



Australian Government
**Department of Agriculture
and Water Resources**

SECRETARY

Ref: EC17-000552

Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Dear Mr Hehir

Thank you for the opportunity to respond to the proposed assurance review report on the *Department of Agriculture and Water Resources' assessment of New South Wales' protection and use of environmental water under the National Partnership Agreement on Implementing Water Reform in the Murray-Darling Basin*, prepared by the Australian National Audit Office (ANAO).

As noted in the assurance review report, the Department has followed the processes agreed under the Murray-Darling National Partnership Agreement (NPA) for monitoring performance. I consider that the Murray-Darling NPA assessments undertaken by the Department have been appropriate and reasonable, based on the available information.

The following comments relate to the conclusions of the report that weaknesses exist within the framework established for assessment and that there was a lack of evidence and explanation to substantiate the Department's assessment of NSW's progress.

NPA assessment framework

The assurance review report states that the NPA assessment framework is weakened by *'the lack of specific, measurable deliverables, and outcome measures in the milestones and criteria for assessing performance'*. The report notes that the NPA reflects the outcomes framework of the *Intergovernmental Agreement on Federal Financial Relations*, and that the Department's assessment is based on criteria developed by the National Water Commission.

The Department agrees that there is value in having specific, objective measures to indicate progress in agreements of this kind. I would note that this NPA was negotiated and agreed with five other jurisdictions in 2013-14 and concludes on 30 June 2020. Under Clause 36 of the NPA, agreement of all the Parties would be required for variations to the agreement. Given this, it is unlikely to be cost effective to renegotiate the milestones prior to the NPA's conclusion. However, the Department will be considering the criteria used to assess progress against the NPA milestones based on the ANAO findings and the recommendations of the mid-term review of the NPA completed in August 2017.

Department's assessment process

Despite finding that the Department had followed agreed processes for monitoring performance, the report concludes that there was a lack of evidence used to substantiate the Department's assessment of NSW, particularly in light of information provided by the Murray-Darling Basin Authority (MDBA) and the Commonwealth Environmental Water Holder (CEWH). The report also claims that the Department did not provide adequate information to the Minister on these matters.

The Department does not agree with this finding.

The Department raised potential issues of concern early in 2015, specifically in relation to the Namoi Water Sharing Plan. The then Parliamentary Secretary to the Minister for the Environment wrote to the NSW Water Minister about this matter on 28 May 2015 and subsequently the MDBA was provided with detailed information on the actions being implemented to address these concerns.

On 5 April 2016, the Department again briefed on the Namoi issue – this time providing information to the Minister for Agriculture and Water Resources regarding the transitional water sharing plan. Subsequently, the Minister for Agriculture and Water Resources wrote to the NSW Water Minister who responded with an assurance that his proposed approach would address the issues raised. This exchange of letters provided strong evidence for the Department of a commitment at high levels in the NSW government to address these matters. The actions that immediately followed this demonstrated an intent to fulfil these commitments (e.g. fish study trials referred to in the NSW Statement of Assurance).

While this exchange of letters was occurring, the Department received correspondence from the CEWH on 18 April 2016 about his concerns. The Department considered that the Namoi issues raised by the CEWH were addressed by the response from the NSW Water Minister. The CEWH, when requested as part of the NPA assessment process in August 2016, did not raise this matter again.

Further progress was indicated by NSW during 2016 to address the areas of concern raised in the CEWH's correspondence, including submission to the MDBA of the required Prerequisite Policy Measures Implementation Plan and progress in renegotiation of the Nimmie-Caira project. This progress was taken into account by the Department in the performance assessment.

The Department's 2015-16 published assessment report noted the issues of concern raised by MDBA and the CEWH, as well as the progress made by NSW during the assessment period. As in previous years, the relevant public assessment report was provided as part of the NPA briefing to the Minister in 2016. The Department did not repeat the material on the Namoi in the covering brief to the Minister because he had been previously briefed on these matters (as referenced above).

The advice provided to the Minister by the Department each year has reflected the focus of the Murray-Darling NPA assessments on agreed milestones with environmental outcomes and where issues of concern have been raised the Department has reflected them in the relevant annual process. We acknowledge that it may be worthwhile to give

further detail around matters of concern in the annual assessment report to provide fuller information on progress.

I would note that all of the Department's assessments pre-date the compliance allegations raised by the *Four Corners* program in July of this year. The Department takes these matters very seriously. Each allegation needs to be treated on its individual merits and handled by the responsible government and entity best placed to resolve the issues.

Factual corrections

Paragraph 29 of the assurance review report states that "The Commonwealth Minister for Agriculture and Water Resources certified that NSW has met the performance benchmarks of the Murray-Darling Basin NPA based on departmental advice. Consequently, prescribed payments were made by Treasury in 2013-14, 2014-15 and 2015-16." The responsible Minister in 2013-14 was Senator the Hon Simon Birmingham, Parliamentary Secretary to the Minister for the Environment.

Also paragraph 29 states "In 2014-15 and 2015-16, DAWR recommended that it was appropriate for NSW to receive full payment ..." This may imply that there was scope for a partial payment, which was not possible. It would be correct to say that "... DAWR recommended for NSW to receive payment ..."

I request that you provide this response as part of your report.

Yours sincerely

[signed]

November 2017