

National  
Farmers  
Federation

# DCCEEW: Seeking Views on a Future National Water Agreement

May 2024



## The National Farmers' Federation (NFF) is the voice of Australian farmers.

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities across the breadth and the length of the supply chain.

Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF.

The NFF represents Australian agriculture on national and foreign policy issues including workplace relations, trade, and natural resource management. Our members complement this work through the delivery of direct 'grass roots' member services as well as state-based policy and commodity-specific interests.

### NFF Member Organisations



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10 May 2024

National Water Strategy  
Department of Climate Change, Energy, the Environment, and Water  
Kind Edward Terrace  
Parkes ACT 2600

**RE: Seeking Views on a Future National Water Agreement**

Dear Sir / Madam,

The NFF welcomes the opportunity to provide a formal submission to the Department of Climate Change, Energy, the Environment (the Department) to outline industry perspectives, policy concerns, and recommendations regarding the proposed objectives and desired outcomes of a new National Water Agreement.

## Overview

**The NFF membership holds significant concern over the proposed engagement timeline as presented, the lack of detailed mapping of proposed objectives against those of the existing 2004 National Water Initiative (NWI), and the apparent lack of consideration of work currently being undertaken by the Productivity Commission (PC) directly related to this subject (the ongoing Inquiry into National Water Reform 2024). There has been minimal co-design with key representative bodies from irrigated agriculture. The language of proposed objectives requires further clarification with industry in a transparent and consultative manner. This must occur before consideration for agreement with State and Territory Ministers is entertained.**

**It is also imperative that a New National Water Agreement is grounded on food and fibre production and security and treated as a key contributor to the basis providing socio-economic support and resilience. It is a driver not a consequence of healthy regions and communities and must be articulated as such. Environmental objectives and interests work alongside these drivers not in conflict with them. The current objectives provide minimal attention and recognition for the importance of agriculture and food and fibre production and security. The value of agriculture must be recognised as a key component of a new National Water Agreement; this has not been demonstrated anywhere in the document. It must therefore be explicit that the role of agriculture across much of the nation is a key driver of regional economic activity and without it there will be significant negative socio-economic pressure. It is insufficient for this to be implied, assumed, or 'understood'.**

It is important to recognise that the proposed establishment of a new National Water Agreement is a significant policy reform. The NWI was established 20 years ago in 2004 and is the blueprint for national water reform; it outlines a clear framework and set of operating principles that underpin the sustainable management of Australia's national water resources. As a new National Water Agreement will presumably guide future water management and policy reform in Australia over the coming decades, the appropriate amount of time must be dedicated and undertaken to ensure that this process is 'done right'. It is irresponsible for consultation is conducted in a manner whereby key details and opportunities for further engagement are absent.

## Foundations for a New National Water Agreement

Water in Australia is a valuable, scarce, natural resource. Large areas of the continent are classified as ‘arid’. The NFF recognises that national circumstances underpinning the initial conception and development of the NWI have changed considerably in the past 20 years. This is apparent as new challenges have arisen, including but not limited to increasing urban water-use and demand, increasing population growth, changing climatic conditions, and increasing pressure for the recognition of First Nations water interests. **A renewed NWI must not infringe upon the existing sound water management principles that uphold the Agreement.**

The NFF recognises that the Department is seeking to build upon the sound water management principles that were established under the NWI to address the new water management challenges of the future. The NFF supports this approach as opposed to a comprehensive bottom-up overhaul, however, **the Department must publish detailed mapping on where the objectives of a new National Water Agreement build upon that of the initial NWI, and where objectives have changed. We need to be able to understand what has been removed modified and added as it has consequences across a range of other policy areas including implementation of water policy in all jurisdictions.** The provision and accessibility of such information is essential and must be published alongside accompanying policy materials to this consultation. The lack of any detailed mapping or any related information renders it challenging if not impossible for industry bodies to provide informed feedback in a timely manner. This problem is further compounded by the seemingly rushed nature in which stakeholder feedback is being gathered. Without any detailed mapping, it remains unclear how the Department will ensure the original policy intent of the NWI will be protected and carried forward into this new Agreement.

The establishment of a new National Water Agreement to replace the NWI must also recognise and codify the fundamental importance of agriculture and food and fibre security.

