



National
Irrigators'
Council

SUBMISSION: NATIONAL WATER REFORM INQUIRY



PRODUCTIVITY COMMISSION

MAY 2026



National Irrigators' Council
Food · Fibre · Future

Preamble

This submission is provided to the Productivity Commission's (PC) fourth inquiry on governments' progress under the National Water Initiative (NWI), as required by the *Water Act 2007* (Cth).

NIC notes that this inquiry comes at a time of significant review, and potential change, of water policy settings across Australia, particularly in the Murray-Darling Basin (MDB). The consultation burden affects stakeholders and Government. The impact of Government seeking to have 'all the information at once' has clearly resulted in a narrowing of scope of this inquiry to meet new timeframes and minimise duplication with other policy reviews underway. However, with the current uncertainty regarding national reform settings and scope limitations, has ultimately reduced the effectiveness of this scheduled review.

This consultation on progress against the NWI also comes at a time where the NWI is being refreshed into a new National Water Agreement (NWA), with currently unknown status, but (at best) hesitations of many jurisdictions to sign it. Stakeholders such as NIC were involved in the public consultation led by DCCEEW on the draft NWA, but to date, have not had transparency of the final version, and the next steps remain unknown. There is great risk in moving from a broadly agreed and shared vision of the NWI, to a contested document. One of the strengths of the NWI was that it forms a shared-vision by those involved in its development at the time.

This consultation also comes at a time of extensive and critical public consultation on other water policy areas, such as the Murray-Darling Basin Plan Review, Menindee Lakes Review, Water Act Review, Inspector-General of Water Compliance Review, Northern Basin Toolkit Review, and state-based processes. A shortage of submissions from water users must not be considered as a lack of interest or concern, rather, an inability to properly engage with this review at this time due to resourcing limitations.

In that context, NIC refers to several of our recent submissions to similar reviews and inquiries to provide a more comprehensive look at key issues. This includes:

- NIC Submission to DCCEEW on the Draft National Water Agreement (January 2025) (Appendix 2)
- [NIC Submission to the MDBA on the Murray Darling Basin Plan Review Discussion Paper \(April 2026\)](#)¹ and snapshot (Appendix 1)
- [NIC Basin Plan Review – Moving Forwards \(October 2025\)](#)²

¹ <https://www.irrigators.org.au/policy/murray-darling-basin-plan/2026-basin-plan-review/discussion-paper-submission/>

² <https://www.irrigators.org.au/policy/murray-darling-basin-plan/2026-basin-plan-review/moving-forward-our-review-of-the-murray-darling-basin-plan/>



Overview

Key points raised in this submission include:

- This is a challenging time to do a review of progress of the NWI, given the ongoing development of the NWA, with no agreed pathway forwards. The development of the NWA has raised several governance questions, and the process has been very different to the development of the NWI, in that stakeholders have not been as actively included. This risks a lack of buy-in from both stakeholders and jurisdictions, as it is likely not a shared vision.
- Since the 2024 NWI assessment, there has been a noticeable change of focus for water reform, shifting away from pure water management to integrated land and water management, linking with complementary or non-water levers to optimise water outcomes. Overallocation in the Murray Darling Basin is no longer the central key issue for water management. This is where the NWI, and reviews of the NWI, have become dated in their narrow focus.
- Water is now managed to achieve a broad range of public interest objectives, and current pricing models of full cost recovery from 'users' are no longer fit-for-purpose. This risks a lack of financial sustainability for some water utilities and infrastructure projects, as costs have overtaken the capacity / willingness to pay for users (who now make up only a small proportion of the demands of the system). The need for greater public investment in water management is needed, recognising the broad public interest outcomes and community expectations.
- A very important part of the NWI was establishing the water entitlement system on which the entire system of water management is based. Recently (perhaps due to Government funding limitations), we are observing concerning trends of Governments seeking to erode the reliability of water entitlements (such as via rules-changes) without abiding to the NWI principles that are foundational to how the water management framework operates, in particular the requirement for compensation when impacts arising from changes in government policy. This is a critical opportunity for the PC to reiterate the importance of the integrity of the water property right framework, not just for users, but for the integrity of the entire system, now and for the future.
- Since 2004, there has been a continual decline of the water available for agriculture. It is a critical opportunity to ask questions on ensuring Australia has ensured sufficient water security for our agricultural sector, to be productive, resilient and competitive into the future. This will become increasingly important with climate change.

About us

The National Irrigators' Council (NIC) is the peak industry body for irrigated agriculture in Australia. NIC is the voice of irrigation entitlement holders, water delivery operators and industries involved in food and fibre production.



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Submission

Information request Part A – NWI assessment

1. Progress since the 2024 NWI assessment

From a federal perspective, the below priorities were identified in the 2024 assessment:

Australian Government

In the next three-year NWI assessment period, the Australian Government should:

- articulate its strategic vision for national water policy
- coordinate across jurisdictions on water policy matters of shared interest, and support collaborative innovation and knowledge sharing efforts through the NWRC to facilitate best practice water management
- ensure that new or refurbished water infrastructure projects are compliant with the NWI as a condition of Australian Government funding (and pre-conditioned, to encourage adherence to commitments agreed in a renewed NWI)
- continue its policy and investment efforts to rebalance already overallocated surface water and groundwater systems and avoid overallocation in 'at risk' systems.

In our view, the priorities themselves have fundamentally shifted since that review. The 2024 review continued to have a focus on the overarching objective of addressing over-allocated systems. However, what is evident from the Basin Plan Review (and related documents to date) shows that overallocation is no longer the problem-to-be-solved for water management in Australia. This is where the NWI and its reviews have become dated in their narrow focus.

For example, NIC analysis of the MDBA's initial SDL assessments, showed 92% of environmental indicators did not show improved outcomes from further water recovery, across all water sources. Of the 8% which did show improvements, the change is often from an already positive baseline (i.e. 'more likely than not' to 'likely'), with low or medium confidence, and not necessarily the indicators which were considered 'at risk'. This makes it clear that further water recovery is not the solution and questions the value of further water recovery.

