



Australian Government

Department of Climate Change, Energy,
the Environment and Water

Consultation on the draft principles of a National Water Agreement

Discussion paper



Consultation on the draft principles of a National Water Agreement - Discussion paper

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This publication (and any material sourced from it) should be attributed as: DCCEEW 2024, *Consultation on the draft principles of a National Water Agreement – Discussion Paper*, Department of Climate Change, Energy, the Environment and Water, Canberra, August CC BY 4.0.

This publication is available at dcceew.gov.au/publications.

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Acknowledgement of Country

By: The Committee on Aboriginal and Torres Strait Islander Water Interests (CAWI)

We acknowledge Aboriginal and Torres Strait Islander Peoples and their Elders past, present and future.

We recognise that Aboriginal and Torres Strait Islander Peoples have never ceded sovereignty of their land and waters which continue to be holistically managed for more than 65,000 years across Australia, including during dynamic climate challenges.

We recognise that Aboriginal and Torres Strait Islander Peoples are the custodians of Country and continue diverse traditional physical connections that hold inherent obligations to protect and care for Country.

We acknowledge Aboriginal and Torres Strait Islanders' exercise their traditional laws and customs, which should be applied and incorporated across all water management frameworks.

We recognise and respect Aboriginal and Torres Strait Islander Peoples' Cultural, spiritual, social, economic and environmental connections to their Country.

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Delivering a new National Water Agreement

All Australian water ministers affirmed their shared commitment to renew the 2004 National Water Initiative (NWI) Intergovernmental Agreement at the Water Ministers' Council meeting of 28 June 2024. A renewed National Water Agreement will better prepare Australia for future threats to water security and builds on the NWI, which has been Australia's blueprint for sustainable water resource management since 2004.

A new National Water Agreement will seek to address:

- emerging water security challenges with supply (rainfall) being less reliable and demand for water continuing to grow and change
- accounting for the water needs and aspirations of Aboriginal and Torres Strait Islander Peoples
- the Productivity Commission's recommendations, including to plan for threats to water quality and availability from an increased risk of flooding, storms, bushfires and sea level rise, as well as drought.

To achieve this, the Australian Government Department of Climate Change, Energy, the Environment and Water has been working with all states and territories through the National Water Committee (NWC), which is advised by the Committee on Aboriginal and Torres Strait Islander Water Interests (CAWI), and other technical subcommittees, to draft a new intergovernmental agreement on water.

Progress so far

Consultation on draft objectives and outcomes has already occurred. So far in 2024 there have been 2 phases of consultation to seek feedback from Aboriginal and Torres Strait Islander Peoples, key stakeholders and the public.

- Phase 1 engagement was by invitation to key stakeholders and Aboriginal and Torres Strait Islander peak organisations to test the high-level objectives of the agreement.
- Phase 2 engagement was open to all Australians to provide feedback on the updated objectives and the next level of detail in the agreement, the outcomes.

These 2 phases of engagement have provided valuable insights into the iterative drafting process and a full report on engagement so far is available at [Delivering a new National Water Agreement – What we've heard about objectives and outcomes](#).

On 28 June 2024, Commonwealth, state and territory water ministers met and noted the draft objectives and outcomes. The Water Minister's Meeting communique is available at [Agreed communique – 28 June 2024](#). The proposed objectives and outcomes are available at [National Water Reform – Outcomes Framework](#).

The next step is to develop the detailed principles of the agreement. This is what the current phase of engagement is about. Once the final agreement is made there will be a fourth phase of engagement to develop action plans. Development of these action plans will present an opportunity for further engagement with communities on how a new agreement will be implemented on the ground.

Aboriginal and Torres Strait Islander water interests

One reason the new National Water Agreement is needed is because the NWI did not properly consider or factor in Aboriginal and Torres Strait Islander water interests. This is well documented in the Productivity Commission's reports of its 2017, 2021 and 2024 inquiries into national water reform. One of the recommendations from these inquiries was that a renewed NWI should focus on increasing Aboriginal and Torres Strait Islander Peoples' involvement and influence in water resource management.

Aboriginal and Torres Strait Islander Peoples have managed water holistically for more than 65,000 years; however, since colonisation they have been excluded from decision making about water. This has had negative impacts on the wellbeing of Aboriginal and Torres Strait Islander Peoples. The Australian Government is determined to see this change.

The Committee on Aboriginal and Torres Strait Islander Water Interests have developed an Insights Paper to support conversations and a shared understanding about Aboriginal and Torres Strait Islander Peoples' water interests and values. CAWI's Insights Paper is available at [Insights Paper: Pathway to enduring recognition of Aboriginal and Torres Strait Islander Peoples' water interests in national water reform initiatives](#).

The structure of a new agreement

The proposed new National Water Agreement is made up of 4 elements:

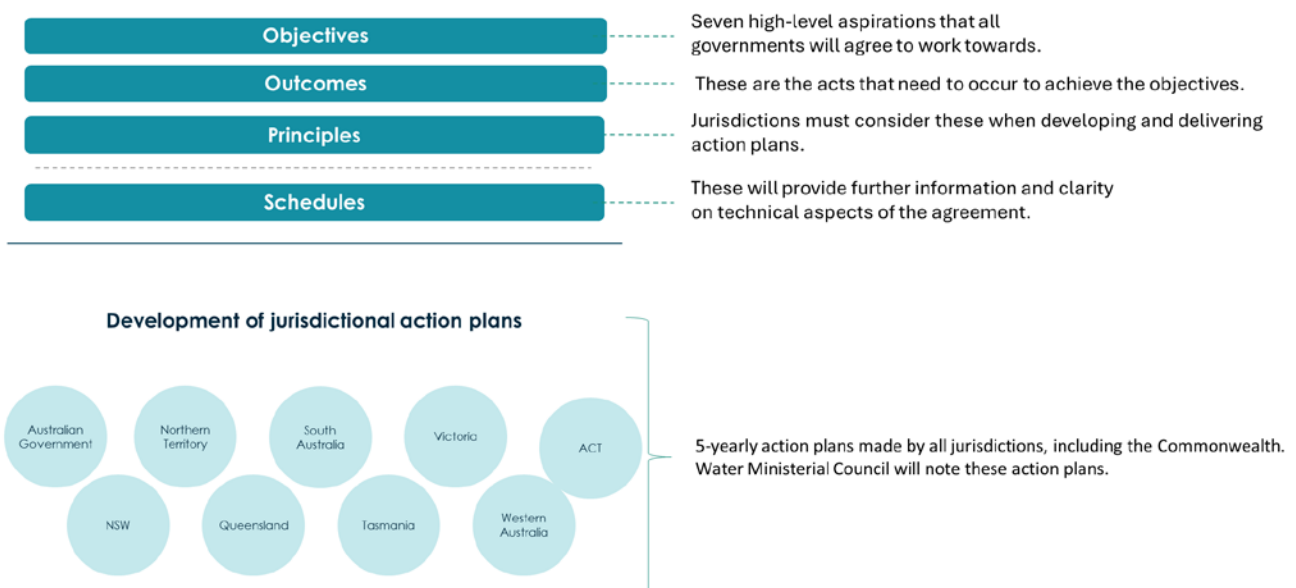
1. **Objectives** – seven high-level aspirations that all governments will agree to work towards
2. **Outcomes** – these are the acts that need to occur to achieve the objectives
3. **Principles** – jurisdictions must consider these when developing and delivering action plans
4. **Schedules** – these will provide further information and clarity on technical aspects of the agreement.

Parties to a new intergovernmental water agreement will agree to the objectives and outcomes to support nationally consistent water reform. Once agreed, parties will develop action plans to show how they will achieve the objectives and outcomes in their jurisdiction. The projects, programs or policies included in these plans will be implemented considering the principles of the agreement. Where a principle is not relevant to a specific situation, or parties use approaches other than those set out in the principles to achieve outcomes, they will be identified in the action plans.

Figure 1.1 shows the proposed structure of the agreement. The 7 objectives have outcomes under them and the draft principles will sit under them to form the third layer of the agreement ([National Water Reform – Outcomes Framework](#)).

Schedules will be attached to the new agreement. These will provide further technical detail. A list of the proposed schedules is available at Appendix 2. Some of the schedules are being brought across from the NWI. Where schedules from the NWI need modernising, the original NWI schedule will remain until parties to the agreement agree to update them. Consultation on new or updated schedules is expected in 2025, during the 4th phase of consultation on action plans.

Fig. 1.1: Proposed agreement structure



Seeking your views

We have consulted on the high-level objectives and outcomes of a new agreement. We are now seeking feedback on the proposed principles that will form the body of the draft agreement.

