

Indigenous Cultural Water policy

Policy Position (endorsed August 2019)

AgForce endorses the following policy relating to indigenous cultural water:

1. AgForce supports stakeholder consultation in water resource planning and management, including of Indigenous peoples
2. AgForce supports the provision of water for Indigenous use, but only where this does not result in third party impacts to existing entitlement holders, including the environment
3. AgForce supports the use of existing held and planned environmental water entitlements for the co-benefit of Indigenous cultural water use
4. AgForce supports the use of existing market mechanisms to acquire Indigenous water entitlements from willing sellers for contemporary economic use
5. Allocation of water within unallocated reserves (including strategic, general and Indigenous) should be equitable across stakeholder groups and with a consistent methodology that is applied across the state
6. AgForce acknowledges that the ownership framework for Indigenous water entitlements for contemporary economic use is a matter for governments and Indigenous peoples, however additional restrictions to Indigenous entitlements that unnecessarily constrain trading should be removed
7. If the above framework were adopted, the current hierarchy and security of water entitlements, as enshrined in state legislation, would be respected and therefore unaffected.

Issue

Indigenous peoples use and seek to use water for a range of cultural purposes as well as for contemporary economic purposes. Governments are seeking to explicitly include indigenous engagement and cultural interests in water planning processes. While supporting provision of water for indigenous uses, it is vital that this is done in such a way as to avoid impacts on existing entitlement holders, including indigenous farming interests, and the environment.

Background

The 2004 National Water initiative (NWI)¹ has as an outcome for water planning to '*recognise indigenous needs in relation to water access and management*'. That agreement also provided for indigenous access to water resources through planning processes, ensuring inclusion of indigenous representation in water planning and indigenous objectives in plans wherever possible, and ensuring accounting for water allocated for traditional cultural purposes.

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

¹ <http://www.agriculture.gov.au/water/policy/nwi>, accessed May 2019

A definition of cultural flows² endorsed by representatives from thirty-one Indigenous nations, including Northern Basin Aboriginal Nations (NBAN), in 2010 is '*water entitlements that are legally and beneficially owned by Indigenous Nations of a sufficient and adequate quantity and quality, to improve the spiritual, cultural, environmental, social and economic conditions of those Indigenous Nations*'. They see this as an inherent right and the definition explicitly includes both spiritual/cultural and social/economic outcomes.

AgForce notes that the issue of indigenous water property rights is gaining further attention within water planning, with several positions espoused by different groups representing indigenous water interests. While AgForce does not support any particular one of these, this policy is aimed at ensuring that the interests of livestock and irrigated agriculture, including indigenous farming interests, are protected under water legislation.

This policy area is increasingly important as the Queensland government has commenced explicitly including indigenous cultural interests in state water plans, and the Murray-Darling Basin Authority and the Federal Government are also further considering their approach to this issue.

Under changes within the *Mineral, Water and Other Legislation Act 2018*, state water plans will now state cultural outcomes separately instead of being embedded in other outcomes, such as environmental outcomes, and water plans will include strategies for their achievement, monitoring and reporting.

Water for cultural uses could be distinct from but aligned to 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 cultural 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. AgForce, however, supports the use of market mechanisms to acquire this water from existing water entitlement holders or unallocated reserves.

Other relevant information

National Cultural Flows Research Project - <http://www.culturalflows.com.au>

Department of Natural Resources Mines and Energy - <https://www.business.qld.gov.au/industries/mining-energy-water/water>

Department of Agriculture and Water Resources - <http://www.agriculture.gov.au/water>

² http://culturalflows.com.au/index.php?option=com_content&view=article&id=16&Itemid=118, accessed April 2019