

6 October 2020

John Madden
Director of Policy
Water: Department of Planning Industry & Environment



Sent via email:

Dear Mr Madden

Statutory review of WaterNSW Act 2014

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact upon people who are marginalised and facing disadvantage. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC welcomes the opportunity to respond to the statutory review of the WaterNSW Act 2014. This review occurs at an important time for water policy and governance, and represents an opportunity to ensure the function, role and objectives of WaterNSW support affordable and sustainable access to water services in NSW.

The current policy and legislated objectives lack the clarity and objectivity required to provide appropriate direction to the operation of WaterNSW so that it can be monitored and evaluated. PIAC recommends that the objectives of WaterNSW be amended as part of this process.

We note a range of inquiries and review processes have recommended reform of governance and responsibilities in water policy to provide greater clarity and alignment with strategic objectives. This review should consider the recommendations of these processes. In particular, we highlight the NSW Productivity Commission *Continuing the: Productivity Conversation Green Paper*¹, and the NSW Audit Office performance audit reports, *Support for regional town water infrastructure*² and *Water conservation in Greater Sydney*.

PIAC considers there is value in re-examining WaterNSW's role managing water storages, catchments and declared areas within Greater Sydney. There is potential to rationalise roles in this area, and confer responsibility for the management of water catchments, resources and infrastructure to Sydney Water. Specifically, we note the following considerations:

- Both WaterNSW and Sydney Water are state owned corporations (SOCs), which are regulated monopoly businesses requiring return on investment and the payment of dividends. Rationalisation may result in material efficiencies and savings for the community.
- Both WaterNSW and Sydney Water currently have responsibilities regarding the management of water catchments, storages and services within the Greater Sydney area.

¹ NSW Productivity Commission ['Continuing the: Productivity Conversation Green paper'](#) September 2020

² Audit Office of NSW. [Published Performance Audits](#)

This sharing of responsibility potentially results in duplication, fragmentation, and gaps in responsibility, undermining the efficiency of operations of both SOCs.

- WaterNSW was established as a source of expertise and capacity in safe and efficient management of water storage and resources. Sydney Water is a larger entity, with greater resources and focus upon management of water resources and services in the Sydney region.
- Sydney Water has a more enduring, functional link to the community and its consumers, and is better able to engage and respond to their needs and preferences. This ability to effectively link community preferences to long-term decision making would be enhanced with consolidated responsibility for the Greater Sydney Area.

Do the policy objectives remain fit for purpose?

The policy objectives are not currently fit for purpose and should be updated to improve clarity, and recognise the need to manage the impacts and risks of climate change on the long term sustainability and security of water resources. Specifically:

- The first objective refers to 'first class management', which is a vague and subjective term that provides no objective direction or basis for performance assessment. It should be amended to specify what constitutes effective management of storage and supply in bulk water. There is also value in directly linking to long term planning objectives currently under development.
- The second objective refers to 'greater clarity' in operation of infrastructure. This is also a vague and relative term that cannot be meaningfully evaluated. This should be amended to provide an objective for 'transparency and clarity in the operation of infrastructure, supporting the efficiency and sustainability of water storage and resources in NSW'.
- The third objective should be amended to provide greater focus as to the 'responsive and appropriate' management of catchments. This should explicitly focus on: 'catchment management in the long term interests of the community, with respect to water quality, public health, sustainability and resilience to the impacts of climate change.'

Do the legislated principle and other objectives of WaterNSW need to be updated, amended or expanded to include any other matters?

The legislated objectives are not currently fit for purpose and need to be amended to reflect updated policy objectives and link directly and transparently to the objectives and principles established during current strategic planning processes for water in NSW.

Legislated objectives must be consistent with long term planning principles and provide a mechanism for the evaluation of progress against objectives. In particular, PIAC highlights the need to ensure clearer objectives to:

- Operate storages and water sources and resources in the long term interests of the community;
- Manage catchments and the surrounding environments to ensure their long term sustainability and security; and
- Manage catchments, storages and water resources to recognise and mitigate the risks resulting from the impacts of climate change.

Continued engagement

PIAC would welcome the opportunity to meet with the Department and other stakeholders to discuss these issues in more depth.

Yours sincerely,

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Public Interest Advocacy Centre

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