Some of the principles are being retained from the NWI. There are many parts of the NWI that will continue to serve Australia well into the future, and some that need to be modernised to account for current conditions and priorities.

The new agreement builds on the proven water management principles of the NWI to address new and emerging water management challenges.

This discussion paper includes:

- The detailed principles of the draft National Water Agreement
- Comparison of new National Water Agreement with 2004 National Water Initiative—this table summarises how and where content from the NWI has been brought across into the new National Water Agreement
- Glossary of terms and definitions—for shared understanding and to ensure consistency in terminology

Have your say by completing the [online survey](#).

Next steps

We want to hear your views on the draft principles. The draft principles are not government policy. Your feedback will be used by the Australian, state and territory governments to finalise a draft National Water Agreement for consideration by ministers.

When the agreement is made, Australian governments will conduct public engagement on the development of jurisdictional Action Plans. These Action Plans, to be developed within 2 years, will detail how a new agreement will be implemented nationally, and in each state and territory. This will allow for consultation with communities across Australia on how a new National Water Agreement can benefit all.

Productivity Commission's recommendations

The Productivity Commission's 2017, 2021 and 2024 inquiries into national water reform have produced a great number of recommendations for the renewal of the NWI. These recommendations, and the large number of public submissions that informed them, have been a key driver in the development of a new National Water Agreement.

The work of the Productivity Commission in reviewing national water reform has been thoroughly considered in the preparation of the draft agreement. It has provided a wealth of knowledge, expertise and experience to inform our work.

Detailed principles of the draft agreement

This section of the Discussion Paper provides the draft principles of the proposed new National Water Agreement. Principles will form the body of the agreement and include detailed information that reflects the complexity of water management arrangements in Australia.

These are draft principles and do not reflect current government policy. A short summary of the purpose of each set of objectives is available in each section. The draft principles are grouped according to the seven objectives of the new agreement. Details of the objectives and outcomes are available in the [National Water Reform – Outcomes Framework](#).

Please use this document to inform your response to the [online survey](#). You don't need to familiarise yourself with all draft principles to provide feedback.

Objective 1 – The safe and secure supply of sufficient water quality and quantity to sustain our natural environments, Culture, economic prosperity and communities.

As Australia confronts a changing climate and growing water demand, prioritising the development, management and conservation of secure water sources is imperative to meet the diverse needs of the nation and to promote sustainable development. The availability of reliable water of suitable quality is essential for sustaining life, supporting economic productivity and maintaining ecological balance. It is essential for Aboriginal and Torres Strait Islander Peoples' health, Cultural practices, sustaining traditional connections to the land and meeting the water service provision targets mandated by the 2021 National Agreement on Closing the Gap. Water is needed to support the transition to a sustainable and low-carbon future and climate mitigation efforts. Meeting growing demands while ensuring adequate supplies of acceptable quality water for all uses is a significant challenge. It will require new thinking about what is possible in water systems that are impacted by climate change, and exploration of the role of all water supply options.

1. Draft principles

Water service provision

- 1.1. The Australian water sector provides safe, secure and resilient water, wastewater and stormwater services in a cost effective and sustainable manner. This includes:
 - 1.1.1. serving the long-term and evolving interests of customers and communities, based on defined service levels
 - 1.1.2. determining service levels in collaboration with communities, including Aboriginal and Torres Strait Islander Peoples
 - 1.1.3. ensuring efficiency and affordability of services
 - 1.1.4. driving independence, transparency and accountability in decision making
 - 1.1.5. ensuring the safety, security and resilience of urban water services, including in regional and remote communities.



- 1.2. Drinking water supply, including in regional and remote communities, is secure and maintained at a quality that meets the Australian Drinking Water Guidelines.
- 1.3. A risk-based, adaptive approach to planning is undertaken to ensure maintenance of urban water security across Australia in response to climate change and variability, population change and other pressures.
- 1.4. Timely, coordinated and strategic planning and delivery of new or upgraded water, wastewater and stormwater infrastructure is consistent with land use planning and customer needs.
- 1.5. Water service provider investment and operation decisions are evidence-based, transparent and take account of the full suite of economic, environmental, social and Cultural costs and benefits.
- 1.6. Options for planning and managing water include consideration of all water supply and demand options, including climate resilient sources, based on a transparent assessment of all costs and benefits, including identifying and addressing any barriers to use.
- 1.7. The quality of water sources is fit for their intended use. Lower quality water sources are considered for uses which do not require high water quality.
- 1.8. Urban and rural water system objectives are determined through a transparent and consultative approach, and approved by governments, informed by customer and community preferences.
- 1.9. Roles and responsibilities in planning and management processes are clearly assigned and coordinated between relevant governments, service providers, regulators, developers and other relevant entities.
- 1.10. Integrated approaches to water supply options for urban and rural water systems are encouraged through the conjunctive management of surface water, groundwater and other water sources where applicable.
- 1.11. Urban water planning and management systems integrate water supply, wastewater and stormwater management, where appropriate, maximising opportunities to achieve public and environmental health outcomes.

Planning for all water use across sectors

- 1.12. Urban and rural water supply planning strategically considers the water needs of all sectors, such as energy, health, the environment and industry, including new and emerging water uses, and the impacts of these uses upon water availability and quality.

Water industry skills and training

- 1.13. Water service providers have the appropriate skills and capabilities to ensure safe and reliable water and wastewater services.
- 1.14. Wherever possible, water industry training and qualifications are recognised across states and territories.
- 1.15. Where communities are responsible for managing their own urban water supply systems, they are empowered through appropriate capacity building and training so they can operate and maintain the necessary infrastructure.



Water pricing and institutional arrangements

- 1.16.** Pricing policies for water service provision (including supply of water from all sources and water storage, wastewater treatment and disposal, and stormwater management and use), facilitate efficient water use and trade, including using:
 - 1.16.1.** consumption-based pricing
 - 1.16.2.** full cost recovery for water services to ensure business viability and avoid monopoly rents, including recovery of environmental externalities, where feasible and practical
 - 1.16.3.** consistency in pricing policies across sectors and jurisdictions where water can be traded.
- 1.17.** In large urban water systems, water pricing continues to move towards upper bound pricing.
- 1.18.** In small urban and rural water systems, pricing achieves full cost recovery, recognising that there are some small regional and remote services that will never be economically sustainable but need to be maintained to meet social and public health obligations. This includes:
 - 1.18.1.** achievement of lower bound pricing for all systems
 - 1.18.2.** continued movement towards upper bound pricing, where practicable
 - 1.18.3.** where full cost recovery is unlikely to be achieved in the long term and a subsidy to meet a Community Service Obligation is deemed necessary, the explanation for and size of the subsidy is reported publicly.
- 1.19.** Pricing policy for recycled water and stormwater use and management is congruent with pricing policy for potable water and stimulates efficient water use no matter what the source.
- 1.20.** Pricing policies for trade wastes encourage the most cost-effective methods of treating industrial wastes, whether at the source or downstream plants.
- 1.21.** In line with Australia's national and international agreements, including the National Agreement on Closing the Gap and the United Nations Sustainability Development Goals, efforts are made to ensure people living in regional, rural and remote areas are not excluded from access to water services due to high service costs.
- 1.22.** Costs for water planning and management are priced and attributed consistently as they relate to the following activities:
 - 1.22.1.** the identification of all costs associated with water planning and management, including the costs of underpinning water markets such as the provision of registers, accounting and measurement frameworks and performance monitoring and benchmarking
 - 1.22.2.** the identification of the proportion of costs that can be attributed to water access entitlement or licence holders consistent with:
 - 1.22.2.1** charges exclude activities undertaken for government (such as policy development, and activities undertaken for ministerial or parliamentary services)
 - 1.22.2.2** charges are linked as closely as possible to the costs of activities or products.
- 1.23.** States and territories report publicly on cost recovery for water planning and management as part of annual reporting requirements, including on:
 - 1.23.1.** the total cost of water planning and management
 - 1.23.2.** the proportion of the total cost of water planning and management attributed to water access right entitlement or licence holders and the basis upon which this proportion is determined.

Release of unallocated water

- 1.24.** Release of unallocated water will be a matter for states and territories to determine. Any release should be managed in the context of encouraging sustainable and efficient use of scarce water resources, including consideration of the ecological function of unallocated water.
- 1.25.** Consideration is given to making unallocated water available for Aboriginal and Torres Strait Islander Peoples, which contributes to their access to, management and/or ownership of water for Cultural, spiritual, social, economic and environmental values, in line with the National Agreement on Closing the Gap.

