



National Farmers' Federation

Submission to the

COAG Consultation Draft

NWI Policy Guidelines

for

Water Planning & Management

12 February 2010



Member Organisations



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1. The National Farmers' Federation

The National Farmers' Federation (NFF) was established in 1979 and is the peak national body representing farmers, and more broadly agriculture across Australia.

The NFF's membership comprises of all Australia's major agricultural commodities. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations collectively form the NFF.

The NFF has recently implemented a re-structure of the organisation. This will enable a broader cross section of the agricultural sector to become members of the NFF, including the breadth and the length of the supply chain.

Each of NFF's members deal with state-based 'grass roots' issues or commodity specific issues, respectively, while the NFF represents the agreed imperatives of all at the national and international level. A key priority of the NFF is water and to this end, NFF is the peak body collectively representing the interests of irrigators and other agricultural users.

2. Introduction

The NFF welcomes the opportunity to make a submission on the COAG Consultation Draft for NWI Policy Guidelines for Water Planning and Management (Draft Guidelines). NFF understands that the Draft Guidelines are designed to complement the National Water Initiative (NWI) and to assist jurisdictions in developing NWI compliant water plans. To this end, the Draft Guidelines are a tool and not designed as a prescriptive document.

As an overall view of the Draft Guidelines, NFF makes the observation that these are designed to be consistent and aligned with the Federal Water Act, and specifically, the provisions relating to the Basin Plan.

Importantly, the Draft Guidelines appear to warrant action only when the environment may be impacted. The NFF rejects this notion and in lieu suggests that where third parties are impacted, action is warranted. This would then include the environment, but also other water users. It is important that in a market environment and where used as security for lending arrangements, impacts to entitlements (e.g. such as attenuation of entitlement reliability and security) are also avoided.

Many of the NFF observations are in relation to fully allocated resources. Where a water source is at a low level of use obviously Governments and the community have a greater ability to account for interception activities, issuing new entitlements and so on. However, most of the angst from water planning and sharing comes from water sources either approaching or at full allocation.

3. Definition – over allocation and over use

The NFF contends that there is no shared definition of over allocation and over use, despite or in spite of significant concern for these concepts. Moreover, the States have claimed that they dealt with over allocation with the 2004 water resource plans. Yet the Commonwealth, the

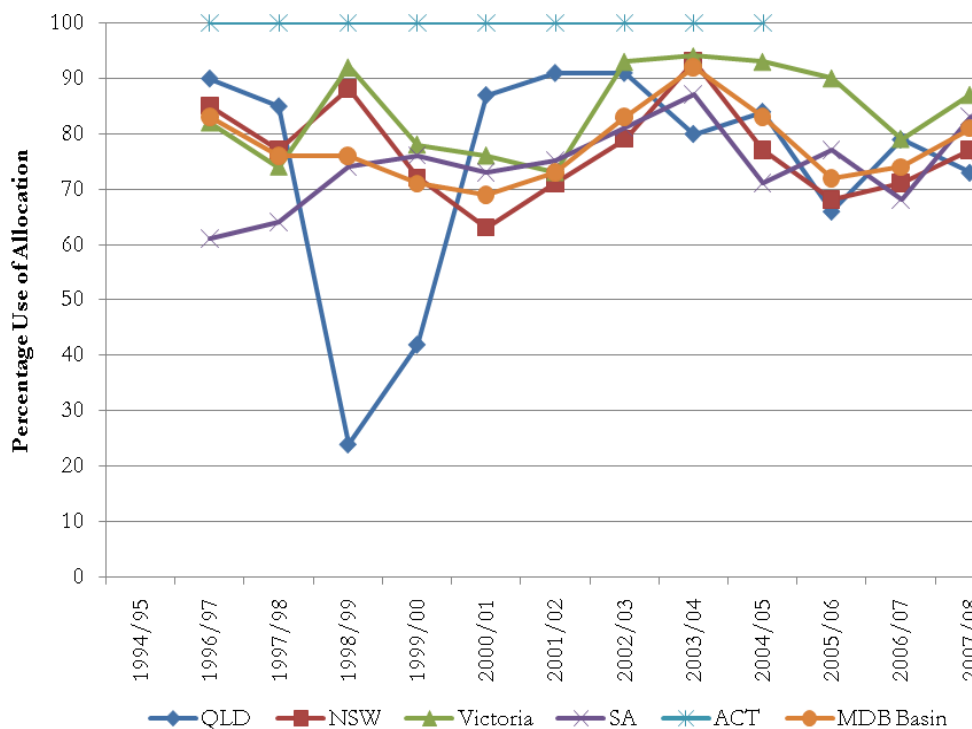
National Water Commission, the media and some of the wider community have a different view. This is only leading to considerable confusion!

