



01 December 2023

Independent Review Taskforce
Department of Climate Change, Energy, the Environment and Water
Kind Edward Terrace
Parkes ACT 2600

Via email: Review_IGWC@dcceew.gov.au

Dear Mr. Harris AO,

RE: Independent Review of the Inspector-General of Water Compliance

The NFF was established in 1979 and is the authoritative voice of the Australian agriculture industry. The NFF serves as the national peak body representing the broad interests of farmers across geographical and commodity borders. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations in turn form the NFF. The NFF seeks to ensure that any legislative reform does not have a perverse or adverse impact on agricultural productivity.

Overview

The NFF welcomes the opportunity to provide a submission to the Independent Review Taskforce and provide feedback and comment to shape the strategic direction of the Final Report. While we acknowledge the purpose of this Interim Report is to address urgent matters that affect the functions of the Inspector-General of Water Compliance (IGWC) as stipulated in the provided Terms of Reference, comments on proposed signposts for the Final Report have also been detailed.

NFF Response

The IGWC plays a critical role in building confidence within the community and ensuring the efficient and effective administration of water compliance with existing legislative agreements across the Murray-Darling Basin. The ability of the IGWC to monitor and act upon associated issues is critical to safeguarding the long-term sustainability of the Basin, and by extension, the productive resources that it provides to the Australian community. The NFF does not tolerate any breakage of existing laws.

The establishment of an independent regulatory umpire that draws on resources and functions that previously belonged to the Murray-Darling Basin Authority (MDBA) is a worthwhile practice, and one we strongly support. The IGWC is a positive construct as it ensures institutions responsible for the implementation of the Murray-Darling Basin Plan are held to robust, regulatory oversight and accountability. Moving forward, the IGWC must



consider partitioning greater time and focus toward assessing the performance of institutions involved in the delivery of the Plan.

Data Reliability and Dependence

Assessment of compliance with SDLs now involves all three parties, resulting in several attached risks. For instance, the lengthening of the data assessment chain has delayed assessments of SDL compliance, this has the potential to create irrecoverable situations in water allocation. Additionally, IGWC dependence on data provided to it risks its ability to undertake independent, credible, and accurate judgements regarding the effectiveness of institutional efforts. This is a clear problem, and one that we agree could be mitigated through the development of methodologies that test the robustness of incoming data. The IGWC must consider how the lengthening of the data assessment chain will impact assessment timeframes and perceptions of its independence and make an informed decision as to whether to continue or modify this arrangement.

Duplication and Enforcement Powers

In recognition that duplication risks between States create an impediment to the effective regulatory function of the IGWC, NFF supports the recommendation to develop clear and formal understandings between regulators that outline the ability of the IGWC to act in the absence of a State effort. This would mitigate the likelihood of duplication risks and maximise operating efficiency – this should be pursued with urgency and priority.

Network Communication

NFF commends existing IGWC efforts to facilitate and maintain a network of regulators that hold common responsibilities in the Basin. Relationship building coupled with a continuous stream of communication ensures information and intelligence are actively shared between regulators. This improves strategic and operational decision-making capability, regulatory efficiency, and the ability of the IGWC to uncover and investigate irregularities with the limited resources at its disposal.

Governance and Organisational Structure

The NFF remains agnostic on the issue of IGWC governance structure (i.e. individual or Board arrangement). We hold no concern with the current governance structure and welcome a maintaining of the existing status-quo where the IGWC is led by a single individual. The proposal to create advisory panels to support the IGWC execute its functions is a welcome measure as it will ensure decision-making is appropriately informed by a diverse range of skills and experience.



Independence

It is the position of the NFF that the IGWC operates with independence.

While the Interim Report acknowledges that the IGWC budget is effectively a Departmental allocation that is not immune to the influence of political persuasion (i.e., restricted access to funds), the ability of the independent regulator to draw attention to such behaviour is argued to be a sufficient deterrent. NFF supports this view, and we encourage the exploration of additional mechanisms that preserve budgetary independence. As a principle of best practice, the budget of the IGWC should be established by parties outside its regulatory scope. This will enshrine community confidence.

Conclusion

The NFF thanks the Independent Review Taskforce for the opportunity to provide feedback and comment to this Interim Report. We look forward to the release of the Final Report anticipated January 2024, and request to be notified of any updated release timeframes as we approach the new year. Please do not hesitate to contact Warwick Ragg, General Manager via e-mail: WRagg@nff.org.au or phone (02) 6269 5666 at the first instance to progress this discussion.

Yours sincerely,

A handwritten signature in blue ink that reads "Tony Mahar".

TONY MAHAR
Chief Executive Officer