- 1.26.** Alternative ways of meeting water demand, such as through water trading, making use of the unused parts of existing water access rights, or by increasing water use efficiency, should be explored before unallocated water is released.
- 1.27.** To the extent practicable, where releases are made, this should occur through market-based mechanisms.

Environmental externalities

- 1.28.** Environmental externalities continue to be managed through a range of regulatory measures (such as through setting extraction limits in water management plans and by specifying the conditions for the use of water outside of water management plan areas).
- 1.29.** The feasibility of using market-based mechanisms such as pricing to account for positive and negative environmental externalities associated with water use is examined regularly.
- 1.30.** Water pricing includes externalities, where feasible.

Institutional arrangements

- 1.31.** As far as possible, the roles of water resource management, standard setting and regulatory enforcement are separated institutionally from service provision.
- 1.32.** Financial separation is maintained where local governments retain ownership of urban water service providers.
- 1.33.** Regulatory bodies are independent from bodies responsible for implementation and monitoring of water planning and infrastructure projects.

Performance monitoring

- 1.34.** The states and territories will report independently on pricing and service quality for all urban water service providers. This reporting will be done each year and made public.
- 1.35.** Urban water service provider performance monitoring and reporting:
 - 1.35.1.** drives improvement in pricing and service outcomes by comparison between service providers
 - 1.35.2.** contributes to state and territory government policy decisions
 - 1.35.3.** supports economic oversight, transparency and confidence in the urban water sector.
- 1.36.** Costs of operating these performance monitoring and benchmarking systems are to be met by jurisdictions through recovery of water management costs.

Pricing regulation

- 1.37.** Regulation and review of water pricing is transparent, provides for effective community engagement and for prices to reflect the full efficient costs of service provision, encourages innovation and efficiency, and is publicly accountable to achieve customer confidence.
- 1.38.** Independent bodies should be used to:
 - 1.38.1.** set or review prices, or price-setting processes, for water storage and delivery by government water service providers case-by-case, consistent with the principles set out in 1.16 to 1.23
 - 1.38.2.** publicly review and report on pricing in government and private water service providers to ensure that the principles set out in 1.16 to 1.23 are met.
- 1.39.** Where costs of independent pricing regulation or review can be transparently demonstrated to outweigh the benefits, other forms of regulation or review may be applied.
- 1.40.** Government regulatory and legislative frameworks align and evolve with water sector needs and objectives, using an outcomes-based approach.

NWI Pricing Principles

- 1.41.** The Parties apply the National Water Agreement Pricing Principles at the relevant schedules.

National Urban Water Planning Principles

- 1.42.** The Parties apply the National Urban Water Planning Principles at the relevant schedules.

Objective 2 – Investment in major¹ water infrastructure that is effective, strategic and transparent.

Australia's water infrastructure can play a crucial role in securing water supply. Investment in infrastructure for these needs must be prioritised to address the most critical water challenges. Transparency and accountability in the prioritisation of water infrastructure projects increase certainty around decision making rationale. The proposed agreement seeks to ensure that major water infrastructure investments are made judiciously, meeting critical needs and contributing, first and foremost, to the efficient and sustainable management of Australia's water resources.

2. Draft principles

- 2.1. Investment decisions for major water infrastructure are informed by robust and transparent selection processes that:
 - 2.1.1. set out the problem/opportunity statement for why the investment is necessary
 - 2.1.2. demonstrate the project's alignment to regionally based water assessments and plans and broader strategic planning
 - 2.1.3. prioritise regions with the highest water security concerns/opportunities
 - 2.1.4. include an assessment of options, including consideration of meeting investment objectives through all potential water supply and non-infrastructure options, and demonstrate that the proposed approach is the most effective means of achieving the objectives
 - 2.1.5. identify the full suite of economic, Cultural, environmental and social costs and benefits based on best available information
 - 2.1.6. select projects based on the highest (positive) expected net social, economic, ecological and Cultural outcomes, meeting the community's aspirations and values, where possible, and promote investment in projects deemed to have material net benefits
 - 2.1.7. provide an assessment of projected demand and supply for the relevant water source
 - 2.1.8. embed the interests and opportunities of Aboriginal and Torres Strait Islander Peoples' in potentially affected areas in the development process, and consider their information access and participation in shared decision making
 - 2.1.9. comprehensively identify and manage impacts on Cultural heritage territories and Cultural resources in affected areas, informed by meaningful consultation with Aboriginal and Torres Strait Islander Peoples
 - 2.1.10. use best available science, information and modelling to assess the proposed infrastructure's resilience to climate change or other stressors
 - 2.1.11. give due consideration to operation and maintenance costs over the lifetime of the potential infrastructure.
- 2.2. Relevant institutional roles and responsibilities underpinning government investment in major water infrastructure are clearly identified and available.
- 2.3. Costs are recovered from users, with any government funding provided through a transparent subsidy.
- 2.4. State and territory governments have primary responsibility for proposing and managing government involvement in major water infrastructure in their jurisdictions.
- 2.5. Where the Australian Government subsidises investment or where infrastructure benefits are divided across several jurisdictions, states and territories will engage with the Australian Government early to support business case development.
- 2.6. Independent peer review assessments from qualified institutions or experts are undertaken and published on business cases for major project proposals, with commitment to release post-completion reviews and publish business cases, except where it could compromise commercially sensitive data.
- 2.7. Where additional access to water is created through infrastructure, consideration is given to making this unallocated water available for Aboriginal and Torres Strait Islander Peoples as new water rights, which contributes to their access to, management and/or ownership of water for Cultural, spiritual, social, economic and environmental values in line with the National Agreement on Closing the Gap.

¹ Major water infrastructure refers to large scale projects and facilities designed to manage, store, distribute and treat water resources across the country.

Objective 3 – A water management framework, underpinned by national and international human rights principles, which recognises and protects Aboriginal and Torres Strait Islander Peoples’ Cultural, spiritual, social, environmental and economic water interests and values.

Recognising the importance and value of their traditions, knowledge, customary law and contributions to land care, governments across Australia are working to integrate Aboriginal and Torres Strait Islander Peoples’ Cultural, spiritual, social, economic and environmental rights into water planning and management. This agreement actively prioritises Aboriginal and Torres Strait Islander Peoples’ involvement and influence and ensures inclusion and respect for their unique perspectives.

3. Draft principles

- 3.1.** Water management respects the rights and interests of Aboriginal and Torres Strait Islander property rights holders in the water resource area, including holders of native title and other land or water rights.
- 3.2.** Acknowledgment that Aboriginal and Torres Strait Islander Peoples never ceded lands and waters ownership and holistically managed lands and waters for more than 65,000 years, including during dynamic ever-changing climate challenges.
- 3.3.** Waters in all their forms are acknowledged to be a living entities, which are interconnected with lands and move freely between water landscapes, including upstream, downstream, and between surface and groundwater.
- 3.4.** Aboriginal and Torres Strait Islander Peoples are meaningfully consulted on how water planning and management can impact Aboriginal and Torres Strait Islander Peoples’ access to secure quality and quantity water in their communities and traditional lands.
- 3.5.** Aboriginal and Torres Strait Islander Peoples have internationally renowned, enduring and sustainable water rights, including access to, management and/or ownership of water for Cultural, spiritual, social, environmental and economic purposes in line with the National Agreement on Closing the Gap.
- 3.6.** Gendered access to, management and/or ownership of water is deeply rooted in matrilineal and patrilineal landscapes. This encompasses ways in which Aboriginal and Torres Strait Islander Peoples understand and interact with lands and waters through the lens of gendered roles and reciprocal relationships.
- 3.7.** Water management recognises and incorporates Aboriginal and Torres Strait Islander Peoples’ Cultural rights and interests in water management, ownership and governance. This recognition is underpinned by declarations at a national and international level, and has regard to the principles of free, prior, and informed consent.
- 3.8.** Access to, management and/or ownership of water for Aboriginal and Torres Strait Islander Peoples allows them to decide how this water is used, wherever possible, in accordance with the principle of self-determination.
- 3.9.** Free, prior, and informed consent principles are best conceptualised as safeguards against actions that may impact, or seek to enhance Aboriginal and Torres Strait Islander Peoples’ rights and interests, supported through agreements such as the United Nations Declaration on the Rights of Indigenous Peoples, and other international instruments, national and jurisdictional human rights legislation.
- 3.10.** Water management respects the role and functions of Indigenous Cultural and Intellectual Property, in line with Aboriginal and Torres Strait Islander Peoples’ rights to their Cultural heritage, grounded in a fundamental substantive right to self-determine its nature and use. Cultural heritage is a living concept and is adaptive to change, including creation of new tangible and intangible property.
- 3.11.** Realising Aboriginal and Torres Strait Islander Peoples’ primary substantive rights is vital in water management. Primary substantive rights are governed by traditional law and customs that proactively refine customary and Cultural water management values, priorities and responsibilities, as well as assign appropriate risk levels to partnerships, planning, and strategies.
- 3.12.** In good faith, efforts are made to remove barriers in water management frameworks impeding the access to, management and/or ownership of water by Aboriginal and Torres Strait Islander Peoples.

