently assess and communicate.</p>	Agree	<p>The Committee encourages specific consideration of the impact of climate change on Aboriginal and Torres Strait Islander peoples, including in any development of water security definitions and approaches, infrastructure development, and urban water planning.</p> <p>This must necessarily include the engagement of Aboriginal and Torres Strait Islander peoples across Australia to identify specific place-based climate change risks and challenges associated with water.</p>
3.2	<p><b>DRAFT RECOMMENDATION:</b> Consider all extreme climate events in water planning. Governments should adopt the principles set out in the National Water Reform report 2021, focusing on this broader range of events.</p>	Agree	As above.
3.3	<p><b>DRAFT RECOMMENDATION:</b> All Australian governments should collectively model and plan for changed water demand as a result of necessary climate change mitigation measures. All solutions will have water demands that need to be estimated and planned for.</p> <p>Findings should be integrated into both net zero strategies and sustainable water strategies to ensure sufficient water is available to enable Australia’s transition to net zero emissions.</p>	Agree	<p>As above.</p> <p>Specific consideration (e.g. in modelling projections) should be given as to how the increased demand on water resources as a result of the broader Net Zero agenda will impact on ownership and access for Aboriginal and Torres Strait Islander peoples.</p>
<b>Water access entitlements and planning frameworks</b>			

No.	Recommendation	Position	Response
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**GENERAL COMMENTARY**

The Committee recognises that the NWI does not deal with Aboriginal and Torres Strait Islander Peoples’ water ownership and access in any depth. The NWA will be an important policy document that sets the strategic ambition to improve Aboriginal and Torres Strait Islander Peoples’ ownership of and access to water for all potential uses, including Cultural, spiritual, social, environmental and economic uses. The Committee has been working closely with DCCEEW to incorporate appropriate considerations into the NWA, including principles around Aboriginal and Torres Strait Islander Peoples’ ownership and management of water.

Importantly, jurisdiction frameworks will need to action this strategic ambition. The Committee recognises that some jurisdictions have arrangements in place for Aboriginal and Torres Strait Islander Peoples’ water ownership, access and use, but these have often been retrofitted into existing frameworks designed with water use for agriculture and town use in mind, as the priority. The Committee encourages jurisdictions to explore the many different potential water ownership and access models and arrangements for Aboriginal and Torres Strait Islander Peoples, including native title, trusts, entitlements, temporary licences and strategic water reserves. The Committee strongly recommends that jurisdictions include Aboriginal and Torres Strait Islander rights and interests in decision-making around water access entitlements and planning frameworks when considering the trade-offs between economic, social and environmental considerations.

The Aboriginal Water Entitlements Program (AWEP) is a positive step towards achieving water access and entitlements for Aboriginal and Torres Strait Islander Peoples, although program delays have meant benefits for Aboriginal and Torres Strait Islander Peoples have not yet been realised and the sheer number of Aboriginal and Torres Strait Islander Peoples across Australia may result in the need to prioritise and limit allocations across groups.

**Water markets and trading**

**GENERAL COMMENTARY**

While the report finds that trade barriers (with the exclusion of some trade restrictions and interstate trade barriers) have been largely removed, the Committee notes that the Aboriginal and Torres Strait Islander People continue to face inherent institutional and non-institutional barriers to water markets and trading, including pricing, metering and involvement in capacity building initiatives. The Committee considers there is a need to identify and work to remove the specific barriers to water trading for Aboriginal and Torres Strait Islander Peoples.

The Committee commends the Productivity Commission for seeking further information on potential barriers to better inform consideration of this in the NWA. The Committee is committed to working with the Productivity Commission to better step these barriers out.

