
Department of Climate Change, Energy, the Environment and Water – Australian Government

Consultation on the Draft Principles of a National Water Agreement – Discussion Paper

RGA Submission – September 2024

Thank you for the opportunity to comment on the draft principles contained in this Discussion Paper. Please find our detailed commentary presented in the following table.

By way of an overarching comment, we do believe the process put forward in the Discussion Paper isn't clear enough.

Page 6 of the Paper¹ describes the principles as something that jurisdictions must 'consider' when developing and delivering action plans under the new Agreement. Stakeholders need a clearer understanding of what this will actually mean in practice.

- What happens to a jurisdiction if it 'considers' a principle and chooses not to adopt it?
- How will a possibly punitive approach² deliver fit-for-purpose, co-designed, best-practice solutions?

We believe this component of the new Agreement needs substantial further work to ensure no unintended, perverse policy outcomes arise during the delivery phase.

¹ [Consultation on the draft principles of a National Water Agreement \(storage.googleapis.com\)](https://storage.googleapis.com)

² i.e. One where jurisdictions are 'named and shamed' or worse, if they don't do what Commonwealth officials want them to do.

Table One: Principles of Interest to the Rice Industry and Commentary.



OBJECTIVE	RGA COMMENTARY ON DRAFT PRINCIPLES THAT WILL SUPPORT THE IDENTIFIED OBJECTIVE
<p>Objective One: Safe/Secure Water Supply</p>	<p>ADD/CHANGE/REMOVE³:</p> <ul style="list-style-type: none"> • 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. National best practice recommends the reduction of pollution prior to its release into aquatic ecosystems.⁴ • New Water Service Provision Principle: Secure and resilient water supplies for irrigated agriculture remain a priority. Service levels are determined in collaboration with farming communities, and are aimed at protecting property right security, and optimising productivity within legal limits. • 1.12: Urban and rural water supply planning strategically considers the water needs of all sectors, such as energy, irrigation, health, the environment and industry, including new and emerging water uses. and The impacts of these uses upon water availability and quality are considered, as are the benefits these uses provide to communities living in both urban and rural Australia. • 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, and optimise the productive use of water, including using... • Release of Unallocated Water, and Full Utilisation of Available Water. New Principle: Recognising the need to efficiently use scarce water resources, jurisdictional plans will be altered as necessary so that use under access rights meets long-term extraction limits. • 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. • 1.37: 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 optimised productive use, and is publicly accountable to achieve customer confidence.

³ **ADD:** Is provided in red text. **REMOVE:** Is reflected by strikethrough. Both red text and strikethrough are used to capture the changes we recommend to the draft principles.

⁴ [About \(waterquality.gov.au\)](http://waterquality.gov.au)

<p><u>Objective Three: First Nations Access</u></p>	<p>ADD/CHANGE/REMOVE:</p> <ul style="list-style-type: none"> • Objective 3: A water management framework, underpinned by national and international human rights principles, which takes into account⁵ recognises and protects Aboriginal and Torres Strait Islander Peoples’ Cultural, spiritual, social, environmental and economic water interests and values. • 3.3: Waters in all their forms are acknowledged by Aboriginal and Torres Strait Islander Peoples to be a living entities, which are interconnected with lands and move freely between water landscapes, including upstream, downstream, and between surface and groundwater. • 3.5: Aboriginal and Torres Strait Islander Peoples have internationally renowned, enduring and sustainable water rights, including⁶ 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. • 3.7: Water management recognises and incorporates takes into account 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. • 3.12: In good faith, recognising the system of property rights built under the 2004 National Water Initiative, 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 take into account the interests and values of Aboriginal and Torres Strait Islander Peoples, and the Cultural, spiritual, social, economic and environmental outcomes to be achieved.
<p><u>Objective Four: Evidence-Based Decisions</u></p>	<p>ADD/CHANGE/REMOVE:</p> <ul style="list-style-type: none"> • Objective 4: The robust and coordinated use of science, data, community intelligence, and Cultural knowledge underpins evidence-based decision making in water management. • 4.1.1: Strong, durable partnerships between decision makers, the research community and on-ground and traditional knowledge holders. • 4.8: The application of science and data is precautionary in line with the level of inherent uncertainty, and the risk appetite of those likely to be impacted by any associated decision-making.

⁵ Ensures consistency with the *Water Amendment (Restoring Our Rivers) Act 2023*, paragraphs 3(fa) and 20(da); [WATER AMENDMENT \(RESTORING OUR RIVERS\) ACT 2023 \(NO. 111, 2023\) \(austlii.edu.au\)](https://www.austlii.edu.au/au/other/dfat/special/water/water-amendment-restoring-our-rivers-act-2023-no-111-2023.html).

⁶ Unclear how this set of words translates into clear outcomes for jurisdictional plans. The latter part of this principle provides better guidance, and reflects the broader intent of the NWI and its successor.