- 3.13.** Water management frameworks embed the interests and values of Aboriginal and Torres Strait Islander Peoples, and the Cultural, spiritual, social, economic and environmental outcomes to be achieved.
- 3.14.** Aboriginal and Torres Strait Islander Peoples are empowered to undertake shared decision making in water management.
- 3.15.** Aboriginal and Torres Strait Islander Peoples have the opportunity to contribute their knowledges to the development of water management frameworks, plans, strategies and actions if they choose, and this input is valued and respected.
- 3.16.** Self-determination and Indigenous Cultural and Intellectual Property are protected and defined in water planning and management processes by ensuring that meaningful consultation with Aboriginal and Torres Strait Islander Peoples occurs early and often and is underpinned by the principles of free, prior and informed consent.
- 3.17.** In partnership with Aboriginal and Torres Strait Islander Peoples, governments monitor, evaluate and report on the provision of water and wastewater services to Aboriginal and Torres Strait Islander communities to ensure an accessible, safe and secure supply of water and adequate wastewater services. These services are delivered to meet fundamental health and wellbeing targets.



Objective 4 – The robust and coordinated use of science, data and Cultural knowledge underpins evidence-based decision making in water management

Effective water resource management involves using best available knowledge and evidence to underpin informed and adaptable decision making and ensure sustainable and resilient water systems. Integral to this is incorporating Aboriginal and Torres Strait Islanders traditional knowledge and wisdom, deep understanding of local ecosystems and sustainable practices cultivated over generations to inform a holistic approach to modern water management. Local knowledge and citizen science are a valuable source of information to help ground truth evidence. The quality of data collected and the integration of community, stakeholder and Aboriginal and Torres Strait Islander Peoples' input into decision-making processes are crucial in supporting the effectiveness of monitoring and reporting systems. A coordinated approach enables the sharing and communication of best available climate science to build an understanding of the impacts that underpin water planning and management.

4. Draft principles

Science and knowledge

- 4.1. Sustainable water planning and management is supported by evidence-based decision making, innovation and continuous improvement that uses:
 - 4.1.1. strong, durable partnerships between decision makers, the research community and traditional knowledge holders
 - 4.1.2. knowledge-building priorities identified and coordinated through processes that draw on input from the research community and research users and consultation with the broader community
 - 4.1.3. Aboriginal and Torres Strait Islander Peoples' knowledges, sciences and research
 - 4.1.4. a coordinated approach with other jurisdictions to optimise investment
 - 4.1.5. knowledge-generation activities and align with identified priorities to serve the public good.
- 4.2. A common language is used to communicate projections, uncertainty and risks associated with changes in water availability to enable jurisdictions to share relevant hydrological and climate change knowledge and expertise.
- 4.3. Knowledge generation supports the implementation of water planning and management, including national strategies and guidelines such as:
 - 4.3.1. the Australian Drinking Water Guidelines, the National Water Quality Management Strategy and the Australian and New Zealand Guidelines for Fresh and Marine Water Quality.
- 4.4. Research outcomes, modelling, and the data sets used to inform planning and management decisions are subject to an appropriate level of independent auditing or review and made publicly available.
- 4.5. The collection, use and disclosure of data and information for water planning and management respects privacy. A commitment to making water data and information publicly available will be done consistently with relevant privacy obligations.
- 4.6. Governments collaborate on the generation and communication of science where there are cross-border impacts or benefits from a consistent approach.
- 4.7. A risk-based approach is applied to the development and maintenance of the information and data collection systems and modelling frameworks necessary for effective water planning and management.
- 4.8. The application of science and data is precautionary in line with the level of inherent uncertainty.

Modelling

- 4.9. Water planning and management is underpinned by reliable modelling and data systems at a fit-for-purpose scale, using validated data and subject to ongoing review and refinement.
- 4.10. Aboriginal and Torres Strait Islander water sciences and data, such as climate modelling, are based on diverse customary water and biocultural regions, which informs evidence-based decision making.
- 4.11. Aboriginal and Torres Strait Islander Peoples' Cultural water and Cultural values are included in modelling frameworks so they can be used to inform water planning and management decisions.

Data and information

- 4.12. Data on water quality and availability that is used to inform planning and management decisions is fit-for-purpose, accurate, current and publicly available.
- 4.13. Jurisdictions collaborate in water data system development, design and standards, aiming for interoperability, ease of integration and co-investment opportunities.

Aboriginal and Torres Strait Islander Peoples' knowledges, sciences and research

- 4.14. Aboriginal and Torres Strait Islander Peoples' knowledge and traditional knowledge systems are brought together with other information and considered an equal part of the evidence base in decision making.
- 4.15. Aboriginal and Torres Strait Islander Peoples' knowledges and sciences are collected, analysed, stored and shared in accordance with Cultural protocols and wishes, while respecting data sovereignty.
- 4.16. Aboriginal and Torres Strait Islander Peoples are empowered to decide what is best practice in working with Aboriginal and Torres Strait Islander Peoples' knowledges and sciences.
- 4.17. Aboriginal and Torres Strait Islander Peoples are free to share their Indigenous Cultural and Intellectual Property where it is culturally appropriate to do so.
- 4.18. Research by and related to Aboriginal and Torres Strait Islander Peoples is sustainable, led by, and respects Aboriginal and Torres Strait Islander Peoples' self-determination, to deliver benefits and values.
- 4.19. Water planning and management decision making is supported by Aboriginal and Torres Strait Islander-led research, including research and data generated by Aboriginal and Torres Strait Islander discipline experts and other knowledges generated and held by Aboriginal and Torres Strait Islander Peoples.



Objective 5 – Sustained community trust and confidence in government, water agencies, water managers and users

Public trust and confidence in the governance and management of water is needed for successful implementation. Communities and Aboriginal and Torres Strait Islander Peoples rely on a clear, shared understanding of issues, even if agreement is not always reached. This trust and confidence must be built through consistent, concerted effort over time with communities that have often lost trust in water management. Development of the right solutions for diverse water management challenges relies on public engagement and clear communication between all parties. Finding solutions to balance the needs of various users is critical, including for the environment. Communities that trust their government and water agencies are more likely to comply with regulations, participate in water conservation efforts and support policies that ensure sustainable water use.

5. Draft principles

Engagement

5.1. Engagement is:

- meaningful
- inclusive
- timely
- respectful
- provides genuine opportunity for community to understand and influence decisions
- accessible
- scaled appropriately
- includes those most impacted by the project, program, plan or policy
- improves continuously
- place-based
- cost-effective
- clear about what is negotiable or can be influenced
- transparent about how community input was considered
- protects Indigenous Cultural and Intellectual Property
- embeds the principles of free, prior and informed consent of Aboriginal and Torres Strait Islander Peoples
- coordinated, especially for multi-jurisdictional activities.

5.2. Trusted and collaborative relationships between Aboriginal and Torres Strait Islander Peoples, community and water organisations are built on:

- water organisations being culturally capable and sensitive
- engagement that is designed to maximise opportunities for Aboriginal and Torres Strait Islander Peoples to lead processes that affect their Country and community.

Managing structural and community adjustment issues that may arise from this agreement

- 5.3. The social and economic impacts of reforms arising from this agreement should be assessed to identify possible structural adjustment or community needs.
- 5.4. Where adjustment measures are used, they should focus on building resilience and adaptive capacity, secure employment or business opportunities, target the most vulnerable individuals and avoid direct industry assistance and subsidies.
- 5.5. Where adjustment measures are provided, there should be regular monitoring and evaluation of the effectiveness of these measures and public reporting of results.

Public communication and transparency

- 5.6. The community and water rights holders have access to clear, logical and timely information in accessible formats that help them to understand their obligations, build trust and enable meaningful engagement.
- 5.7. Water planning and management processes are participatory and transparent.
- 5.8. Water knowledge and capacity building supports Aboriginal and Torres Strait Islander Peoples and community to effectively engage, strategise, lead and negotiate with water managers on decisions with a direct or indirect impact on Cultural, spiritual, social, economic and environmental water rights. Cultural capability and understanding supports water agencies to participate in these discussions.