5.1	<b>DRAFT FINDING:</b> Further improvements to water registers, such as including current entitlement and allocation information, real time (or recent) trade data, and that registers are freely accessible by the public, and ideally, easy to search, would increase the efficacy of registers in supporting trade in water entitlements.	Agree	The Committee recommends water registers be amended to allow for disaggregated Aboriginal and Torres Strait Islander data to ensure transparency and accountability.  Specifically, this could include an Indigenous identifier and categories of trade to support the monitoring evaluation of Aboriginal and Torres Strait Islander Peoples’ ownership and control of inland waters (under the National Agreement on Closing the Gap)
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**Pricing and institutional arrangements**

**GENERAL COMMENTARY**

As above. Specifically, the Committee considers it important for the NWA to consider potential barriers and challenges around pricing functions, regulation and arrangements (e.g. assessing infrastructure) for Aboriginal and Torres Strait Islander peoples. Specific consideration should be given to how to support Aboriginal and Torres Strait Islander peoples in this space. As examples, lower holding and delivery fees for Aboriginal and Torres Strait Islander corporations to reduce the barriers to entering the market, specific consideration of the impacts of full-cost recovery models and prioritisation of Aboriginal and Torres Strait Islander Peoples perspectives in viability assessments. We note that all initiative needs to consider any unintended consequences on Aboriginal and Torres Strait Islander Peoples which may in effect impede their ability to enter the market (e.g. increased consumption-based prices).

6.1	<b>DRAFT FINDING:</b> Some governments have moved away from NWI commitments to deliver cost reflective and consumption-based pricing	Agree	
6.2	<b>DRAFT FINDING:</b> Government decision making for major water infrastructure is	Agree	The Committee welcomes the recommendation to specify and measure Cultural and environmental

No.	Recommendation	Position	Response
	<p>not fully compliant with the NWI, with a number of major government-funded infrastructure developments not being subjected to a transparent assessment of the costs and benefits of the proposal, or to independent scrutiny.</p> <p>Further, a number of successfully funded investment projects – including those funded under the Australian Government’s National Water Grid program – were funded even where the assessed costs of the project outweighed the measured benefits to the community.</p>		<p>outcomes. Furthermore, there is a need to identify and consider any Cultural <i>impacts</i> in the planning process and ensure both the impacts and outcomes are sufficiently prioritised alongside other criteria (including funding amounts) in the decision-making process. This includes the potential opportunity costs to Cultural and ecosystem services.</p>
<p><b>Integrated management of water for environmental and other public benefit outcomes</b></p>			
<p><b>GENERAL COMMENTARY</b></p> <p>The Committee welcomes the approach to better integrate non-financial considerations in water management.</p> <p>The Committee notes that Cultural outcomes for Aboriginal and Torres Strait Islander Peoples are separate and distinct from environmental and public benefit outcomes and should be considered as such.</p> <p>The Committee further notes that it may take years for environmental and public benefit outcomes to be realised or visibly observed, which often makes it difficult to elevate considerations of these components in the decision-making processes when compared to more tangible outcomes such as service delivery and prices. The NWA should be clear that each have its own merit and be considered as equal to each other.</p> <p>This does mean that it will be critical in ensuring a robust monitoring, evaluation and learning framework to track short, medium and long-term progress and to ensure ongoing accountability for achieving outcomes related to Aboriginal and Torres Strait Islander Peoples, environment and public benefits that are traditionally hard to track.</p>			
7.1	<p><b>DRAFT FINDING:</b> There remain inconsistencies between jurisdictions about how environmental outcomes are defined in water plans, their level of detail and indicators.</p>	Agree	
7.2	<p><b>DRAFT FINDING:</b> There is very little reporting on:</p> <ul style="list-style-type: none"> <li>what both held and planned environmental water achieved in terms of outcomes</li> <li>the counterfactual – that is, what would have happened if the water hadn’t been delivered, and,</li> <li>whether the environmental water allocations are sufficient to achieve environmental outcomes specified in water plans.</li> </ul>	Agree	
7.3	<p><b>DRAFT FINDING:</b> There is no consistent basis for independent audit of whether environmental and public benefit outcomes from environmental water have been achieved, the adequacy of water provision for these objectives, or the performance of environmental water managers. While most jurisdictions have built-in reviews of their water management plans, these are not always</p>	Agree	<p>The Committee welcomes the recommendation for independent auditing and review. The Committee recommends that an appropriate Aboriginal and Torres Strait Islander representative be included in the auditing team to ensure that Aboriginal and Torres Strait Islander Peoples’ perspectives are being taken into account in the review process.</p>



