



## Natural Resources Access Regulator

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Locked Bag 5123,  
Parramatta NSW 2124

T 1800 633 362

[www.industry.nsw.gov.au/nrar](http://www.industry.nsw.gov.au/nrar)

OUT22/8909

Mr Stewart Little  
General Secretary  
Public Service Association of NSW  
By email: [showes@psa.asn.au](mailto:showes@psa.asn.au)

Dear Mr Little,

I write in response to your letter of 21 June 2022 in which you raise concerns regarding the proposed Natural Resources Access Regulator (NRAR) Change Management Plan (CMP). I will address each of the concerns raised below.

### **1. Reform proposes to move away from the legislated purpose of NRAR**

The Change Management Plan supports NRAR continuing to meet its statutory objectives under the *Natural Resources Access Regulator Act 2017*. Specifically, I envisage the proposed changes enable NRAR to be more efficient, more effective, more accountable, and more transparent. The proposed changes will enable us to build on our achievements secured during the first four years of our operation by responding effectively to the commitments of the NRAR Strategic Plan 2021–23.

There is no reduction in compliance and enforcement staff proposed in the CMP. On the contrary, our continued investment in compliance and enforcement will result in more front-line roles than the current state. This investment will improve delivery of our regulatory priorities and support delivery of our Strategic Plan.

A significant driver for change identified prior to development of the CMP was the need for NRAR to broaden its compliance efforts to increase voluntary compliance amongst the regulated community. I emphasise that effective and efficient enforcement and compliance includes the provision of advice and guidance, issuance of legal directions and, where appropriate the enforcement of sanctions, financial penalties and commencement of prosecutions.

On commencing operations in 2018, our structure was designed to address the immediate need to focus on enforcement activities, with investigators tasked to pursue legacy cases and the large volume of breach allegations that were reported to NRAR in its first years of operation. As we matured as a regulator and better defined the regulatory environment we operate in, the need to broaden our focus from reactively addressing reports of suspicious activity (which have decreased in number over time) to proactively pursuing identified areas of concern is imperative.



The Change Management Plan enables a broadened focus while still maintaining a strong and capable Investigations and Enforcement branch, now centralised into a single unit to improve consistency of approach and to support the professional development of staff. The newly formed Regulatory Initiatives branch are all compliance roles that will pursue priority programs and manage delivery of our regulatory priorities. This is a significant, new investment for NRAR. One that brings the opportunity of new roles being created in regional NSW. They will be assisted by colleagues from across the agency, including the Education and Engagement teams.

**2. Is the NRAR best placed to reduce the compliance and enforcement capacity and is this proposal informed by a reduction in compliance and enforcement activities?**

There will not be any reduction in compliance and enforcement activities. Our work to enable and encourage voluntary compliance continues, as too our strong track record of enforcing the law firmly and fairly.

The proposed structure allows us to focus on specific deterrence through investigations and enforcement, intelligence-led programs to improve long term compliance behaviour and education and engagement with industry and the regulated community.

To reiterate, there is no reduction in compliance and enforcement staff in the CMP. On the contrary, our continued investment in compliance and enforcement will result in more front-line roles than the current state. This investment will improve delivery of our regulatory priorities and support delivery of our Strategic Plan.

**3. Why affect so many staff when NRAR has over 32 roles that it can use to reform?**

Our core operational functions do not change, and the vast majority of NRAR staff are matched to roles in the proposed future structure that are the same or similar to their existing roles, within their current capabilities. Ensuring the vast majority of NRAR staff are minimally affected by the CMP and have employment security is a core principle of the change we committed to. There are no affected employees at clerk grades 7/8, 5/6, or 3/4.

Where NRAR staff are identified as affected this is due to the proposed deletion of their current role and because the available vacancies at level are significantly different. Affected staff are being supported through the change process and will have the opportunity to be assessed for placement into a new role at grade via an internal expression of interest (EOI) selection and assessment process exclusive to affected staff. All efforts will be made to place affected staff in a role at level in the new structure.



During formal consultation we have reduced the number of deleted roles and been able to map four affected staff to roles in the future structure. This reduces the available vacancies but more importantly reduces the number of affected staff.

Once the EOI selection and assessment process for affected staff is complete, any long-term temporary staff who are eligible for conversion will be placed into vacant roles. Remaining vacant roles will then be advertised providing an opportunity for staff to seek promotion or to broaden their professional experience.

#### **4. Is the public services better placed to provide industry assistance and customer service than NRAR?**

We have demonstrated through four years of operation the effective delivery of advice and guidance to water users who are challenged by minor non-compliance. This is not a customer service but rather a core tenet of regulatory practice. We seek to increase our advisory capacity to ensure the successful delivery of the NSW Government's water reform Action Plan. Our role as the enforcer of water laws complements the obligations of Water NSW and the Department of Planning and Environment.

#### **5. Consideration by the Water Secretary to invoke Rule 23 Government Sector Employment Rules**

Part 7 of the Change Management Plan describes the process to fill roles in the new structure. Affected staff will be offered an exclusive right to apply for vacant roles at grade in the new structure by means of an internal expression of interest selection and assessment process. It should be noted that there are more vacant roles than affected staff at each grade level. Remaining vacant roles will then be externally advertised.

#### **6. Effects On Regionally Based Staff Re-deployment**

The impact on regionally based staff is minimal. The number of affected roles has been reduced following consultation - 3 of the 4 staff who are no longer affected were based regionally. Most vacant roles will be advertised statewide and applications from regional candidates are encouraged.

