



19 February 2007

By email: submissions@kiri-ganai.com.au

Kiri-ganai Research Pty Ltd
GPO Box 103
CANBERRA ACT 2601

Dear Sir/Madam

Submission to First Biennial Assessment of the National Water Initiative

The Consumer Action Law Centre (**Consumer Action**) is pleased to have the opportunity to provide input to the First Biennial Assessment of the National Water Initiative (**NWI**).

About Consumer Action

Consumer Action is an independent, not-for-profit, campaign focused, casework and policy organisation. It is formed by the merger of the Consumer Law Centre Victoria and the Consumer Credit Legal Service, and builds on the significant strengths of these two centres.

Consumer Action provides free legal advice and representation to vulnerable and disadvantaged consumers across Victoria, and is the largest specialist consumer legal practice in Australia. Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and throughout the community directly.

Background

Water is fundamental to life and is an essential component of Australia's prosperity. However, Australia is now experiencing a period of water scarcity and there are compelling pressures to use water more efficiently in both urban and rural Australia. Consumer Action is very supportive of the NWI as an example of inter-governmental cooperation to address issues relating to water scarcity.

Consumer Action is, however, particularly concerned about the impact of the NWI and national water policy on consumers and the public interest. In our view, the provision of water and wastewater services does not only have economic and environmental implications and consideration must be given to the full range of public

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benefits, including social outcomes. While the NWI does recognise that the objectives of water management are economic, environmental and social, we are concerned that there is scant detail about the social issues, and that the NWI is being implemented without due consideration of the social impact of water planning and management. We strongly believe that access to water for essential purposes is a human right which must be guaranteed.¹ In our view, this means that consumers should have access to an essential water supply on an affordable basis.

While Consumer Action is primarily concerned about consumers' access to an essential supply of water, we do support the five guiding principles of the Wentworth Group of Concerned Scientists in their Blueprint for a National Water Plan:

- all Australians have a right to an adequate supply of safe water for domestic use;
- we all have a responsibility to use water efficiently;
- our rivers, groundwater systems and landscapes must be managed to maintain the health of our ecosystems so they can provide for the variety of current and future human needs;
- those who use fresh water to create wealth need investment security and should take responsibility for their part in sustainable water management; and
- Australians must become water literate and understand the effects that water use has on our environment and other people.²

In the remainder of this submission we will focus on the following key elements of the NWI:

- best practice water pricing;
- urban water reform;
- knowledge and capacity building; and
- community partnerships and adjustment.

Best practice water pricing

Water tariff design

The NWI promotes consumption based pricing and full cost recovery for water services.³ We support these goals subject to an allowance being made for water businesses to price water at an affordable level for essential purposes. We also believe that best practice water pricing should encourage innovative tariff structures that take into consideration the issue of affordability.

In 2004, metropolitan businesses in Melbourne introduced a three-level rising block tariff for residential customers. The first block of this tariff, set at a level based on an estimate of non-discretionary indoor use, aims to ensure that consumers have affordable access to water for essential purposes. Such tariffs are also thought to create greater incentives to consumers to reduce wasteful water use by increasing the price of water after each block threshold is reached. It is our view that such tariff structures are consistent with consumption based pricing and full cost recovery principles.

¹ Consumer Law Centre Victoria (CLCV) and Environment Victoria, *Water: Access: Affordability and Sustainability*, April 2005 at 6-13, available at <http://www.clcv.net.au/index.aspx?id=191&newsid=14>.

² Wentworth Group of Concerned Scientists, *Blue Print for National Water Reform*, 31 July 2003.

³ NWI, paragraph 65(i) and (ii).

Alternative or “social” tariffs could also assist consumers suffering from affordability problems. Such tariffs can target particular consumers who do not benefit from current income support measures or government concessions but still have affordability problems (such as large families who have less elasticity in their demand for water and may be pushed onto higher inclining blocks). In our view, tariffs with such objectives can be constructed consistent with the NWI objective that water businesses recover the full cost of provision through their prices. Innovative proposals relating to household water allocations should also be tested thoroughly through the auspices of best practice water pricing.

National guidelines for water accounts

We support the NWI action to develop national guidelines for customers’ water accounts that provide information on their water use relative to equivalent households in the community⁴ and welcome the release of the guidelines prepared by the National Resource Management Ministerial Council. In our view, water accounts are an important method by which consumers can understand and monitor their water usage. We believe, however, that data relating to water usage should continue to encourage water saving even where consumers are currently consuming below average levels. We are concerned that there may be a perverse signal for some consumers to increase usage where their usage is currently below average.

We support the proposal that the guidelines be seen as a starting point and that the Expert Group, under the auspices of the Water Services Association of Australia, regularly reviews the information on water accounts. It is our view, however, that consumer representatives should have direct input into the reviews, perhaps through membership of the Expert Group.

Pricing policies for water recycling

We agree that there is a need to stimulate a more innovative water industry to encourage the efficient use of potable water. As such, the replacement of potable water with treated water for appropriate uses should be brought within the CoAG reform process. It should be recognised, however, that as use of recycled water becomes more widespread through mandated use in new developments, recycled water will also become an essential service for many domestic consumers. Users who are required to enter into a contractual arrangement for the supply of recycled water are captive customers of the water agency in the same way as customers of potable water and sewerage monopolies. As such, consumers need to be protected from abuses of monopoly power in terms of prices, pricing policies and standards of services. The implementation of the NWI action in relation to pricing policies of water recycling⁵ must ensure that there is adequate regulatory oversight in relation to recycled water prices.

Urban water reform

The NWI actions in relation to urban water reform focus on demand management and the implementation of water sensitive urban design. It is our view that water efficiency measures are the most effective policy measure available and that there is scope to extend the NWI in relation to water efficiency.