Monitoring, evaluation and reporting

- 5.9. Programs, projects, water plans and water management frameworks identify responsibility for implementation and timing of monitoring, evaluation and reporting. Monitoring and evaluation should be within a conceptual framework of program logic and use a risk-based approach.
- 5.10. Monitoring and evaluation findings, including in respect of progress towards meeting targets and trends in the condition and availability of water resources, should enable decision-makers to use adaptive management.
- 5.11. Monitoring and reporting should be timely, efficient, cost-effective and consistent, and should supply the information needed for evaluation.
- 5.12. The best available knowledge (including scientific, local and Cultural knowledge), evidence and analysis should be used where practicable to ensure credibility, transparency and usefulness of monitoring and evaluation findings.

Compliance

- 5.13. Effective compliance and enforcement regimes are in place with clear, open and transparent objectives.
- 5.14. Compliance and enforcement systems focus on proactive metering regulation and increasing water rights holders' awareness of their obligations.
- 5.15. Compliance frameworks demonstrate the principles of transparency, timeliness, risk-based use of resources, fairness, proportionality, impartiality, professionalism, accountability and clarity of water user rights and responsibilities.
- 5.16. Metering, monitoring and compliance activities are commensurate with the risks to the resource.

Objective 6 – Environmentally sustainable water planning and management that is interconnected, adaptive and responsive to climate change and other circumstances

With the evolving challenges posed by climate change, including longer and hotter droughts and natural disasters such as storms, floods and bushfires, there is a critical need for flexible, connected and climate resilient approaches to water management in Australia. The proposed agreement provides a basis for developing greater capacity for climate adaptable water management policies and processes across Australia in the holistic management of surface and groundwater systems.

6. Draft principles

Climate change and adaptation in water planning

- 6.1. Water planning and management processes:
 - 6.1.1. manage the risk of lower water availability and the need to balance or rebalance between environmental and consumptive uses
 - 6.1.2. describe how water will be managed to take account of climate variability within a planning period, and how water planning approaches may need to adapt over time to respond to potential longer-term climate impacts
 - 6.1.3. clearly identify relevant trends and projections in developing water plans, planning frameworks and supporting documentation
 - 6.1.4. include risk-based adaptive decision making processes that support responsive actions to short and longer-term climate events and build long term resilience to evolving climate conditions
 - 6.1.5. are evidence based, including Aboriginal and Torres Strait Islander knowledges and sciences.
- 6.2. Climate change impacts on future water availability is factored into environmental and Cultural water requirements and consumptive pools, using regionally appropriate up-to-date climate change projections and robust surface and groundwater modelling frameworks, where available.

Water planning and management frameworks

- 6.3. Water planning and management will provide for:
 - 6.3.1. secure ecological outcomes by describing the environmental and other public benefit outcomes for water systems and defining the appropriate water management arrangements to achieve those outcomes
 - 6.3.2. resource security outcomes by determining the consumptive pool and the rules to allocate water
 - 6.3.3. priorities, actions and rules that cover the full range of climatic conditions, setting out options to manage risks associated with more extreme scenarios, including clear roles and responsibilities for actions
 - 6.3.4. joint arrangements where resources are shared between jurisdictions.
- 6.4. Water planning will be fit for purpose, with planning levels increasing with the level of complexity and risk to water security.
- 6.5. A precautionary approach is taken to allocation for resources with high uncertainty. Adaptive planning cycles will incorporate revision of water plans and planning instruments, and flexible water allocations that are informed by seasonal and inter-annual water availability as future climate conditions occur.
- 6.6. Water strategies and water plans will be developed and regularly reviewed through an evidence-based, participatory and transparent process, consistent with engagement principles set out in this Agreement.
- 6.7. Water planning and management processes include consideration of:
 - 6.7.1. bioregions (ecological, Cultural and geographical boundaries)
 - 6.7.2. protection of ecosystems, biological diversity and Cultural resources
 - 6.7.3. Cultural, spiritual, social, economic and environmental dependencies on surface – and ground-water upstream and downstream
 - 6.7.4. maintaining and enhancing strong longitudinal and latitudinal waterway connectivity and hydrological connectivity of surface and groundwater systems, where relevant
 - 6.7.5. groundwater recharge and discharge rates
 - 6.7.6. hydrological and hydrogeological boundaries

- 6.7.7.** managing water resources to sustain and enhance Aboriginal and Torres Strait Islander Peoples' Cultural, spiritual, social, economic and environmental values in alignment with obligations under international, national and state agreements
- 6.7.8.** Aboriginal customary law and Torres Strait Islander Peoples' Ailan Kastom, encompassing Cultural, spiritual, social, economic and environmental rights in policy and decisions where they relate to water resources.
- 6.8.** Where an action creates water as a by-product:
 - 6.8.1.** this water will be accounted for in a relevant water resource's water balance and:
 - managed within the sustainable level of take set by the relevant water plan; or
 - in the absence of a plan, managed through a robust assessment of potential environmental, economic, Cultural and social impacts, with findings made public, in accordance with legislation.
 - 6.8.2.** water coproduction should be avoided where it will not be used to achieve environmental and other public benefit outcomes
 - 6.8.3.** where not possible to fully avoid coproduction, managed aquifer recharge or other methods to return coproduced water to its source should be encouraged, and where not returned, the water should be used for other purposes
 - 6.8.4.** the impacts of coproduction on third parties, where not avoided, will be mitigated and offset.
- 6.9.** Groundwater is integrated into the holistic management of water systems, enabled by training that supports groundwater management, monitoring and assessment practices.
- 6.10.** Where aquifer recharge and storage are practiced:
 - 6.10.1.** the quality of recovered water must be fit for its intended use
 - 6.10.2.** the aquifer and aquitard must be protected from damage by depletion or over-pressurisation
 - 6.10.3.** impacts on surface waters downstream are acceptable and taken into account.

Water planning for Aboriginal and Torres Strait Islander Peoples' outcomes

- 6.11.** Water planning and management processes enable:
 - 6.11.1.** inclusion of Aboriginal and Torres Strait Islander Peoples' representation in water planning and decision making
 - 6.11.2.** the incorporation of Aboriginal and Torres Strait Islander Peoples' Cultural, spiritual, social, economic and environmental values and knowledge into objectives and strategies to achieve these objectives.
- 6.12.** Water planning and management processes take account of Aboriginal and Torres Strait Islander Peoples' property rights in the water resource area including native title and other land or water rights.
- 6.13.** Water planning contributes to Aboriginal and Torres Strait Islander Peoples' enduring access to, management and/or ownership of water for Cultural, spiritual, social, economic and environmental purposes, including consideration of allocating new water rights in undeveloped systems to Aboriginal and Torres Strait Islander Peoples in the water resource area, including holders of native title and other land or water rights.

Water plans

- 6.14.** Subject to legislative requirements, a state or territory will determine whether a water plan is prepared, what area it should cover, the level of detail required, its duration or frequency of review, and the resources devoted to its preparation.
- 6.15.** Where a water plan is not in place for a water resource:
 - 6.15.1.** planning frameworks will clearly and transparently identify what circumstances will trigger the requirement to develop a water plan
 - 6.15.2.** guidance is provided through policy, legislative and regulatory frameworks on how allocation is managed to be fit-for-purpose and appropriately manage the risk to the resource including overuse.

- 6.16.** Decisions to develop water plans will be informed by best available science, socio-economic analysis and community input, and based on an assessment of:
 - 6.16.1.** the level of water system development
 - 6.16.2.** projected future consumptive demand
 - 6.16.3.** the risks of not having a detailed plan.
- 6.17.** The duration of a water plan is consistent with the level of knowledge and development of the water resource.
- 6.18.** Parties monitor the performance of water plan objectives, outcomes and water management arrangements, factor in knowledge improvements as provided for in the plans and provide regular public reports.
- 6.19.** Water plans provide options that can be triggered in response to specific events or climate conditions, enabling a flexible management response.
- 6.20.** Water plans are prepared along the lines of the characteristics and components in the relevant schedule.