## High-Level Policy Issues

- **The Discussion Paper has been framed to be a ‘high-level document’ only. Detailed mapping on where the proposed objectives for a new Agreement build upon existing gaps or replace those of the NWI are absent.**
- **An unfit-for-purpose engagement timeline that provides industry no further consultation opportunities to shape the designs of proposed objectives before agreement with all State and Territory Ministers is sought.**
- **A promise by the Department to adjust the document in line with public feedback for State and Territory Ministers with further detail and consultation on implementation (i.e., Jurisdictional Acton Plans) anticipated in the vicinity of late 2024-2025 AFTER an Agreement is presumably established. If this document is provided to Water Ministers for Agreement as proposed in Figure 1, the Department must then come back to industry and conduct further consultation prior to any finalisation processes or commencement of design around implementation.**

- **Minimal co-design with key stakeholders and representative bodies from agriculture.**
- **Draft objectives underpinning a New National Water Agreement that do not reflect the original intent or scope of the NWI.**
- **A strong policy framing of proposed objectives in accordance with indigenous considerations and interests with minimal attention and recognition given to the importance of agriculture and food and fibre production and security.**

## State and Territory 'Buy-In' Into a New Agreement

**A new National Water Agreement must involve 'buy-in' from State and Territory Ministers; the NFF holds significant concern that this has not been secured and we seek a comprehensive response from the Department on this critical question.** 'Buy-in' was a principle that drove the formation of the 2004 NWI: State and Territory Governments together with Federal Government drove the design of the NWI supported by active stakeholder engagement. This Agreement has been misguidedly driven through a top-down approach. This is highlighted by the fact that a Ministerial Council meeting of all Water Ministers has not been held in over ten years.

## Streamlining Existing Work of the Productivity Commission

The Productivity Commission (PC) is currently undertaking a regular assessment into progress by Australian Governments in achieving the objectives and outcomes of the existing 2004 National Water Initiative. The PC has recommended that the NWI is renewed to ensure that it is better positioned to address emerging contemporary challenges such as climate change, population growth, and increasing urban water-use and demand (which have been outlined by the Department in this Discussion Paper). The PC has recommended that a renewed NWI improve and expand upon the existing agreement while retaining its original foundations.

**There is significant alignment between this recommendation by the PC and this consultation which seeks to build a new National Water Agreement that also builds upon the existing objectives of the NWI.** While the NFF understands that work currently being undertaken by the PC is detached from this consultation, and this has been stated clearly on the Department's website, given the alignment of both consultations, a consideration of stakeholder views submitted to the PC alongside PC recommendations must feed into this process. We note that the Department has stated in the Discussion Paper that it is drawing on expertise and experience provided by previous PC Inquiries and lessons learned from implementing the NWI 'to prepare a robust and adaptable intergovernmental agreement'.

## Consultation Process

### Proposed Engagement Timeframe

**While the NFF understands that this Discussion Paper has been framed to be a ‘high-level’ document only, it is nevertheless incomplete and unfit-for-purpose.** The rushed nature in which the consultation is being conducted coupled with the fact that no further engagement opportunities have been outlined does not provide industry with any confidence that our views are either respected or will be meaningfully considered. It is irresponsible, therefore, to be framing this consultation as a ‘Discussion Paper’. A promise that feedback will be incorporated prior to the seeking of agreement with all State and Territory Ministers is insufficient; a significant amount of further consultation is required. The NFF recommends that this be conducted in an iterative and transparent manner like that employed by the PC.



**Figure 1:** The ‘way forward’ as presented by the Department.

The proposed engagement timeline (*Figure 1*) outlined by the Department is unfit-for-purpose as there are no further engagement opportunities. Our concerns to this process are shared amongst by industry representative bodies and stakeholders as made clear by sentiment raised during the 19 April Department-facilitated webinar.

As previously articulated in our submission to the *Draft Framework for Delivering the 450GL of Additional Environmental Water* consultation, it is completely inappropriate for the Department to be consulting the public on a significant policy matter of consequence with only five weeks for consideration. **This appears to be a consistent theme and practice by the Department, and mirrors previous action regarding these previous consultations of consequence:**

- The short duration between the closure of the *Community Ideas to Deliver the Murray-Darling Basin Plan Consultation* (whereby NFF outlined 1000GL of potential projects without the need for buybacks) and introduction of the *Water Amendment (Restoring Our Rivers) Bill 2023* to Parliament; and
- Five-week consultation period: *Draft Framework for Delivering the 450GL of Additional Environmental Water*.