No.	Recommendation	Position	Response
	undertaken in a timely manner or by an independent body.		
<b>Water resource accounting</b>			
<b>GENERAL COMMENTARY</b>			
The Committee encourages that water accounting information be provided to Aboriginal and Torres Strait Islander Peoples in a format that is easily accessible and understandable. This is required to support their free, prior and informed consent to engage on water resource accounting matters.			
8.1	<p><b>DRAFT FINDING:</b> No states or territories are on track to meet their commitment to have all new and replacement meters AS4747 compliant by July 2025. This undermines the ability of states to conduct proper measurement of watering limits and increases the risk of unreported water use and overextraction.</p> <p>The private benefits for water users to upgrade their water meters to AS4747 standard are low and therefore not a sufficient incentive to upgrade.</p>	Agree	<p>Without appropriate metering installed (and compliance enforced, which we note is improving), there may be real impacts on Cultural and environmental outcomes that have flow-on impacts for Aboriginal and Torres Strait Islander Peoples. For example, this may mean that there is less water for Aboriginal and Torres Strait Islander Peoples, which may be acutely felt where water is already over-allocated.</p> <p>Ensuring these are in place will increase Aboriginal and Torres Strait Islander Peoples trust in institutional arrangements to appropriate account and manage water.</p> <p>The Committee encourages government to address the barriers to metering (e.g. regulation, knowledge and information) in a timely manner to ensure these are addressed under the NWA.</p>
8.2	<p><b>DRAFT RECOMMENDATION:</b> Jurisdictions should improve the rollout of AS4747 through annual compliance reporting and active engagement to build metering compliance for non-urban water users, as well as higher interim standards or grandfathered water meters.</p>	Agree	
<b>Urban water reform</b>			
<b>GENERAL COMMENTARY</b>			
See previous comments on human rights in relation to water.			
The Committee notes the importance of urban water reform – and particularly urban water quality, quantity and accessibility – given the majority of Aboriginal and Torres Strait Islander Peoples reside in urban locations.			
We also note though that Aboriginal and Torres Strait Islander Peoples in remote and very remote locations face additional, compounding challenges to water quality, quantity and accessibility which requires equal (if not more) attention. In particular, ongoing operations and maintenance in such locations is costly and difficult due to factors relating to remoteness, price and sometimes harsher environmental conditions.			
9.1	<p><b>DRAFT FINDING:</b> There continues to be drinking water quality issues in some remote areas of Australia caused by exceedances in the chemical health standards outlined in the ADWG. In addition, exceedances of aesthetic parameters such as colour, palatability have led to acceptability issues. This is leading to a loss of confidence in the water supply amongst the community in these areas.</p>	Agree	

No.	Recommendation	Position	Response
9.2	<p><b>DRAFT FINDING:</b> The detail, consistency and availability of drinking water quality reports continues to vary for regional and remote areas.</p> <p>There have been improvements to the publication of data across all ADWG standards for the regions and communities serviced by Power and Water Corporation in the Northern Territory. Also, from July 2024 service providers with under 10,000 connections will now report on the water quality risk management guidelines used as part of the National Performance Report.</p> <p>Further development is required to centralise the reporting of drinking water quality indicators, such as percentage of the population where microbiological compliance was achieved, percentage of the population where chemical compliance is met and the number of boil water alerts issued.</p>	Agree	See previous commentary on human-rights and international laws.