Environmental water management

- 6.21.** Jurisdictions establish/maintain effective and efficient management and institutional arrangements to achieve environmental and other public benefit outcomes, including through:
 - 6.21.1.** held environmental water rights that ensure the sustainable allocation and management of water resources to achieve environmental outcomes by providing sufficient flows to support aquatic habitats, wetlands, riparian zones and other critical ecological functions
 - 6.21.2.** water committed for ecosystem health or other environmental purposes through clear and transparent rules or allocations in surface – and ground-water plans or other planning frameworks
 - 6.21.3.** joint arrangements where resources are shared between jurisdictions
 - 6.21.4.** shared arrangements in the case of significantly inter-connected ground – and surface-water systems
 - 6.21.5.** periodic independent audit, review and public reporting of the achievement of environmental outcomes and the adequacy of the water provision and management in helping to achieve those outcomes
 - 6.21.6.** any special requirements needed to sustain high conservation value rivers, reaches and groundwater areas or support other water dependent ecosystems during extreme events.
- 6.22.** The management of held environmental water is supported by waterway managers that:
 - 6.22.1.** are accountable for the management of held environmental water provisions for the achievement of environmental outcomes
 - 6.22.2.** are enabled to trade water on temporary markets when such water is not required to contribute towards environmental outcomes.
- 6.23.** The most effective and efficient mix of water recovery measures to achieve environmental outcomes is determined through measures including:
 - 6.23.1.** investment in more efficient water infrastructure
 - 6.23.2.** purchase of water on the market, by tender or other market-based mechanisms
 - 6.23.3.** investment in more efficient water management practices, including measurement
 - 6.23.4.** investment in behavioural change to reduce urban water consumption
 - 6.23.5.** assessment of the socio-economic costs and benefits of the most prospective options, including on downstream users, and the implications for wider natural resource management outcomes (e.g. impacts on water security, quality or salinity)
 - 6.23.6.** selection of measures primarily based on cost-effectiveness, and with a view to managing socio-economic impacts.
- 6.24.** Water planning considers opportunities to integrate complementary natural resource management measures to achieve defined environmental outcomes.

Water quality

- 6.25.** The National Water Quality Management Strategy guides water quality management for the productive and sustainable use of Australia's water resources and to protect aquatic ecosystems, Cultural, spiritual, social, economic and environmental values, drinking water, industrial water, primary industries, recreation and aesthetics.
- 6.26.** The protection of water quality to support public health, healthy surface – and ground – waterways, marine and coastal ecosystems and landscapes, customary use, productive use, social wellbeing and water for other community priorities is a core consideration in water and catchment planning and management.
- 6.27.** Water quality is considered as an important component of managing surface–groundwater connectivity.
- 6.28.** The role of water quality is recognised as a key contributor to climate resilience and adaptation of environmental systems.
- 6.29.** Water planning and management processes are assessed for their impact on water quality and availability.

Cross sectoral policies

- 6.30.** Policy and strategy across all sectors address the challenges and interdependencies of water availability through consideration of water needs and potential impacts early in planning and investment processes.

Integrated management of water and land

- 6.31.** A holistic approach is taken to land and water use planning in which:
 - 6.31.1.** water sources and their connected land catchments are managed in a complementary way to minimise risks and maximise benefits to ecosystem health
 - 6.31.2.** strategic land use planning considers adaptive land use practices to prevent impacts on surface – and groundwater.

Interception

- 6.32.** Water planning considers all forms of water take and use, including those that are not currently required to hold a water access entitlement or licence in the assessment of sustainable levels of extraction for a resource.
- 6.33.** Where interception activities are identified as a significant risk to water resources, a risk based regulatory approach is required that:
 - 6.33.1.** uses fit-for-purpose measurement and accounting of interception activities
 - 6.33.2.** monitors the ongoing efficacy of the interception activity.
- 6.34.** Water accounting and modelling for water plans and planning frameworks include interception within their methods where interception has been identified as a significant risk to water resources.
- 6.35.** In water systems that are fully allocated, overallocated, or approaching full allocation:
 - 6.35.1.** interception activities that are assessed as being a significant risk for a water plan area or surface or groundwater resources are identified, and estimates made of the amount of water likely to be intercepted over the life of those activities
 - 6.35.2.** a precautionary approach is taken to assessing and managing the potential interception impacts on achieving environmental and other public benefit outcomes of relevant water plans, or objectives in relevant water planning strategies
 - 6.35.3.** proposals for new interception activities assessed as creating a significant risk to the achievement of environmental and other public benefit outcomes of relevant water plans, or objectives in relevant water planning strategies are:
 - subject to processes that consider risks to the resource and connected areas
 - accounted for by being explicitly included in water plans, access entitlements systems or licensing regimes
 - 6.35.4.** water planning and water plans include processes to monitor and manage interception activity to ensure they meet the identified sustainable levels of extraction.
- 6.36.** In developing systems, fit-for-purpose measurement and accounting of interception activities, and monitoring of the ongoing efficacy of the use of interim measures, is undertaken.

Objective 7 – Water management frameworks that facilitate the judicious and efficient use of water

The productive and sustainable use of Australia's water resources relies on water management frameworks that allocate water based on sustainable levels of extraction, provide certainty about conditions under which water can be accessed and used, incentivise innovation and efficient use, and enable water users to adapt to change. Water users benefit from statutory arrangements that establish perpetual access to a share of a water resource. Statutory arrangements provide security by defining the essential characteristics of the rights, the conditions of use and clearly assign risk for future changes to the resource. Fixed-term arrangements such as licences balance water users' need for security with water managers' need for flexibility to manage resources under changing conditions or where a water resource is not well understood.

7. Draft principles

Water Access Entitlements

- 7.1. The consumptive use of water will require a water access entitlement or licence, as determined by the relevant water plan or a jurisdiction's water legislation, and subject to the provisions at 7.6.
 - 7.1.1. Water access entitlements are described as a perpetual or open-ended share of the consumptive pool of a specified water resource, separate from land.
 - 7.1.2. Water access licences are described as fixed term agreements to take a specific quantity of water from a water resource under certain conditions.
- 7.2. The allocation of water to a water access entitlement or licences will be made consistent with a water plan or a jurisdiction's water legislation.
- 7.3. Regulatory approvals enabling water use at a particular site for a particular purpose will be specified separately to the water access entitlement, consistent with the principles set out in schedule D.
- 7.4. Water access entitlements or licences will:
 - 7.4.1. specify the essential characteristics of the water product
 - 7.4.2. be exclusive
 - 7.4.3. be able to be traded, given, bequeathed or leased
 - 7.4.4. be able to be subdivided or amalgamated
 - 7.4.5. be able to be used as collateral for accessing finance
 - 7.4.6. be enforceable and enforced
 - 7.4.7. be recorded in publicly-accessible reliable water registers that foster public confidence and state unambiguously who owns the entitlement, and the nature of any encumbrances on it.
- 7.5. Water access entitlements or licences will also:
 - 7.5.1. clearly indicate the responsibilities and obligations of the entitlement holder consistent with the water plan or a jurisdiction's water legislation relevant to the source of the water
 - 7.5.2. only be able to be cancelled at Ministerial and agency discretion where the responsibilities and obligations of the entitlement holder have clearly been breached
 - 7.5.3. be able to be varied, for example to change extraction conditions, where mutually agreed between the government and the entitlement holder, and
 - 7.5.4. be subject to any provisions relating to access of water during emergencies, as specified by legislation in each jurisdiction.
- 7.6. The provisions in 7.1-7.5 are subject to the following:
 - 7.6.1. fixed term water access rights such as licences may be issued for consumptive use where this is demonstrably necessary, such as:
 - in areas with poorly understood and/or less developed water resources
 - where the access is contingent upon opportunistic allocations
 - where the access is provided temporarily as part of an adjustment strategy
 - where community and stakeholders support the establishment of a licensing regime.

- 7.6.2.** water access rights that are tied to land such as licences may be issued for consumptive use where this is demonstrably necessary, such as:
- in areas where adverse impacts from water use are localised (such as in groundwater systems)
 - where the use of water is inextricably connected with the underlying land (e.g. stock and domestic rights, water access rights for native title and/or cultural uses)
 - where community and stakeholders support the establishment of such water access rights.
- 7.6.3.** The risks of expected development and demand on resources in poorly understood or undeveloped areas will be assessed through an ongoing process, to move these to a full entitlement framework when this becomes appropriate for their efficient management.
- 7.7.** Water resources that cross jurisdictional boundaries should have water access entitlements or licenses that are compatible to improve investment certainty, be competitively neutral and enable trade.
- 7.8.** Water resources with significant connectivity specify water access entitlements and licences in a manner that takes into account the interactions between those resources. Groundwater resources specify water access entitlements and licences in a manner that takes into account lag effect.
- 7.9.** Water management frameworks recognise all water supply options and consumptive uses.