The lack of detailed mapping on where the proposed objectives for a new Agreement build upon existing gaps or replace those of the NWI renders it nigh on impossible for industry



and representative member bodies to provide informed feedback in a timely manner, especially considering the rushed and seemingly political nature in which this consultation of significant consequence is being conducted. Representative bodies require significant time to digest new policy materials, collate the views of our respective members, and seek agreement on a formal written submission. Rudimentary mapping undertaken by individual stakeholders takes away critical time and resources from this important process.

## A Better ‘Way Forward’

Like the PC, the Department should adopt an iterative and transparent consultation process whereby there are several public consultation engagement opportunities for key industry stakeholders and the broader public to provide input to shape and drive the final design of an Agreement. In recognition that this is a significant policy reform, the Department must as a principle of best-practice engagement, ensure that its engagement with industry is meaningful, serious, and ongoing. This must be a stakeholder-driven process, not that driven by the Department and a limited subset of its favoured stakeholder groups.

## Proposed Objectives: Current Iteration

There has been minimal co-design with key stakeholders from irrigated agriculture in the design of language for the seven proposed objectives. Language underpinning many objectives are ambiguous, have an unclear policy intent, and require significant clarification to ensure industry can understand the reforms and provide a subsequent informed response. This must be resolved through direct industry engagement (i.e., an industry roundtable) coupled with the provision of detailed mapping against the existing NWI.

**There also appears to be a strong policy framing of objectives in accordance with indigenous considerations and interests with minimal attention and recognition given to the importance of agriculture and food and fibre production and security as a key component of water management. Such considerations must be retained and strengthened in the underpinnings of a new National Water Agreement. We recommend that an additional objective is created to reflect the importance of agriculture and water-efficiency.**

### Objective 1: Securing water for all users

**‘The safe and secure supply of sufficient water quality and quantity to sustain our natural environments, culture, economic prosperity, and communities.’**

This objective seeks to ensure that water security is safeguarded for all Australians, including productive use from agriculture. In meeting this objective, **the security of individual property rights must remain strongly protected and water is managed to support a balance of environmental, cultural, economic, and social outcomes. This is imperative, the protection of water as a property right is critical for maintaining important financial arrangements and supporting agribusiness and farm growth.**

Further clarification around how the ‘safe and secure supply of water’ is defined is required.



## **Objective 2: Supporting Aboriginal and Torres Strait Islander Peoples' water interests and values**

**'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.'**

NFF recognises the role of First Nations in the management of Australia's natural resources. Indigenous water issues are complex and need to be carefully considered. NFF's Indigenous Water Policy is available as Attachment 1 and should be read in conjunction with this section and submission.

The language underpinning this objective is concerning as it insinuates that First Nations water interests and values in management frameworks will be given priority above all other water-users. Water is to be managed to support a balance of outcomes.

How water will be utilised to support indigenous water interests and values remains unclear, including where such water will originate from. We understand that the process by which indigenous water is treated is largely a state-by-state issue. Actions to achieve this objective must not infringe upon Australian agriculture's ability to continue food and fibre production; we support indigenous water interests provided there are no third-party impacts, water is used for contemporary economic purposes (i.e., the growing and harvesting of native plants), and that held or planned environmental entitlements support multiple co-benefit outcomes including cultural water-use.

## **Objective 3: Climate resilient water management**

**'Environmentally sustainable water planning and management that is interconnected, adaptive, and responsive to climate change and other circumstances.'**

Changing rainfall conditions coupled with other environmental factors can have significant impacts on agriculture's ability to contribute to domestic and international food security, national economic growth, and regional employment prospects. Ensuring water planning and management is climate-change adapted and responsive are important considerations for long-term water security, however, such considerations must not over-prioritise environmental objectives at the expense of socio-economic objectives and productive water-use.

The agriculture sector continues to adjust to changing climatic factors through improved understanding, investment, and adoption of improved water management infrastructure and on-farm efficiency measures across several decades. Significant progress has been undertaken by irrigated agriculture to increase the efficiency of water-use; this work has often been under-represented and there exists greater room for the critical human needs sectors to adapt in this space – agriculture must not be disproportionately burdened. Furthermore, Sustainable Diversion Limits (SDLs) and State Water Resource Plans are also constructed to take into account climate change impacts, and where SDLs have not been achieved, there exist appropriate mechanisms in-place through State-based planning.

## Objective 4, 5, 6, and 7

Language underpinning the remaining Objectives 4, 5, 6, and 7 are ambiguous, vague, and unclear, and require significant clarification to provide industry with clarity around the policy intent and ability to develop an informed position. Again, this must be resolved through direct industry engagement (e.g., an industry roundtable) coupled with the provision of detailed mapping against the existing NWI.