Moving forwards, focus should turn to integrated catchment management, in

Percentage of environmental themes in surface water sources with a changed outcome from water recovery

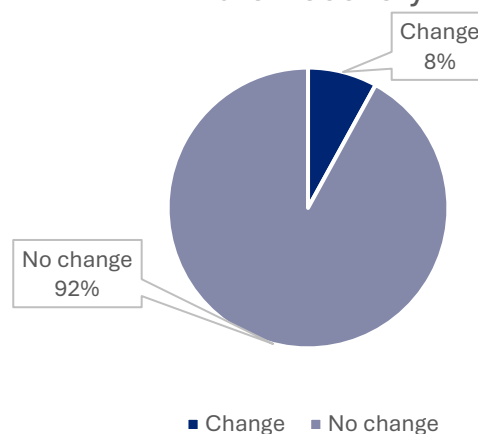


Figure 1: Percentage of environmental themes in surface water sources with a changed outcome from further water recovery (source NIC 2026)



terms of complementary and non-flow measures to support or optimise environmental outcomes. No further water recovery or rebalancing is required. It will be critical that the 'problem-definition' of the NWI is allowed to recognise this progress, and move forwards, to focus on contemporary issues.

The following table provides a quick summary of the progress of jurisdictions towards the 2024 NWI assessment by the PC. This table is intended to provide a snapshot of updated progress on these recommendations from NIC's understanding; this does not suggest that NIC necessarily supports these recommendations as being fit for purpose or required to be implemented. We encourage the PC to reach out to state-based groups in these jurisdictions for more insights.

Table 1 – Key priorities for the three-year assessment period commencing 2024 (source: PC, 2024)	Progress update by NIC
New South Wales	
In the next three-year NWI assessment period, New South Wales should:	
<ul style="list-style-type: none"> obtain accreditation for its remaining eight water resource plans in the Murray–Darling Basin 	Part progressed
<ul style="list-style-type: none"> complete its planned rollouts of floodplain harvesting licences and AS4747 metering 	Substantially progressed
<ul style="list-style-type: none"> establish accurate, numeric long-term average annual extraction limits in water sharing plans for unregulated river systems 	Part progressed
<ul style="list-style-type: none"> continue its efforts to establish an agreement with the ACT Government to enable cross border trade between the two jurisdictions. 	Completed
Victoria	
In the next three-year NWI assessment period, Victoria should:	
<ul style="list-style-type: none"> clearly establish a specific risk assignment framework 	Not progressed
<ul style="list-style-type: none"> keep all options on the table in managing urban water supplies, particularly in removing explicit or implicit barriers to the use of purified recycled water for drinking water supplies, and to urban-rural water trade. 	Part progressed
Queensland	
In the next three-year NWI assessment period, Queensland should:	
<ul style="list-style-type: none"> finalise and implement its First Nations Water Strategy 	In progress – embedded in planning processes without a strategy as such
<ul style="list-style-type: none"> progress its current program of approved water security infrastructure projects, focusing on cost effective investments 	In progress
<ul style="list-style-type: none"> continue its Urban Water Risk Assessment program to understand drinking water quality, water supply security and water and sewerage service delivery risks across remote and regional Queensland 	In progress



Table 1 – Key priorities for the three-year assessment period commencing 2024 (source: PC, 2024)	Progress update by NIC
<ul style="list-style-type: none"> expand independent economic regulation for urban providers and replace capital grant funding for regional urban providers with transparent community service obligation payments. 	Part progressed
Western Australia	
In the next three-year NWI assessment period, Western Australia should:	
<ul style="list-style-type: none"> introduce NWI-consistent water legislation 	Incomplete - commenced but progress has stalled
<ul style="list-style-type: none"> strengthen independent economic regulation frameworks to align water service pricing with cost-recovery principles 	Incomplete
<ul style="list-style-type: none"> increase the transparency of information on prices, costs and subsidies for irrigation services. 	Ongoing
South Australia	
In the next three-year NWI assessment period, South Australia should:	
<ul style="list-style-type: none"> continue water security planning and investment activities in line with its Water security statement 	Part progressed
<ul style="list-style-type: none"> progress unbundling of remaining water entitlements, where feasible 	Unsure
<ul style="list-style-type: none"> review grandfathering provisions to encourage greater uptake of the AS4747 metering standard. 	Part progressed - no outcome yet
Tasmania	
In the next three-year NWI assessment period, Tasmania should:	
<ul style="list-style-type: none"> address under-pricing by the state-wide water service provider 	Part progressed - pricing review underway currently
<ul style="list-style-type: none"> increase transparency of information on prices, costs and subsidies for irrigation services 	Ongoing
<ul style="list-style-type: none"> publicly report compliance and enforcement activities and implement actions from the review of its water accountability framework under the RWUS 	Ongoing
<ul style="list-style-type: none"> specify cultural and spiritual outcomes for First Nations communities in water plans 	In progress - forms part of broader NWA reform focus
<ul style="list-style-type: none"> specify and implement risk sharing provisions between licence holders and government, based on the NWI risk assignment framework. 	Part progressed
Northern Territory	
In the next three-year NWI assessment period, the Northern Territory should:	
<ul style="list-style-type: none"> progress its planned safe drinking water legislation and continue to improve water quality in remote communities 	Ongoing
<ul style="list-style-type: none"> strengthen the voice of First Nations peoples in water management and enhance access to water for Aboriginal peoples within its Strategic Aboriginal Water Reserves 	In progress - forms part of broader NWA reform focus



Table 1 – Key priorities for the three-year assessment period commencing 2024 (source: PC, 2024)	Progress update by NIC
<ul style="list-style-type: none"> more clearly specify environmental and cultural outcomes in its water allocation plans, ensuring these outcomes are informed by high quality engagement and science. 	Completed
Australian Capital Territory In the next three-year NWI assessment period, the ACT Government should:	
<ul style="list-style-type: none"> continue its efforts to establish an agreement with the NSW Government to enable cross border trade between the two jurisdictions. 	Completed
Australian Government In the next three-year NWI assessment period, the Australian Government should:	
<ul style="list-style-type: none"> articulate its strategic vision for national water policy 	Attempted via the NWA, however, these lacks being a shared vision by many stakeholders and jurisdictions, due to poor and rushed process.
<ul style="list-style-type: none"> coordinate across jurisdictions on water policy matters of shared interest, and support collaborative innovation and knowledge sharing efforts through the NWRC to facilitate best practice water management 	In progress - while processes may be established, the NWA process shows a lack of effectiveness and a tendency for the Cth to take a more top-down approach, rather than the long-standing (and constitutionally necessary) approach of cooperation.
<ul style="list-style-type: none"> ensure that new or refurbished water infrastructure projects are compliant with the NWI as a condition of Australian Government funding (and pre-conditioned, to encourage adherence to commitments agreed in a renewed NWI) 	Ongoing
<ul style="list-style-type: none"> continue its policy and investment efforts to rebalance already overallocated surface water and groundwater systems and avoid overallocation in 'at risk' systems. 	Completed - now this has been addressed, it will be critical that priority and focus shifts away from this problem-definition of overallocation to a new focus, such as integrated catchment management, and water infrastructure.