Environmental and other public benefit outcomes

- 7.10.** Environmental and other public benefit outcomes are recognised in water plans or a jurisdiction's water legislation, and have at least the same degree of security as water access rights for consumptive use and are fully accounted for.
- 7.11.** Water for environmental and other public benefit outcomes, if held as a water access entitlement, may be traded when not required to meet the environmental and other public benefit outcomes sought, provided such trading is not in conflict with those outcomes.

Assigning risks for changes to water availability

- 7.12.** The following risk assignment framework is intended to apply to future reductions in the availability of water for consumptive use, that are additional to those identified for the purpose of addressing known overallocation and/or overuse.
- 7.13.** An effective risk assignment framework occurs in the context that:
- 7.13.1.** a share-based water access entitlements or licence framework has been established
 - 7.13.2.** water plans have been transparently developed to determine water allocation for the entitlements
 - 7.13.3.** regular reporting of progress with implementing plans is occurring
 - 7.13.4.** a pathway for dealing with known overallocation and/or overuse has been agreed.
- 7.14.** Water access entitlement or licence holders are to bear the risks of any reduction or less reliable water allocation, under their water access entitlements, arising from reductions to the consumptive pool as a result of:
- 7.14.1.** seasonal or long-term changes in climate,
 - 7.14.2.** periodic natural events such as bushfires and drought.
- 7.15.** The risks of any reduction or less reliable water allocation under a water access entitlement arising as a result of bona fide improvements in the knowledge of water systems' capacity to sustain particular extraction levels are to be borne by users up to 2014. Risks arising under comprehensive water plans commencing or renewed after 2014 are to be shared over each ten-year period in the following way:
- 7.15.1.** water access entitlement holders to bear the first 3% reduction in water allocation under a water access entitlement,
 - 7.15.2.** State/territory governments and the Commonwealth Government to share one-third and two-thirds respectively reductions in water allocation under water access entitlements of between 3% and 6%
 - 7.15.3.** State/territory and Commonwealth governments to equally share reductions in water allocation under water access entitlements greater than 6%.²

² Bona fide improvements in the knowledge of water systems: information that is added to or modifies existing models or theories accepted by water managers and implemented on this basis in legislation or regulation or otherwise given effect, other than knowledge relating to matters at 7.14.

- 7.16.** When a government makes a permanent reduction or has not previously provided for a water allocation which becomes less reliable, the government is to bear the risks arising from changes in government policy (for example, new environmental objectives). In such cases, governments may recover this water in accordance with the principles for assessing the most efficient and cost-effective measures for water recovery (as per outcomes under objective 6).³
- 7.17.** Where a water access entitlement or licence framework has not been established, a risk assignment approach should be set out in a jurisdiction's water legislation to provide confidence and security to water access rights holders. Alternatively, the Parties agree that where affected parties, including water access entitlement or licence holders, environmental stakeholders and/or the relevant government/s agree, on a voluntary basis, to a different risk sharing formula to that proposed in 7.14-7.16, that this will be an acceptable approach.

Water markets and trading

- 7.18.** Water management arrangements facilitate the efficient operation of water markets where system and water supply considerations permit.
- 7.19.** Water markets are integrated with broader water management frameworks. Trading rules and related administrative arrangements for water markets are consistent with broader water management objectives.
- 7.20.** Where broader management and administrative decisions impact on market dynamics, these processes are transparent, and their impacts well understood by market participants.
- 7.21.** Changes to water market settings, including trading rules, are only made when necessary and well-justified. The communication of these changes is clear, timely and accessible to market participants.
- 7.22.** All tradable water access rights and transfers of ownership of tradable water access rights are recorded on reliable and publicly accessible water registers.
- 7.23.** Basic trade data – including on prices, volume and quantity, trade type or product type, and location – is accurate, publicly accessible, timely and reliable.
- 7.24.** Water market rules and protocols for facilitating trade are publicly accessible.
- 7.25.** Access to trading opportunities is open to all, irrespective of a person being (or not being) a member of a class of persons, or the intended use of the right being traded.
- 7.26.** Market arrangements should be adaptable to new sources of water and to sources not previously included in the trading framework.

Water resource accounting

- 7.27.** Water resource accounts are maintained to provide transparent, practical, credible and reliable information for water management decisions and information on the broader water context to meet the needs of system participants.
- 7.28.** Water resource accounts are maintained using agreed accounting system standards and standardised reporting formats that enable ready comparison of water use, compliance against entitlements and trading information, and the production of national water accounts.
- 7.29.** Water resource accounts are reconciled annually and aggregated to produce a national water balance:
- 7.29.1.** covering how much water is in a system and all significant water use, for all managed water resource systems
 - 7.29.2.** integrating the accounting of groundwater and surface water use where close interaction between groundwater aquifers and streamflow exist
 - 7.29.3.** considering land use change, climate change and other externalities as elements of the water balance.
- 7.30.** Water resource accounts provide a full and public account of environmental water held as a water access entitlement to include information about the source, volume, location of use and security.
- 7.31.** Water resource accounts provide regular public reports on the use of environmental and Cultural water, including water held as a water access entitlement and water assigned for environmental or Cultural use in water plans or under a jurisdiction's water legislation, and include information on whether it has achieved the environmental outcomes sought.

³ Changes in government policy: A change in legislation or regulatory measures made by government to address a specific problem, other than a reduction described at 7.14 or 7.15

- 7.32.** Metering and measurement of surface water and groundwater take is robust, fit for purpose, efficient, feasible to implement, and undertaken on a consistent basis:
- 7.32.1.** for categories of entitlements identified in a water planning process as requiring metering
 - 7.32.2.** where water access rights are traded
 - 7.32.3.** in an area where there are disputes over the sharing of available water
 - 7.32.4.** where new entitlements are issued
 - 7.32.5.** where there is a community demand.
- 7.33.** Metered water use is reported publicly and includes:
- 7.33.1.** metered water use and associated compliance and enforcement actions
 - 7.33.2.** trade outcomes
 - 7.33.3.** environmental water releases and management actions
 - 7.33.4.** availability of water access entitlements against the rules for availability and use.
- 7.34.** Water regulation for non-urban water shall conform with Australian standards and agreed national approaches for non-urban water metering.

Water use efficiency (demand management)

- 7.35.** The promotion and conduct of water demand management practices to conserve water supply and quality and to adapt to any future water supply vulnerability.
- 7.36.** Continued commitment to the objectives of the *Water Efficiency Labelling and Standards (WELS) Act 2005* and nationally consistent WELS legislation.



Appendix 1 – National Water Initiative Mapping

| Objective 1 | | |
|--|---|---|
| Topic | Relevant National Water Initiative clause/s | Corresponding section of draft National Water Agreement |
| Water pricing and institutional arrangements | 64 to 68 | Amended as an outcome and principles under objective 1. |
| Release of unallocated water | 71 and 72 | Included as principles under objective 1 with minor wording changes. |
| Environmental externalities | 73 | Included as principles under objective 1 with minor wording changes. |
| Institutional arrangements | 74 | Expanded as principles under objective 1 to address Productivity Commission (PC) 2024 recommendations. |
| Performance monitoring | 75 and 76 | Amended as principles under objective 1 to address PC 2024 recommendations. |
| Pricing regulation | 77 | Amended as principles under objective 1. |
| Water service provision | 91 and 92 | Expanded under objective 1 as both outcomes and principles to address PC 2024 recommendations and stakeholder feedback. |
| Objective 2 | | |
| Investment in infrastructure | 69 | Amended and expanded as outcomes and principles under objective 2 to address PC recommendations and stakeholder feedback. |
| Objective 3 | | |
| Aboriginal and Torres Strait Islander Peoples' access to ownership and management of water | 25, 52, 53 and 54 | Elevated as an outcome and expanded as outcomes and principles under objective 3 to address PC recommendations and stakeholder feedback (also covered under Objective 6). |
| Objective 4 | | |
| Data and information | 96 | Expanded as principles under objective 4 to address PC recommendations. |
| Science and knowledge | 98 to 101 | Expanded as outcomes and principles under objective 4 to address PC recommendations. |
| Objective 5 | | |
| Compliance | 57, 82 and 89 | Amended as outcomes and principles under objective 5 to address PC recommendations. |
| Engagement | 93, 94, 95 | Amended as outcomes and principles under objective 5 to address PC recommendations. |
| Adjustment issues | 45, 97 | Expanded as principles under objective 5. |
| Public communication and transparency | 96 | Amended as outcomes and principles under objective 5. |