#### Knowledge and capacity building

##### GENERAL COMMENTARY

To ensure that Aboriginal and Torres Strait Islander peoples can sufficiently and appropriately engage in water discussions and processes, there will be a need to raise the level of water literacy among communities and build their capacity to engage by establishing appropriate mechanisms to support their full and informed participation (in line with the United Nations Declaration on the Rights of Indigenous Peoples).

This will necessarily include improving the two-way sharing of information with Aboriginal and Torres Strait Islander peoples in a clear and appropriate way as well as establishing appropriate forums to engage with and across government, peak/representative organisations and local communities. While most Aboriginal and Torres Strait Islander People are happy to receive information as a collective (particularly to reduce consultation fatigue), due regard in engagement and decision-making must be given to local ways of governing and cultural systems (inclusive of knowledge, beliefs, ideas, values, powers, laws, meanings and relationships).

#### Community partnerships and adjustment

##### GENERAL COMMENTARY

See previous comments around rights-based, best practice ways of engaging Aboriginal and Torres Strait Islander Peoples.

#### Public Engagement

##### GENERAL COMMENTARY

As above.

#### Assessment of progress ratings and indicators

##### GENERAL COMMENTARY

A robust monitoring, evaluation and learning framework will be critical to tracking short, medium and long-term progress and to ensure ongoing accountability for achieving outcomes related to Aboriginal and Torres Strait Islander Peoples. This framework should include qualitative indicators and reporting to ensure Aboriginal and Torres Strait Islander voices and experiences are heard and considered, in addition to quantitative indicators and reporting.

# 10 Response Information Requests

The Committee welcomes the Productivity Commission’s request for more information on the below matters so that its analysis and recommendations are well-informed as possible. The Committee requires further time to sufficiently consider their response to this.

Specifically on Request No. 2.1, the Committee advises that, to do this most effectively, the Productivity Commission would require specific engagement with Aboriginal and Torres Strait Islander Peoples to fully identify and consider such barriers. The Committee is committed to working with the Productivity Commission to provide additional information as necessary.

**Table 2 List of information requests.**

No.	Information Request
2.1	What are the policy, administrative or other barriers to Aboriginal and Torres Strait Islander Peoples being able to access and own water, particularly from Strategic Aboriginal Water Reserves in Queensland, Western Australia and the Northern Territory?
3.1	What nationally agreed priority outcomes of water security should form part of a renewed NWI? How should these outcomes be treated when considering trade-offs between competing priorities and the management of risk when addressing water security concerns?
4.1	How can a renewed NWI assist jurisdictions in establishing a consistent approach to developing climate change triggers and rebalancing processes? How can common principles help manage uncertainty, and jurisdictional and regional differences?
7.1	Where water resources have been identified as overallocated outside of the Murray-Darling Basin and options identified to recover water to meet environmental outcomes, the Commission invites further information on: <ul style="list-style-type: none"> <li>the estimated cost of the options considered</li> <li>reasoning behind the selection of the options implemented if not the most cost-effective</li> <li>any programs or measures implemented to mitigate any identified socio-economic impacts with the selected options</li> </ul>
8.1	What are the main causes of the low uptake of AS4747 meters by non-urban water users for new and replacement meters, and what targeted interventions would be most cost-effective in addressing this low uptake? What are the public benefits of metering? The Commission has heard that there is a shortage of Certified Meter Installers and Duly Qualified Persons. What is causing the shortage, and how can it be overcome?
11.1	In the past three years, what, if any, improvements have been made by governments to improve community engagement processes? Where engagement has occurred or feedback provided by community groups, do those groups feel they have a greater understanding of how decisions were taken and what consideration was given to community views?

# 11 Attachments

- Insights Paper
- History of Aboriginal and Torres Strait Islander Peoples' water interests, advocacy and reform
- Timeline of Aboriginal and Torres Strait Islander Peoples' water interests, advocacy and reform