Given the various degrees of progress and focus by jurisdictions (including the Commonwealth) on the remaining NWI actions, several questions remain unanswered regarding the process for managing transition from the NWI to the NWA. If and/or when a jurisdiction agrees to the new NWA is there a stocktake of progress against the NWI undertaken, prior to their requirement to design and implement a new action plan against the NWA. What happens if we have an inconsistency of adoption with some jurisdiction on the NWI and others on the NWA.

2. Barriers and emerging risks

Maintaining the integrity of the water property right framework:

Clauses 31-32 of the NWI establishes essential characteristics of water access entitlements, effectively establishing the characteristics of the property right. These entitlements were afforded some protection from risks to their reliability via the Risk Assignment Framework (RAF) of the NWI, including that Government is responsible for 100% of the risk arising from a change in government policy.

One of the key risks is jurisdictions now being tempted to depart from that established water property right framework, as envisioned by the NWI. This poses the risk not only to water entitlements holders, but to the very system on which water management is now based. Key examples including jurisdictions using rules-changes as a form of water recovery (effectively shrinking the consumptive pool, and reliability of water entitlements) without proper process, just compensation, voluntary agreement / consent, and not consistent with the NWI processes (for if a reduction must occur for public interest reasons). A similar example is changing policies for allocation decisions (such as minimum inflow assumptions for the setting of reserves) or changing access arrangement (such as pumping levels), thereby reducing reliability or timing of access, without compensation. We are concerned that some jurisdictions are intentionally skewing their interpretation of these provisions to argue 'new knowledge' or 'climate change' as the basis for changes of government policy, to avoid paying compensation. This undermines the integrity of the entire framework and is not aligned with the intent of the NWI Risk Assignment Framework, to provide certainty of process and therefore security for decision-making and investment.

The NWI also specifies that "where it is necessary to recover water to achieve environmental and other public benefit outcomes" the principles that apply. These include considering all available options and using the market. We are concerned some jurisdictions are moving away from these models, effectively disrespecting the very water entitlement / water property right framework the NWI endeavoured to create. The Federal Government gave effect to this Risk Assignment Framework in the Basin Plan by using voluntary water purchases from willing sellers. Moving forwards, it will be pivotal that all Governments adhere to these principles that impacts resulting from changes in government policy are fully compensable.

As [Forest Reinhardt](#) (Harvard Professor) spoke about at the 2025 MDBA River Reflections conference, the integrity of the water property right is paramount, and the whole system of water management relies on it:

"If the subsequent versions of the Basin Plan, can make water more and more like a normal commodity... just as if you own a piece of land... I think that the



more you can make water rights look like normal property rights, the more effective the system will be. I come from a country where we can't even get to the starting line of that kind of thing."³

We recommend that this review provides clarification to jurisdictions that changes in government policy that impact the reliability of water on a water access entitlement are fully compensable.

Need for stability

After three decades of reform since the NWI with its vision largely implemented, communities and industries need stability of water policy settings. There is a risk of being stuck in the reform loop, without assessing if that approach is the best approach for today's issues.

For more information, please see our submission to the MDBA on the Murray Darling Basin Plan Review Discussion Paper (2026)¹.

3. Forward reform priorities

Integrated catchment management

NIC uses the term integrated catchment management to include the use of complementary, non-water measures to optimise outcomes from water management.

See our submission to the MDBA on the Murray Darling Basin Plan Review Discussion Paper (2026)¹ for more information.

Water security for agriculture

After three decades of reform focused on 'rebalancing', there is a need to focus on, and value, water security for agriculture. This is critical in the context of increased competition for water, diminishing productivity gains and plausible impacts of climate change.

Future Governance

Based on the draft NWA, we have concerns relating to:

- Binding nature of the NWA – the draft NWA stated "*Intergovernmental agreements are not legally binding. They express the commitment of governments to work together on certain objectives or goals.*" We are concerned this downplays the significance of the NWI/NWA.
- Lack of support by many jurisdictions for the latest NWA (at time of writing) – including a lack of financial incentive / support to action them.
- Unclear governance arrangements for implementation of the future plausible NWA, and what happens if not all parties of the NWI do not sign the NWA.
- Adequacy of process for international agreements and an increasing reliance in federal water policy matters on international agreements. The purpose of this is to overcome the Constitution which positions water to be managed by the States, not as a referred power. This means the Commonwealth must lean on their external affairs provisions under the Constitution when it comes to water

³ Source: MDBA River Refection's 2025 ([here](#))



management. For example, the Basin Plan heavily relied upon the Ramsar convention for the Commonwealth to have powers under 'external affairs. Many questions are being asked on whether this is jurisdiction-creep and overstepping the role and powers of the Commonwealth. The history of water management in Australia is based on cooperation, and we are concerned to see recent movements away from that model, towards a more top-down approach, overstepping Constitutional powers. This has been reinforced by the Terms of Reference for the Water Act 2007 (Cth) review specifically referring to international agreements for Indigenous peoples. We recommend the PC examines this issue and assesses the adequacy of processes to adopt and action international agreements in the context of current Constitutional settings. Put simply – the NWI (or NWA) relies upon cooperation of the states, and the approach of DCCEE in renewing the NWI/NWA has appeared to have not respected that, risking these principles of cooperation.