## Additional Comments

### National Water Commission

Although the NFF understands that this Discussion Paper has been framed to be a ‘high-level document’ and that there is no mention of a re-establishment of the National Water Commission (NWC) contained within, in recognition that this was a Federal Election commitment and that the proposed engagement timeline does not provide industry with any further engagement opportunity to shape future iterations of this draft Agreement, the NFF membership have provided comment on this subject.

While we have previously held the position that the NWC is an appropriate body to conduct oversight of the NWI and other matters, we do not support a re-establishment of the NWC today for the following reasons:

- We remain confident that the PC is a capable and well-resourced institutional body with the necessary governing arrangements to fulfil roles previously held by the NWC.
- It is not clear what the additional benefits of creating a new and separate bureaucratic entity and the attributed complexities would provide.
- National water resources are already over-governed, creating a new and separate entity will add unnecessary bureaucratic complexity to the process.
- **If there is a need for greater coordination, as a first step, a regularly scheduled meeting of national Water Ministers (at least annually) could undertake much of any strategic requirement. This was a key recommendation to emerge from the previous PC Inquiry and has been restated in the recently published PC Interim Report into National Water Reform 2024.**

The NFF is not convinced, therefore, of the merits of such a re-established NWC. Efforts are better served to push for changes to existing institutional bodies. Should a revival be contemplated, we need to clearly understand what the objects of the NWC will be, how it will be resourced, and how it will interact with other institutional bodies responsible for undertaking former responsibilities of the NWC. The provision of such information must be provided in the form of proactive industry engagement and a broader public consultation.

## Conclusion

This submission has articulated a large array of shared industry concerns that require immediate addressment and a subsequent overhaul of the Department’s proposed engagement approach with industry and the broader public. We await further engagement opportunities and direct Department outreach.

Please do not hesitate to contact Warwick Ragg, General Manager, Natural Resource Management, via e-mail: [WRagg@nff.org.au](mailto:WRagg@nff.org.au) at the first instance to progress this discussion.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Tony Mahar', written in a cursive style.

**TONY MAHAR**  
Chief Executive Officer

**Attachments List:**

- **Attachment 1:** NFF Indigenous Water Policy



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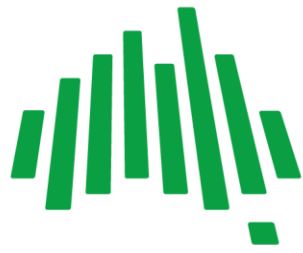
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## **Indigenous Water Policy**

### **Preamble**

The National Farmers' Federation (NFF) notes that the issue of indigenous water property rights are gaining some momentum, with several positions espoused by different groups representing Indigenous water interests. While the NFF does not support any particular one of these, this policy is aimed at ensuring that the interests of irrigated agriculture, including indigenous farming interests, are protected under existing water legislation. This is important as the National Water Commission, Murray-Darling Basin Authority and Governments consider this matter further.

Water for indigenous use can be broadly categorised as water for cultural uses (including traditional economic activities such as reed baskets for trade) and water for contemporary economic purposes such as water trade and the production of agricultural crops and livestock.

Water for cultural uses could be aligned to both stock and domestic water take and held or planned environmental water entitlements. The issue of any new entitlement (i.e. not acquired from existing water entitlement holders) will have third party impacts on all remaining uses of water, including the environment. There is support for held and planned environmental water entitlements to be used for multiple benefits, including indigenous cultural water use, as this will ensure no third party impacts to existing entitlement holders.

The issue of new water entitlements for contemporary economic uses is not supported, as it is inconsistent with property rights and is not supported by the National Water Initiative. The NFF, however, supports the use of market mechanisms to acquire this water from existing water entitlement holders.

### **Policy**

- The NFF supports the provision of water for indigenous use only where this does not result in third party impacts to existing entitlement holders, including the environment.
- The NFF supports the use of existing held and planned environmental water entitlements for the co-benefit of indigenous cultural water use.

- The NFF supports the use of existing market mechanisms to acquire indigenous water entitlements from willing sellers for contemporary economic use.
- The NFF acknowledges that the ownership framework for indigenous water entitlements for contemporary economic use is a matter for governments and indigenous peoples.
- The NFF seeks that the delivery of indigenous water to off river sites includes the associated river losses for the off river delivery.
- If the above framework were adopted the current hierarchy of water entitlements, as enshrined in state legislation, would be respected and therefore unaffected.