| Objective 6 | | |
|---|---------------------------------------|--|
| Water planning | 36 to 40 | Brought across/modernised as outcomes and principles under objective 6 to address PC recommendations and stakeholder feedback. Schedule E to be brought across and modernised where required. |
| Addressing overallocated and/or overused systems | 25 (v), 41,42, 43 and 44 | Brought across/modernised where relevant in the outcomes and principles under objective 6. |
| Protection of ecosystems | 25, (xi) | Brought across as an outcome under objective 6 |
| Aboriginal and Torres Strait Islander Peoples' access to water | 52 to 54 | Amended as outcomes and principles under objective 6 to address PC recommendations (also covered in objective 3). |
| Interception | 25 (xi), 55, 56, and 57 | Amended as outcome and principles under objective 6 to address PC recommendations and stakeholder feedback. |
| Environmental water | 78 and 79 | Maintained and modernised under objective 6. |
| Water quality | 7, 79 | Revised as principles under objective 1 to address PC recommendations and stakeholder feedback. |
| Objective 7 | | |
| Water access entitlements | 25 (vii) and 28 to 34, and Schedule D | Amended as outcomes and principles under objective 7, and maintained as schedule D. |
| Environmental and other public benefit outcomes | 35 | Amended as outcomes and principles under objective 7. |
| Assigning risks for changes to availability of water | 25 (i), (vi) and 46 to 51 | Amended as outcomes and principles under objective 7 to address PC recommendations. |
| Water markets and trading | 58 to 60, Schedule F and G | Amended as outcomes and principles under objective 7 to address PC recommendations, and maintained as schedules F and G. |
| Water resource accounting | 80 | Amended as outcomes and principles under objective 7 to address PC recommendations. |

Appendix 2 – Schedules to the proposed agreement

The National Water Initiative contained 7 schedules. We propose to:

- retain schedules to the NWI that will remain fit-for-purpose into the future
- update schedules that need to be modernised to reflect the intent of the agreement
- remove schedules that are no longer relevant.

The following list reflects suggestions of which schedules to retain, update and remove:

Schedule A | Timeline for Implementation

Action: remove – to be replaced by the introduction of jurisdictional action plans.

Schedule A | Definitions

Action: update – to be modernised and updated.

Schedule C | National Water Commission

Action: remove – abolished in 2014. Options for a new National Water Commission will be informed by the development of the new National Water Agreement.

Schedule D | Principles for regulatory approvals for water use and works

Action: retain

Schedule E | Guidelines for water plans and planning processes

Action: update – to be modernised and updated.

Schedule F | Guidelines for Water Registries

Action: retain.

Schedule G | Principles for Trading Rules

Action: update – to be modernised and updated.

Where schedules from the NWI are being updated, the original NWI schedule will remain in place until such time that parties to the agreement agree to update them. This may happen during the 4th phase of consultation on action plans.

Work is also being undertaken to consider what other schedules should be included in the agreement to support the principles. Additional schedules may include guidelines prepared after the development of the NWI to support the NWI, such as the NWI Pricing Principles. These will be updated where necessary to align with the new agreement.

Appendix 3 – Draft definitions

Consumptive pool – the amount of water resource that can be made available for consumptive use in a given water system under the rules of the relevant water plan or planning instrument.

Consumptive use – use of water for private benefit consumptive purposes including irrigation, industry, urban and stock and domestic use.

Cultural flows – water entitlements that are legally and beneficially owned by Aboriginal and Torres Strait Islander Peoples of a sufficient and adequate quantity and quality to improve the Cultural, spiritual, Cultural, environmental, social, economic and environmental economic conditions of those Peoples.⁴

Customary law and Ailan Kastom represent a way of thinking and talking about our environment and water interests. ‘Customary law’ and ‘Ailan Kastom’ can be viewed as a cultural framework that puts Country, family, knowledge, obligations, inheritance and property, at the forefront of everything we do. These terms also give weight to ideas around consent and self-determination, which are central to ensuring Aboriginal and Torres Strait Islander Peoples are supported to access, own and manage water.

Environmental and other public benefit outcomes – environmental and other public benefit outcomes are agreed as part of the water planning process, are specified in water plans and may include:

- environmental outcomes: maintaining ecosystem function (eg. through periodic inundation of floodplain wetlands); biodiversity, water quality; river health targets
- other public benefits: mitigating pollution, public health (eg. limiting noxious algal blooms), indigenous and cultural values, recreation, fisheries, tourism, navigation and amenity values.

Environmentally sustainable level of extraction – the level of water extraction from a particular system which, if exceeded would compromise key environmental assets, or ecosystem functions and the productive base of the resource.

Exchange rate – the rate of conversion calculated and agreed to be applied to water to be traded from one trading zone and/or jurisdiction to another.

Extraction rate – the rate in terms of unit volume per time unit that water can be drawn from a surface – or ground-water system. Used in the NWI in the context of a constraint that might exist due to the impact of exceeding a particular extraction rate at a particular point or within a specified system.

Free, prior and informed consent is a principle protected by international human rights standards that states, ‘Aboriginal and Torres Strait Islander Peoples have the right to self-determination’ and – linked to the right to self-determination – ‘Aboriginal and Torres Strait Islander Peoples have the right to freely pursue their economic, social and cultural development’.

Integrated water cycle management – the joint management of water resources in the urban environment and spans the provision water, wastewater and stormwater services.

International agreements – refers to Australia’s commitments under international agreements, treaties, conventions and declarations relevant to water management, which may include the United Nations Sustainable Development Goals, the United Nations Declaration on the Rights of Indigenous Peoples, the Ramsar Convention on Wetlands of International Importance and the Kunming Montreal Global Biodiversity Framework.

Jurisdictions or Parties refers to the Commonwealth, states and territories.

Water licence – a fixed-term arrangement to take a specific quantity of water from a water resource under certain conditions. In this agreement it refers to the primary way a state or territory allocates water for consumptive use where water access entitlements are not used. It does not include arrangements where a state or territory has a water access entitlement framework and has decided to use licences as a secondary means of allocating water for consumptive use.

Lower bound pricing – the level at which to be viable, a water business should recover, at least, the operational, maintenance and administrative costs, externalities, taxes or tax equivalent regimes (not including income tax), the interest cost on debt, dividends (if any) and make provision for future asset refurbishment/replacement. Dividends should be set at a level that reflects commercial realities and stimulates a competitive market.

⁴ Adapted from National Cultural Flows Research Project, Murray Lower Darling Rivers Indigenous Nations (MLDRIN), Northern Basin Aboriginal Nations (NBAN) and North Australian Indigenous Land and Sea Management Alliance (NAILSMA), A pathway to Cultural flows in Australia, 2018.

Surface water – water that flows over land and in water courses or artificial channels and can be captured and stored and supplemented from dams and reservoirs.

Tradeable water right – means a right or authorisation conferred by or under a jurisdiction's water legislation that is tradeable under that jurisdiction's water legislation

Trading zones – zones established to simplify administration of a trade by setting out the known supply source or management arrangements and the physical realities of relevant supply systems within the zone. Trade can occur within and between zones without first having to investigate and establish the details and rules of the system in each zone.

Upper bound pricing – the level at which, to avoid monopoly rents, a water business should not recover more than the operational, maintenance and administrative costs, externalities, taxes or tax equivalent regimes, provision for the cost of asset consumption and cost of capital, the latter being calculated using a weighted average cost of capital (WACC).

Water access entitlement – a perpetual or ongoing entitlement to exclusive access to a share of water from a specified consumptive pool as defined in the relevant water plan or planning instrument.

Water access right – means a right or authorisation conferred by or under a jurisdiction's water legislation to take or use water from a water resource.

Water allocation – the specific volume of water allocated to water access entitlements in a season, defined according to rules established in the relevant water plan or planning instrument.

Water quality – the physical, chemical, and biological characteristics of water. Water-quality compliance is usually assessed by comparing these characteristics with a set of reference standards. Common standards used are those for drinking water, safety of human contact and the health of ecosystems.

Water resources – include surface water, such as in rivers, lakes or dams, groundwater, including water stored through managed aquifer recharge, wastewater, stormwater, desalinated seawater recycled wastewater and brackish water.

Water sensitive urban design – the integration of urban planning with the management, protection and conservation of the urban water cycle, that ensures urban water management is sensitive to natural hydrological and ecological processes.

Water stewardship – using water in a way that is socially equitable, environmentally sustainable and economically beneficial.

Water system – a system that is hydrologically connected and described at the level desired for management purposes (e.g. sub-catchment, catchment, basin or drainage division and/or groundwater management unit, sub-aquifer, aquifer, groundwater basin).