#### **7. Truncated Timelines for Consultation**

There has been no truncation of timelines for consultation, in fact the opposite is true. In addition to the formal two-week consultation period outlined in the CMP which commenced 13 June, NRAR began consulting with staff as early as April on proposed realignment.



All staff were provided with the proposed structure to branch level on 18 April and were encouraged at this point to submit anonymous questions through a specially designed web portal. Weekly all-staff meetings were held to answer these questions as they were submitted. This was followed up by written answers to all questions being shared via email. Senior executives also made themselves available to staff for any follow-up questions.

The formal consultation period has resulted in over 100 submissions, many containing multiple queries and suggestions. The NRAR Executive have carefully considered the feedback and I have undertaken to personally respond to each submission. Changes will be made to the final structure as a result, and I anticipate additional consultation prior to ratification.

We have followed the principles of early, open, and honest engagement, which has been widely recognised and appreciated by staff.

## **8. Operational Based Questions**

These questions were also posed by staff in submissions to the formal consultation process and individual answers were provided directly. I repeat these here for your information.

- 1) Yes, the audit function meets our obligations under s10 and s11 of the Natural Resources Access Regulator Act 2017 and supports delivery of our strategic plan goals. The licensing & approvals audit function will create an independent evidence base on which to champion improvements to the water licensing framework that will in turn support efficient and effective compliance and enforcement.
- 2) I acknowledge the good work of the Monitoring & Audit teams over the past four years and I'm confident the new branch will build on this solid foundation. We must demonstrate how our proactive work is contributing to regulatory outcomes and particularly increasing voluntary compliance. That brings challenges and a need to think beyond what we have been doing, being confident to use new techniques and ways of working. Problem-solving, sound project management and reporting of outcomes will be central to this revised approach. Auditing is a skill set that staff have developed across NRAR, many of whom have been mapped to the Regulatory Initiatives Branch. Where auditing is required to deliver on a Regulatory Priority or other priority project, I am confident they will be undertaken by those staff suitably qualified.
- 3) I have been clear in my communication that we will prioritise what is important to meeting our statutory objectives and implementing our Strategic Plan. This includes situations referred by external agents.



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- 4) No, the new audit team will not be responsible for investigation reviews.
- 5) We have made a conscious move to preference people leader roles in the new structure. Senior technical leads have often reported that they felt disempowered in delivering on work with no team to support implementation. I am confident the function performed by the Principal Regulation Officer will be distributed across NRAR.
- 6) This an oversight for which we have apologised. This has now been corrected.
- 7) The restructure is designed to best position NRAR to meet the strategic needs of the agency in coming years. It is about how we would like to work in future, not current work processes and allocations. In realigning to meet our future needs some processes will need to be adapted to ensure business continuity. Operational decisions on the management of work, including projects, tasks, and processes, will be at the discretion of Directors and Managers once appointed, but finalising current projects will be considered.
- 8) The principle of mapping people to temporary assigned areas was based on a combination of business need and a desire to provide engaging opportunities for interested staff. We have however received some feedback that the proposed approach would see staff mapped to roles that are very different from their substantive role description, based on no assessment processes. This is incongruous with other advice for impacted/affected staff. To ensure equity and transparency for all, staff will be mapped to their substantive positions. Current temporary assignments can continue, however ongoing appointment will be based on a competitive process and assessment of capability.
- 9) We believe it is important for regulators like us to reflect the diversity of the community we serve. To date we have run several targeted recruitment campaigns designed to bring onboard significant Aboriginal or Torres Strait Islander (ATSI) talent. Many of these skilled ATSI staff have been promoted within NRAR or snapped up by other agencies such as DPE Water or National Parks. This will continue to be a priority for us as we move to the recruitment phase of the CMP.
- 10) The NRAR Board and the NRAR Executive team work together to plan and oversee the implementation of NRAR's activities. The NRAR Board values and asserts their independence as a corporate entity. They regard this as fundamental to the success of NRAR. Our independence serves as both a tool in prosecuting our arguments for a strong and fair regulatory and compliance regime and a protection against the potential for those who would seek to diminish those efforts. If nothing else, our independence has established NRAR as a "go to" and best practice model which is



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regularly used as an exemplar in other jurisdictions. The relationship between any Board and executive team inevitably involves a range of iterative processes, discussions, and debates, but all with one focus; to improve the quality of our decisions.

- 11) The new structure is not built to silo teams and workstreams. As is the case now, teams will be required to work together to deliver on priority programs. The Regulatory Initiatives team will utilise skill sets from across the agency in both the development and delivery of their programs.
- 12) Investigations and Enforcement is a reasonably well understood function. The primary drivers of work for this team are suspicious activity reports from the public and high-risk internal referrals from our intelligence sources. In our proposal we are looking to spread investigative capability more evenly across three teams, providing better opportunities for staff to develop and to build stronger organisational enforcement capabilities. The Regulatory Initiatives Branch is about proactive problem-solving. What are some of our most pressing compliance problems, and how can we shift compliance in the most effective and efficient way? This could involve education and engagement with stakeholder groups or landholders, seeking shifts in government policy or conducting site inspections and investigations. Staff within this branch will need to be problem-solving specialists, capable of using the right tool for the right job to achieve compliance outcomes. We don't work in isolation, and these branches will need to work together. In particular, when complex compliance matters are discovered within our proactive programs that require specialist investigative and enforcement skills.
- 13) Yes, as is the case now.
- 14) I have referred recommended edits to the various role descriptions to the Change Management Team for consideration.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Grant Barnes', written in a cursive style.

**Grant Barnes**  
**Chief Regulatory Officer**  
28 June 2022