Information request Part B – Secure, resilient and sustainable services

Infrastructure

NIC notes the concerns raised by the MDBA in the Basin Plan Review Discussion Paper:

“Much of this river infrastructure, including for town water treatment and supply, is near or passed its engineered life span and increasingly vulnerable to failure... The Australian Government and southern Basin state governments manage and fund River Murray infrastructure assets – valued at around \$6 billion – but do so within constrained budgets. Current capital expenditure is one-third to half the necessary level to sustain this important asset base over the long term. Ongoing underinvestment in major asset maintenance and renewal has led to major condition, capability and operability issues at some assets.”⁴.

NIC is concerned to hear of the risks of ageing water infrastructure, which poses risk to not only water security for agriculture, and critical human water needs, but also environmental water regulation and major safety concerns.

NIC shares the concerns regarding inadequate water security for town water supplies, and the long-term under-investment in the infrastructure to provide and maintain these services. This must be given a higher priority in budget considerations for the water portfolio, over and above ongoing water recovery.

NIC is concerned that the current water pricing models have reached a tipping point where costs cannot be recovered from users, in a way that is financially viable for users, and enables expenses to be met. A greater public investment is required, as detailed below.

⁴ [2026 Murray–Darling Basin Plan Review Discussion Paper](#)



Water pricing

Whilst part B focuses on water services for urban supply, NIC is concerned that the current water pricing models are no longer fit for purpose and that a second inquiry particularly focus on the NWI/NWA pricing principles is needed. The current approach is resulting in water users paying a large proportion of costs for public-interest activities / demand, and in turn, there not being sufficient funds available to meet costs for utilities as it exceeds the capacity/willingness of users to pay.

There is now a paradoxical situation of increasing costs (driven by demands for new or higher standard activities and increased regulatory requirements) for water management; and simultaneously, decreasing customer base to recover costs from, in terms of the declining volume of water used for consumptive purposes (from reforms such as the Basin Plan), the declining reliability of water (driven by reforms and climate), and the declining capacity to pay (as the cost of doing business is increasing from multiple factors). This is not a sustainable or viable funding model.

For example, even in the absence of 'customers' (such as irrigators) there would still be demand for: water to be managed to supply critical human needs (including town water supply and stock and domestic needs), regulation of flow to achieve environmental outcomes, water quality monitor, water infrastructure such as for flood mitigation, and corporate costs. Many of these costs are now heavily borne by customers.

The notion of the customer being a user such as an irrigator, with the environment as simply an 'externality', is outdated. Now, a large proportion of river / water management costs are to regulate the systems (i.e. control flows) to meet environmental and other public interest objectives and new regulatory requirements, demanded by not only customers, but to meet broader public and social expectations of healthy waterways.

In NSW, as a case study, prices are set against a counterfactual of '*a world without high consumptive use of water resources*'. This will always leave customers paying a significant cost burden. In our view, it has become necessary to draw a line about current levels of development, rather than comparison to no or low development times, which will always produce a legacy cost for users into the future. Most water infrastructure was developed prior to current regulation and pricing principles, largely as Government projects to develop inland Australia, as nation-building projects following world wars. Since that time, much of this infrastructure has been fundamentally repurposed, and now serves a variety of purposes. NIC notes the current reviews underway in NSW, by IPART and the NSW Treasury, and seeks that this becomes a broader discussion on an appropriate funding model for rural water management, services and infrastructure moving forwards – recognising this contemporary operating environment.

Sustainability and resilience of non-government irrigation water delivery networks

Similar climate and policy risks for bulk water networks also filter down and in part, intensify for local irrigation water delivery networks (these may or may not deliver water for urban needs also). For example, the impact of water policy decisions and water purchases for the environment, do not alter the cost sharing arrangements of a bulk water delivery network as they pay their share of bulk water fees but for a non-



government irrigation delivery network, it can reduce the shareholder base. Across the basin a portion of the 27% of entitlements now owned by the Commonwealth Environmental Water Holder are from within non-government irrigation water delivery networks, increasingly resulting in a smaller cohort of shareholders remaining to share the fixed business costs. Unfortunately, this risk remains due to likely shortfalls in Murray Darling Basin Plan targets and the future direction of Government uncertain, with the Plan being reviewed right now.


The NIC represents non-government irrigation delivery networks, and these networks have a corporate responsibility to consider these risks and act responsibly, in the interest of the company which includes their customer shareholders. These businesses take a range of approaches including managing a water trading portfolio, encouraging new delivery options, restructuring fees and charges, establishing other investments. These solutions must be fit for purpose to the business and their specific risks. One example of how these businesses are considering and managing these risks, is presented in Appendix 3 shared by Murray Irrigation. It is important that the government regulatory settings allow these businesses to continue to be innovative in the interests of their shareholders. Furthermore, it is important that governments considering the adaptability limits of these businesses to further policy burden into the future and the vulnerability of these networks to further reductions in their customer base due to policy decisions.

Conclusion

This review is occurring at a time of significant review for the water sector in Australia. The NWI remains to have an important purpose as the blueprint for water management, particularly as it sets the foundations for the water property rights framework. Future reviews (and any future iteration of the NWI, such as the NWA), must maintain those core foundations. This review is an opportunity to move forwards, focusing on contemporary issues, while respecting and maintain the core foundations of Australian water management.



Appendix 1) Snapshot from NIC Basin Plan Review Submission



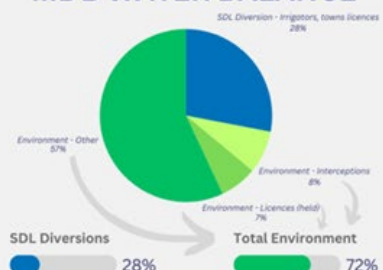
A CASE FOR STABILITY IN THE MURRAY DARLING BASIN: THERE'S NO NEED TO REDUCE WATER FROM FARMING

The balance has been struck

After three-decades of reforms to 'rebalance' water-shares, 72% of inflows now remain in rivers for the environment, with just 28% left to sustain Australia's food bowl, town water supplies and other industries.

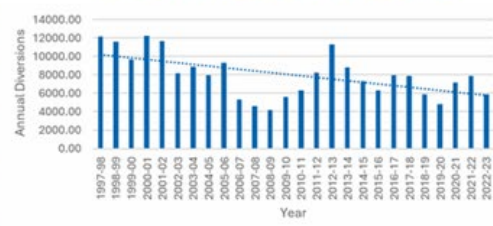
Sustainable Diversion Limits (SDLs) are now in force, with full compliance.