⁴ NWI, paragraph 66(iv).

⁵ NWI, paragraph 66(ii).

We particularly support the NWI actions in relation to the Water Efficiency Labelling Scheme (**WELS**) and the Smart Water Mark for household gardens and garden irrigation equipment. We see a need, however, for further work to be done in relation to the water efficiency of households.

In Victoria, mandatory water savings measures are now required for all new houses under the 5 star homes scheme. Similarly plumbing regulations require conservation of water usage by restricting water pressure and flow rates to new buildings and the installation of water tanks for collection of water from roofs and connection of the water tanks to toilets where there is a new connected to a reticulated water supply.⁶

Mandatory water efficiency standards now need to be extended to existing houses and buildings so as to broaden the capacity of consumers to save water. For tenanted properties, we suggest that specific standards for water fittings and appliances should be mandated. There are currently minimal incentives for landlords to install water savings appliances, such as rainwater tanks, low flow showerheads, dual flush toilets or soil moisture sensors for irrigation systems. Further, the cost of installing such appliances are beyond most tenants, who are generally on lesser incomes than home owners, and tenants do not benefit from the associated improvement in capital value of the tenanted properties. The establishment of minimum standards for water fittings and appliances in rental housing can overcome these barriers to usage change for both landlords and tenants. It is our view that a robust analysis of the costs and benefits of such mandatory water standards can be best undertaken as part of the implementation of the NWI. The NWI could also consider other mechanisms to encourage homeowners to install water efficient appliances, for example through tax rebates for landlords to install water efficient products in rental accommodation.

For people on low-incomes, water efficiency has the dual benefit of reducing water use and reducing payment obligations for those having difficulties paying. We note, however, that the latter benefit is an important social objective of water management that the NWI currently does not explicitly address. In Victoria, energy and water businesses are required by law to have hardship policies that detail the ways in which the retailers deal with people experiencing financial hardship. For energy retailers, there is a requirement that financial hardship policies must include provision for the auditing of a consumer's energy usage.⁷ Such auditing has the potential to greatly assist consumers suffering hardship manage both their usage and financial obligations. We believe that the NWI could be used to extend such obligations to water businesses nationally.

We believe that urban water sustainability strategies should also include other demand management strategies to achieve water-use efficiency, and the consideration of incentives and regulation to progressively improve storm water management and water reuse systems. As noted above, the provision of recycled water is being mandated in some new developments and various jurisdictions have instituted water recycling targets. In this context, there is scope for the NWI to coordinate a consistent and principled approach to the use of recycled water that takes into account consumer interests and public health outcomes.

⁶ *Plumbing (Water and Energy Saving) Regulations 2004 (Vic).*

⁷ *Electricity Industry Act 2000 (Vic), s 43(2)(b) and Gas Industry Act 2001 (Vic), s 48G(2)(b).*

Knowledge and capacity building

The NWI encourages improved knowledge and capacity building so that various areas of water reform in the NWI can be effectively implemented.⁸ This is undertaken primarily through the Raising National Water Standards program, managed by the National Water Commission (**NWC**). We agree that the outcome of knowledge and capacity building will assist in underpinning the implementation of the NWI.

We are concerned, however, that such knowledge and capacity building activities are being undertaken without consumer and community consultation. It is our view that effective consumer and community consultation is integral to knowledge and capacity building. Without the input of consumers and the community more generally, there is a risk that robust understandings about water usage and the development of water policy more generally will be impinged.

We understand that the NWC has been progressing NWI reform activities through working groups of officials in different areas. For example, we understand that there is a current NWC project to develop guidelines for consistent approaches to pricing,⁹ as well as a review in relation to restrictions policies. Both these work streams are notable for their lack of involvement of consumer representatives. Consumer response to both water pricing and water restrictions as tools impacting upon water demand is integral to the success of the policies. As such, we find it bewildering that the NWC has not sought any meaningful input from consumer representatives. We believe that the NWI's effectiveness to contribute to a change in consumer behaviour with respect to water use, and to ensure that the social objectives of the NWI are met, will be significantly hampered without improved consumer consultation.

Community partnerships and adjustment

We are generally pleased with how the Victorian Government has responded to its NWI commitments in relation to community consultation, particularly with respect to water management planning and economic regulation. However, we are concerned about the level and type of customer consultation by the water industry. Considering that the model for setting prices and service levels relies upon the water businesses providing proposals, and the independent regulator approving (or altering) those proposals, we believe that water businesses' consultation with consumers is fundamental to achieving price/service outcomes that accord with consumer needs and preferences. A forthcoming research report by Consumer Action on the first Victorian water price review concludes that poor customer consultation significantly impinges upon the ability of the water price review process to bring about outcomes that are beneficial to consumers. We believe that the NWI might be a good vehicle for improving water businesses' customer consultation processes.

We are pleased that the NWI is framed so as to deal with adjustment issues. However, it appears to us that the NWI, especially through its implementation by the NWC, views adjustment issues solely as impacting water access entitlement holders and communities. In our view, there are significant adjustment issues for certain residential consumers that also need to be addressed. For example, low-income households, households in poor accommodation and large families will all be impacted by changes to water service delivery and rising water prices. Failure to

⁸ NWI, paragraphs 98-101.

⁹ Australian Government, *Securing Australia's Water Future*, July 2006, p 3.

consider such impacts as requiring adjustment assistance demonstrates the failure of the parties implementing the NWI to address the social objectives of the NWI.

Should you have any questions about this submission, please contact me on 03 9670 5088.

Yours sincerely

CONSUMER ACTION LAW CENTRE

A handwritten signature in black ink that reads "Gerard Brody". The signature is written in a cursive style with a large, sweeping initial 'G'.

Gerard Brody
Senior Policy Officer