<p>Objective Five: Community Trust</p>	<p>ADD/CHANGE/REMOVE:</p> <ul style="list-style-type: none"> • Objective 5: Jurisdictions must demonstrate sustained community trust and confidence in government, water agencies, water managers and users. • New Engagement Principle: Jurisdictions will regularly report on the quality of their engagement approaches. Unless demonstrably impractical to do so, all engagement will be underpinned by the principle of co-design with impacted communities/individuals. • 5.6: The community and water rights holders have access to clear, logical and timely information in accessible formats that help them to understand both their own obligations, as well as those of other users and relevant jurisdictions, in order to build trust and enable meaningful engagement. • 5.7: Water planning and management processes are participatory and transparent, and built on the requirement for co-design wherever possible.
<p>Objective Six: Sustainable Planning</p>	<p>ADD/CHANGE/REMOVE:</p> <ul style="list-style-type: none"> • 6.1.1: Manage the risks and opportunities of lower increased water climate variability availability and the need to balance or rebalance between for both environmental and consumptive uses, recognising that 'non-volumetric' solutions are valid and appropriate. • 6.1.2: Describe how water will be is already being⁷ 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. 'Non-volumetric' solutions are valid and appropriate. • 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. 'Non-volumetric' solutions are recognised as valid and appropriate for achieving ecological outcomes under climate change. • 6.3.2: Resource security outcomes by determining the consumptive pool, and the rules to allocate water, and the policy-settings that best optimise the productive use of consumptive water. • 6.5: A precautionary approach is taken to allocation for resources with high uncertainty, informed by the risk appetite of those likely to impacted by any associated decision-making. 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. Flexible water allocations recognise both the risk appetite of licence-holders, as well as the system of property rights built under the 2004 National Water Initiative. • 6.8.2: Water coproduction should be avoided where it will not be used to achieve environmental and other public benefit outcomes.⁸ • 6.21.1: Held environmental water rights that ensure contribute to the sustainable allocation and management of water resources to achieve environmental outcomes including⁹ by providing sufficient flows to support aquatic habitats, wetlands, riparian zones and other critical ecological functions. • 6.23: The most effective and efficient mix of water recovery solutions to achieve environmental outcomes is determined through measures including: • 6.23.6: Selection of measures primarily based on cost-effectiveness, and with a view to managing socio-economic impacts.¹⁰ • New Principle Under 6.23: Options that achieve environmental outcomes without the need for further water recovery.¹¹ • 6.35.2: A precautionary approach is taken to assessing and managing the potential interception impacts on the rights of other licence-holders in the system, as well as achieving environmental and other public benefit outcomes of relevant water plans, or objectives in relevant water planning strategies. • 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, without creating third-party impacts for any other licence-holders operating in the same system.

⁷ NWI-consistent Plans clarify annually the volume of water resource available, based on rainfall and other prevailing climate factors. When it's not raining, and storages are low, allocations already reflect this climatic reality.

⁸ The rationale for this draft principle is unclear based on the surrounding text. Draft principle 6.8.3 is more appropriately drafted for consideration in jurisdictional implementation plans.

⁹ Sustainable extraction limits, and site-specific ecological outcomes are met through a combination of tools/instruments, not just through held environmental water.

¹⁰ Jurisdictions should have the ability to decide for themselves whether socio-economic protection or 'cost-effectiveness' is more important.

¹¹ Water for the environment is essential, but on its own is not sufficient: factors such as water quality, riparian and floodplain management, pest control, instream habitat, river operations, constraints and works, and environmental water portfolio management are crucial to secure environmental outcomes. ([Early Insights Paper publication – Basin Plan Review | Murray–Darling Basin Authority \(mdba.gov.au\)](#)).

Objective Seven: Efficient Water Use

ADD/CHANGE/REMOVE:

Assigning Risks for Changes to Water Availability

- We note, and support the wording under this sub-heading, as essentially matching word-for-word the original 2004 *National Water Initiative* text.
- In line with this, we can understand why 2014 has been chosen as the ‘commencement year’ under the new national agreement.
- However, this risks creating a grey-area for licence holders in the Murray-Darling Basin, who are still subject to environmental water recovery.
- A new draft principle is needed to clarify how sections 74-85A of the *Commonwealth Water Act*¹² will operate alongside this new national Agreement.
- We also need the inclusion of the following, as a separate new draft principle: **Under the *Commonwealth Water Act 2007*, the Commonwealth Government intends to increase the volume of environmental water in the Murray-Darling Basin by up to 450 GL/yr. This water is not needed to address overallocation anywhere in the Basin. As such, this reflects a change in government policy, for which the Commonwealth Government is 100% responsible.**
- **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 ~~for~~ 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.

We assume there’s a typographical error in draft principle 7.17, and that the second line of this paragraph should sit in the new agreement as a principle in its own right. Our strikethrough (yellow highlight refers) in the second line of this paragraph ensures its intended operation matches what was originally set out in 2004.

¹² Allocation of risks in relation to reductions in water availability ([WATER ACT 2007 \(austlii.edu.au\)](http://www.austlii.edu.au/au/other/dfat/special/water/act2007/)).