MDB WATER BALANCE



Farmers and communities need stability of water security

MDB ANNUAL DIVERSIONS



↓ 1 IN 3 LITRES

of water has already been removed from farming since the 1990s.


Constant reforms create uncertainty. In these increasingly uncertain times. Stability is needed.

The environment needs more than 'just adding water'


Today's science says the biggest environmental problems are:

- Getting environmental water to wetlands and riparian land
- Invasive species (such as carp)
- Barriers to fish passage
- Habitat degradation
- Need for fish screens on pumps

Just adding water simply cannot fix these.




MDBA data shows 92% of environmental indicators would not improve with further water recovery.



Water allocations already directly respond to climate

MDB INFLOWS, STORAGE & USE



Water allocations already vary up or down in response to climate.

Town water and the river are prioritised before water licences for farming.

Buybacks won't deliver extra water in a drought, as allocations are already low or zero. Smarter infrastructure that is fit for purpose for drier times can help all water users be more resilient.





National
Irrigators'
Council

RESPONSE TO BASIN PLAN REVIEW DISCUSSION PAPER

BASIN PLAN 2.0

Time to move forward: There's no need to reduce water from farming

Today's science shows the Basin Plan must move forward.

Protecting river health is more than "just adding water".

There is no need for further reductions in the water for farming.

It's time to optimise existing investment and take practical, on-ground action, working with nature in a stable policy setting.

This includes tackling invasive species, restoring habitat, improving fish passage, and targeting barriers to healthy rivers.

After decades of reform, communities and farmers need stability.

This means no more changes to existing water limits (inc. SDLAM-adjusted) and no more water recovery by any means.

The pathway forward is a partnership with communities who live and work in the Basin - the Basin's future depends on it.



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Moving Forwards:
NIC Review of the
Murray Darling
Basin Plan



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Appendix 2) NIC Submission to latest draft



9 January 2025

Department of Climate Change, Energy, Environment and Water
Water Policy Division

nwi@dcceew.gov.au

Sent Via Electronic Mail

Re: Feedback on version 0.2 of new National Water Agreement – January 2025

Thank you for the opportunity to provide input into the latest draft of the National Water Agreement (NWA), renewing and updating the National Water Initiative (NWI).

We acknowledge the work of the Department to consider feedback throughout the drafting of the Agreement. Whilst the process is resource intensive for stakeholders, the opportunity for engagement and feedback from all stakeholders, is critical to shape the future of water management across Australia.

Our firm view is that the NWA must remain as a highly regarded and respected roadmap to best-practice water management in Australia. A replacement version should not be executed until we have it right. While the NWI is a couple of decades old, it is not broken, and appropriate time should be taken to get it right, not get it done on a political timetable. The initial NWI development was a much more inclusive and considered process, we expect the same, or better. It is noted that signing up one jurisdiction does not demonstrate a collegiate approach or meet our expectations of a national agreed blueprint. At least the majority of jurisdictions must formally engage for the IGA to have proper standing. Whilst we appreciate the work undertaken to improve the NWA, there are several areas of concern which we consider critical to address. These are categorised as follows:

- Requesting processes for governance, accountability and transparency aimed to improve confidence and trust in future implementation.
- Drafting refinements to further streamline and reduce principles.
- Further enhancing the value and roles of irrigated agriculture for national security and food security, within the principles and included as part of the preamble.
- Ensuring consultation principles are fair and equitable for all stakeholders.
- Providing due processes for international agreements and their considerations by jurisdictions.
- Improvements to the risk assignment framework to recognise the value of water property rights as established by the NWI.
- Improvements to water recovery methods for clarity.
- Further suggestions for context, clarity and avoiding duplication of principles for Aboriginal and Torres Strait Islanders peoples.

These issues and our nineteen recommendations are outlined below.

Governance, accountability, and transparency: As we raised, an ongoing gap is understanding how the agreement will be implemented by states and what evidence the



Federal Government and jurisdictions, may need to demonstrate they've actioned a principle or decided not to implement one. Key issues include:

- How will the phrase 'consider' be interpreted in assessing compliance – i.e. what counts as having considered a principle?
- What principles will be implemented and what principles will not be?
- Are any principles non-negotiable or mandatory?
- Who approves the reason(s) for a jurisdiction not adopting a principle as a reasonable and with what evidence?
- In an audit and compliance context what guidance/scope will there be for allowing reviewers to accept a unilateral choice by a jurisdiction to 'not adopt' a principle?
- What will jurisdictional action plans, including the Commonwealth's plan look like, will they be consistent or locally determined?

Guidance and commentary in both our Phase 3 submission and a review of submissions from other stakeholders also highlights that governance and implementation is an issue amongst many stakeholders. No further clarity has been provided on these issues in the next version.

Following our recent discussions, it has been made clearer that Objective and Outcomes are all agreeable elements and that jurisdictions may provide evidence to not adopt a principle, provided their actions can still meet the Objective and Outcome. If this is indeed the correct assumption, then this must be clear prior to the Agreement being signed and form part of the Agreement, roles and responsibilities itself.

Suggestions that this implementation detail will be in jurisdictional 'Action Plan' development, post execution of this Agreement, does not provide sufficient clarity, confidence or certainty for stakeholders and jurisdictions about what happens next. Without understanding the intended implementation processes, jurisdictions are being asked to trust in the Australian Government.

Recommendation 1: Insert a section on Implementation, Commencement, Interpretation, and Roles and Responsibilities in the NWA, was in the original NWI (clauses 8 – 22). If it will be the case that (some) principles are optional, this section must outline the processes for how that is to occur, what evidence is needed and who has the role of determining if that is appropriate or not, as well as how plans will be monitored.

Recommendation 2: Insert a preamble to the Agreement, like the introductory narrative of the original NWI as a blueprint to Australia's water management, requiring jurisdictions to undertake best endeavours to implement the Agreement and outlining the process of accepting Objectives and Outcomes.

Recommendation 3: Provide the amended schedules as well as the proposed Action Plan template for consideration and comment.

Number of principles: Whilst efforts have been taken to reduce the number of outcomes and principles, we still consider the agreement long, overly prescriptive, and with some internal inconsistency. This will make it difficult, and time consuming for jurisdictions to implement, decide priorities and will create confusion as to what occurs to the extent of any inconsistency between principles. Further refinement to address duplication and potential inconsistencies is needed. Key areas of duplication relate to engagement, evidence, and unallocated water, with specific examples below.

For example:

- Unallocated water is addressed in Outcome 7F and the subsequent principles 7.32-7.34, yet principle 3.12 relates to considering making unallocated water available for



Aboriginal and Torres Strait Islander peoples. These clauses are inconsistent. It is recommended to delete 3.12 to avoid this inconsistency and given it is already captured (i.e. it is duplicated) in 3.9 – 3.11 that relate to good faith efforts to improve water access, management, and ownership.

- Principle 5.7 states that communities are informed of and provided with suitable opportunities to shape the design of water planning and management activities. It is our understanding that this is intended to apply to all peoples, irrespective of ethnicity. A range of other principles have similar effect (i.e. duplicate) but are specific to only Aboriginal and Torres Strait Islander peoples (e.g. 4.13 and 3.2-3.4, and 3.13-3.14). It is our recommendation that the same engagement principles apply to all stakeholders, rather than having a separate duplicate section specific to one group.

Recommendation 4: Remove duplication, particularly amalgamating where the same principles are written to apply in the general case (i.e. all peoples), and then specifically to Aboriginal and Torres Islander peoples.

Recognition of irrigated agriculture for national security and food security: We note that agriculture now occurs six times in the new agreement (mostly in the glossary). However, we do not believe the value of irrigated agriculture, and the role of the water management framework to underpin water access for Australian's and Australian agriculture (also including stock and domestic rights and use), is appropriately reflected in the agreement. The original NWI established a water entitlement system to enhance Australia's use of water for economic prosperity that optimised economic, social, and environmental outcomes, with agriculture and irrigation-water dependent communities a major beneficiary as well as Australians. This agreement must recognise and value the earlier outcomes and look to maintain and enhance how consumptive water is optimised for the future prosperity of Australians and provide overall balance to the new blueprint.

The Agreement therefore must include stronger references within the principles but also within the preamble to ensure balance of perspectives and outcomes and clarity of intent and purpose of the Agreement.

Recommendation 5: Insert a section titled "Consumptive Water" (equivalent to "environmental and other public benefit outcomes (NWI, Clause 35) and "Environmental Water" (NWA, 6E)". This should specify how water management frameworks support the use of water for agriculture, to meet food security, national security, macroeconomic and socio-economic outcomes.

Recommendation 6: Insert in the preamble to the Agreement, statements which highlights how that this Agreement continues the legacy of the National Water Initiative to ensure water use is optimised for economic, social and environmental outcomes for the ongoing prosperity of Australians and that implementation of the Agreement will maintain and enhance water management planning systems that are foundational pillars of our nation; our industries including agriculture, communities, culture and critical to our future growth and resilience, and food security.

International Agreements: We have ongoing concerns relating to the high reliance on international agreements in the NWA and seek for those to be removed. Their inclusion provides a means for the Federal Government to subvert state powers or compel states to take actions they otherwise may not, in the name of the "external affairs" powers. To our knowledge, there are no formal processes for states (who have powers over water) to engage with the Australian Government prior to 'signing an international agreement.' If the Federal Government, would like to pursue greater power over water management and decisions, it should do so on a transparent case by case basis rather than a broad non-transparent approach which is suggested by the inclusions of these principles.



Recommendation 7: Remove references to international agreements, such as 1.3 and 3.1.

Purpose of the Risk Assignment Framework: We acknowledge the work undertaken to return the risk assignment principles to those drafted in the original NWI. It is our understanding that the risk assignment framework is intended to be read in conjunction with Clauses 31-32 in the original NWI (Principles 7.2.1-7.2.10 in NWA – Version 2) which describe the characteristics and functions of a water access entitlement.

This risk assignment framework of the NWI was drafted to refer to instances where 'new share-based water access entitlements framework has been established,' which has now largely occurred. Given this, rather than removing this language, it should continue to reflect this framework, by reference to the entitlement framework established in Principles 7.2.1-7.2.10, as to contemporise the language rather than remove it.

While a minor change, linking back to these provisions describing the entitlement characteristics will alleviate concerns that the risk assignment framework could otherwise change those characteristics which are subject to misinterpretation but also reinforces the foundational elements of the NWI consistently throughout the NWA.

Recommendation 8: Insert the below point of clarification in the NWA to link back to the entitlement framework (see blue font).

Specifically, based on Principle 7.27 of the new NWA:

Where a water access entitlements framework has been established, <i>and consistent with those essential characteristics outlined at 7.2</i> , the risk assignment framework at principles 7.28 – 7.31 apply to any future reductions in the availability of water for consumptive use
--

Based on Clause 47 (original NWI):

47. The Parties agree that an effective risk assignment framework occurs in the context that: the new share-based water access entitlements framework has been established; occurs in conjunction with those provisions outlined in 31-32; water plans have been transparently developed to determine water allocation for the entitlements; regular reporting of progress with implementing plans is occurring; and a pathway for dealing with known overallocation and/or overuse has been agreed,

Issue with the Risk Assignment Framework (RAF): We do not support the RAF clause that requires water access entitlement holders to bear the first 3% reduction in water allocation that arises from bona fide improvements in the knowledge of water systems' capacity to sustain extraction levels (7.29.1). This enables incremental erosion of the water property right, without consent or compensation, contrary to the core design of the water entitlement framework established by the NWI (and reinforced within the NWA version 2). We have seen jurisdictions exploit this clause to bypass compensation, subsequently undermining water property rights. We are concerned about potential implications from the way that financial institutions may view and value water rights.

Recommendation 9: Remove this clause to address this loophole. Water allocations on an entitlement can be varied (as the NWA/NWI recognise), but any variation to the entitlement itself must be fully compensable, as per other property rights and the clear principles outlined Principles 7.2.1-7.2.10.



Water recovery methods: We support the positive changes to 6.3, which outlines the principles that will be used *where it is necessary to recover water* to achieve environmental and other public benefit outcomes (i.e. the addition of 6.3.4 for early consideration of complementary measures, as well as stronger language on managing socio-economic impacts). One additional principle which we consider an omission from this list is the consideration of avoiding third-party impacts.

The main example of where this has become a problem is rules changes in water plans that serve to reduce the consumptive pool, but by doing so, has a socialised impact across all water users, irrespective of their voluntary or willing participation (contrary to the essential entitlement characteristics in 7.2). This is compared to other methods, such as market-based measures, where participation is based on voluntary participation from willing sellers. While we do not support water recovery, where it is necessary or will occur (as per 6.3), selection of measures respecting the voluntary and willing participation must be a key principle to be considered and is consistent with what has occurred through reforms such as the Basin Plan.

Recommendation 10: Add to 6.3.3 "and avoiding third party impacts".

Specifically, based on Principle 6.3.3 of the new NWA, insert the blue text:

6.3.3. selection of measures based on optimising cost-effectiveness and with a view to managing socio-economic impacts and *avoiding third party impacts wherever possible.*

Recognition and protection of Aboriginal and Torres Strait Islander water interests and values (Objective 3): It has been established through regular consultation that there is support for the modernisation of the NWI to address contemporary challenges (as highlighted by the Productivity Commission). We recognise that there was considerable feedback from many stakeholders on the original drafting of this Objective and understand a legal and constitutional review has contributed to some of the amendments in this latest version. While there is significantly more clarity provided than in the previous version, our Members are still concerned by the intent of some of the principles, their consistency within Government programs and existing processes and how they may be actioned by jurisdictions.

Further, it is apparent that much of this narrative is predicated on a closing the gap target which is at best opaque and at least poorly defined or articulated. We seek clarity on what the inland waters closing the gap target is, including references to intergovernmental decisions. We also seek clarity on how the target whatever it is, if it formally exists, and how it is measured for example, what is the baseline information, is it a total target or a growth target. Noting our experience is identifying options for indigenous water in the Murray Darling Basin (which is at or near at fully allocated already) means providing additional water entitlement has the effect of undermining existing rights. We do not want to apply similar tensions to developing catchments.

The Objective states:

This objective provides outcomes and principles that are foundational to Aboriginal and Torres Strait Islander peoples' water interests and values and apply across the Agreement. For the purposes of this objective, water 'interests and values' means 'cultural, spiritual, social, economic, and environmental water interests and values.

Aboriginal and Torres Strait Islander peoples consider that waters in all their forms are interconnected with lands and move freely between water landscapes, including upstream, downstream and between surface water and groundwater.

This Agreement recognises the value of Aboriginal and Torres Strait Islander peoples' involvement, knowledge and contributions to land and water management.



Governments across Australia are working to integrate Aboriginal and Torres Strait Islander peoples' interests and values into water planning and management.

The first outcome states:

Outcome 3A – Aboriginal and Torres Strait Islander peoples are recognised as custodians and knowledge holders of the lands and waters of Australia.

The two phrases underlined above, and the broader context of this narrative continue to cause concern given the practical and legal implications. There are still formal and recognised processes for determination of native title for land (not water, though water is impliedly captured by land), care should be taken to ensure language does not reach beyond those well-established principles and the recognition within the Constitution that jurisdictions have authority over water.

We are also concerned that wording unintentionally suggests that Aboriginal and Torres Strait Islander peoples are the **only** custodians and knowledge holders of lands and waters in Australia, which is not the case. As such the key phrases should be reconsidered to ensure inclusivity.

We, also, seek further clarification on the interaction between existing Constitutional arrangements, Native Title and the principles and outcomes expected within Objective 3 of this draft agreement.

Recommendation 11: For transparency and to satisfy the legal uncertainty of this largely new Objective, we recommend the Australian Government provide legal response on the following areas (noting that legal advice is not available for publication):

- a) Are the draft principles consistent with other Australian Government Laws and policies?*
- b) What does 'apply across the Agreement' mean? Does this provide a hierarchy of Aboriginal and Torres Strait Islander people's rights/value over others?*
- d) c) Does Outcome 3A – 'Aboriginal and Torres Strait Islander peoples are recognised as custodians and knowledge holders of lands and waters of Australia', impact the knowledge and rights of other non-Aboriginal and Torres Strait Islander stakeholders? Do any Objectives, Outcomes or Principles in this agreement suggest that Native Title applies or should apply to water?*
- e) If implemented by a jurisdiction, do any Objectives, Outcomes or Principles change the current level of power a jurisdiction may have over water or title to it within their boundary.*

Furthermore, clarification in the glossary that Free, Prior, and Informed Consent (FPIC) does not mean a veto power is welcomed clarification. However, we are concerned that many stakeholders will see FPIC as this anyway, which may lead to confusion or false expectations. There are also a range of international interpretations of this principle, which adds to the broader confusion.

We believe as well as saying what FPIC is not, it needs to also say what it is intended for jurisdiction to consider implementing as part of overall engagement principles with stakeholders. We believe this already occurs through some of the principles relating to engagement and consultation (of all peoples, including Aboriginal peoples) and therefore, question the purpose of its specific inclusion for one group of stakeholders.

Recommendation 12: Amend the definition of Free, Prior, and Informed Consent (FPIC) in the glossary, to expand it to specify what it is intended to capture and what expectations may result.



In revising the definition, we also recommend considering how these principles of FPIC should apply to all impacted stakeholders.

Further, and as above, principle 3.12 is inconsistent with Outcome 7F and the later principles 7.32-7.34. We believe the core of this principle is already captured in the above principles (3.9-3.11) and is therefore duplication anyway. These principles already provide guidance to jurisdictions to meet this outcome without prescribing the mechanism, which is inconsistent with the other NWA provisions, and may not be the most appropriate anyway.

Recommendation 13: Remove principle 3.12 (as already captured by 3.9-3.11, and inconsistent with 7F).

Other drafting suggestions:

- In Objective 6, there are multiple references to 'connectivity', being surface water and groundwater, rivers, and floodplains as well as land and rivers for example, the preamble discusses the need for planning across "connected systems". However, there is no clarity on what this means in practical terms, the level, reliability and frequency and extent of 'connectivity' or 'connected catchments' which can vary considerably in Australian river systems and whether these considerations allow for a proportional response and consideration in planning arrangements. We therefore recommend that definitions for distinct types of connectivity are provided, with consideration to the natural limitations of Australian river systems in achieving these outcomes to manage expectations, particularly in unregulated river systems. We also recommend removing language such as "strong" and "firm" to recognise these natural limitations and manage expectations of when and how connectivity can be planned for and achieved.
 - *Recommendation 14: Provide definitions to provide consistency for how connectivity is described and its natural constraints of reliability and frequency and extent.*
 - *Recommendation 15: Amend principle 6.1.13 to – "maintain ~~strong~~ longitudinal and latitudinal waterway connectivity".*
- Principles 6.1.5 sets a hierarchy of uses that serves the greatest public interest, this should be clarified to provide 'critical' needs for both humans and the environment.
 - *Recommendation 16: Amend principle 6.1.5 to insert critical with environmental sustainability".*
 - Specifically, based on Principle 6.1.5 of the new NWA, insert the blue text:

6.1.5. set out a hierarchy of uses that serves the greatest public interest, prioritising critical human water needs and <i>critical</i> environmental sustainability

- Principle 6.1.9 – this currently specifically refers to Aboriginal and Torres Strait Islander people's rights and interests, this should be reframed to refer to all property rights and water users, which includes Aboriginal and Torres Strait Islander peoples as clearly articulated in Objective 3. It should not specifically reference one group of users by removing the following strike-through sections and referring to all water users.
 - *Recommendation 17: Amend 6.1.9 to – "respect the property rights and interests ~~of Aboriginal and Torres Strait Islander peoples water users in a water resource area, this can include but is not limited to including Aboriginal and Torres Strait Islander peoples and holders of native title"~~*
 - Specifically, based on Principles 6.1.9 of the new NWA should remove the strike through and insert the blue text and read:

6.1.9 respect the rights and interest of <i>water users</i> in a water resource area, <i>this can include but is not limited to include</i> Aboriginal and Torres Strait Islander peoples and holders of native title.
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- Principle 6.9 – currently reads: water policies, strategies and/or legislative frameworks clearly and transparently identify circumstances that trigger reconsideration of existing water-sharing arrangements under a water plan. It is recommended that this be reframed to provide more certainty.
 - *Recommendation 18: Amend 6.9 to establish regular review periods noting most water plans are for 10-years.*
 - Specifically, based on Principle 6.9 of the new NWA, insert the blue text:

6.9 water policies, strategies and/or legislative frameworks clearly and transparently identify *regular review periods* for existing water-sharing arrangements under a water plan

- Definition of upper and lower bound pricing, are as drafted with the NWI but in practice it is our experience that lower bound pricing has been considered by jurisdictions to be the minimum recovery cost of fees and charges for maintaining infrastructure and therefore, does not include externalities or dividends. As a result of this practice, the definition should be amended with the words deleted as proposed by the strike through text.
 - *Recommendation 19: Lower bound pricing definition is amended to – “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.”~~*

We thank you for the opportunity to provide this additional feedback and would welcome the opportunity to meet and discuss solutions to these issues with you.

Please feel free to contact either of us, to discuss further. Thank you for your attention to this matter.



Appendix 3) Murray Irrigation: Water Solutions



May 2026

Murray Irrigation: Water Solutions – A market-based water offering designed to strengthen the Company and support customers in a changing water landscape.

Background

In July 2025, Murray Irrigation launched a new market-based water offering called Water Solutions. This offering was developed based on Shareholder and Company concerns that Water Entitlements (WEs) for productive use in the Murray Irrigation area of operations have reduced by 34% since the 2008 buyback program. This has had a significant impact on the Company's revenue with average water delivery reducing from around 1,200GL to 600GL over that time. Further to this, the flow on socioeconomic impacts of this loss of productive water has been significant with the contraction of primary industries such as rice and dairy, the depopulation of local towns such Wakool and the closure of local services such as schools.

The current government buyback program has the potential to reduce the number of WEs within the area even further, reducing on-farm water delivery volume and placing pressure on:

- Sustainability of current fees to customers,
- Maintaining the water delivery network, and
- The community that relies on irrigated agriculture in the area.

The development of Water Solutions was one of Murray Irrigation's risk mitigation tools to retain productive water for irrigation within the Company's area of operations and continue to support its customers and its irrigation dependent communities.

Water Solutions purpose

The purpose of Water Solutions is to retain productive water for irrigation within the Murray Irrigation area of operation. Using an inventory finance facility, Water Solutions acquires and holds permanent water entitlements, then offers the temporary water allocation for sale within the footprint via number of mechanisms.





Since the launch of the pilot in July 2025, Water Solutions is:

- Securing a sustainable water supply for irrigators within the Murray Irrigation area of operations
- Underpinning long-term growth of the organisation for its Shareholders, and
- Generating additional earnings for the company to continue to invest in its critical water delivery infrastructure.

Water Solutions has recently supported the Company's ability to launch a forward allocation water product in January 2026, exclusively to Murray Irrigation customers. Conducted by online auction, this product has provided customers who participated with a guaranteed volume of water for the 2026/27 and 2027/28 season, a level of security that would not have been possible without the development of Water Solutions.

Further to this, Water Solutions provided the foundation for the Company to undertake its recent fee restructure which will be implemented from 1 July 2026. This new fee structure will:

- remove fixed fees associated with Delivery Entitlements (DEs),
- increase the variable water delivery fee based on volume used,
- align outlet fees to cost recovery,
- simplify the Company's fee structure,
- reduce or maintain average cost for around 80% of customers, and
- align the company's fee structure with the customer's ability to pay.

Conclusion

By recognising the negative impact that the changing water environment was having on its customers (water available for irrigation) on the company (reduced on-farm water delivery – the company's primary revenue driver) and on the community (contraction of industry and loss of important services), and implementing measures to mitigate those risks for continued business viability, Murray Irrigation's Water Solutions is a good example of how a water service provider is taking strategic steps to manage its own financial risk in an increasingly variable climate and policy environment.



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**Background on the
Murray Darling Basin
Review**



**Moving Forwards: NIC
Review of the Murray
Darling Basin Plan**



**Background on the
Murray Darling Basin
Plan**




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