While there has been much focus on over allocation, the actual threat to water systems is over use, i.e. where the water actually extracted exceeds the sustainable regime. Over allocation, on the other hand, is a notion of an ability to extract – it does not mean that water is actually extracted. It could be perceived, however, as a warning or danger of reaching unsustainable water use.

The NFF notes that the wider public, media and even politicians have all been caught in this policy misnomer.

The previous Murray-Darling Basin Commission (MDBC) released annual Water Audit Monitoring Reports, which included a table on use of allocated water and use of valley allocations¹ (i.e. able to be extracted and hence remain sustainable). These reports commence in 1993/94 with the most recent being 2007/08. At a state level, use varies historically from 100% (ACT), to Victoria averaging 83% over the timeframe, to NSW, South Australia and Queensland averaging 74%, 75% and 73% of use respectively. The MDB as a whole averaged 76%. These statistics are reflected in Figure 1 below.

Figure 1 Use of valley allocations at a State and MDB level 1993/94 to 2007/08²

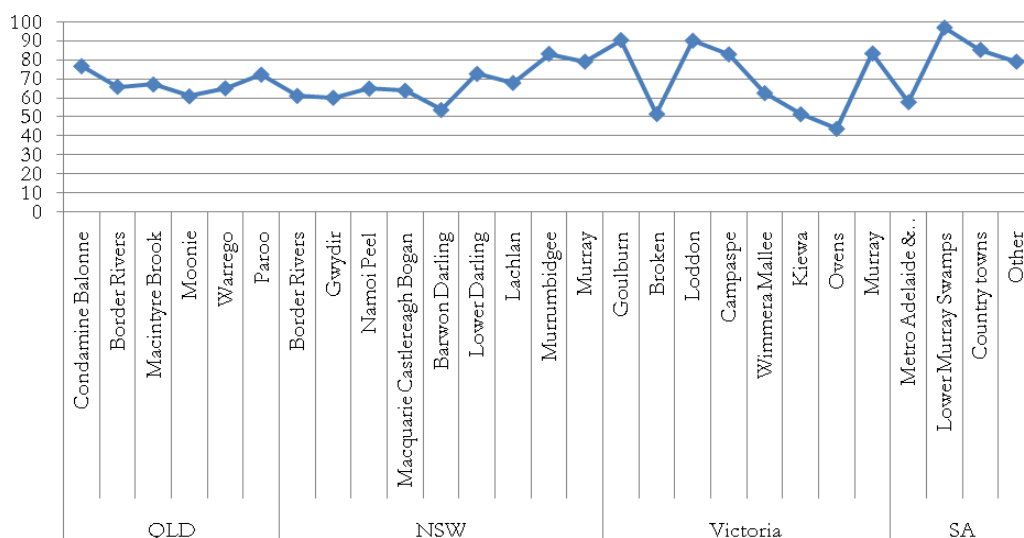


When assessed at a valley level, water use also varies quite considerably. The lowest average use was in the Ovens Catchment in Victoria (44%), while the highest average use was in the Lower Murray Swamps in South Australia (97%). Other catchments rating average use in the ninety percents were Goulburn (91%) and Lodden (90%) in Victoria. Figure 2 on the following page shows average use of valley allocations.

¹ These figures are adjusted for trade and other uses.

² Source: MDB Water Audit Monitoring Reports

Figure 2 Average Use of Valley Allocations 1993/94 to 2007/08³



So what does this mean for water policy and in particular water planning and management? Over allocation is a warning that a catchment might be at risk of overuse but the policy tools used to manage this risk are important. These tools include water planning and the allocation policy in place at a catchment and state basis. It would appear that jurisdictions manage allocations but that irrigators have been conservative in their use of those issued allocations, with on average only 76% of allocations being extracted.

In terms over allocation, this will be a moving goalpost and will vary across time and space depending on the climate. Achieving adjustment to over allocation today may not mean that it is fully resolved for the future. If climate is drier than anticipated, then over allocation will remain an issue. If climate becomes wetter than anticipated, adverse economic and social consequences will arise from a severely conservative water planning and allocation policy regime.

NFF encourages discussion between COAG and the irrigation sector to attempt to get an agreed resolution to this issue to optimise water planning and to maximise the economic, social and environmental outcomes of water.

4. Overall framework

NFF notes that the framework is very similar to and hence consistent with the Federal Water Act (i.e. the Basin Plan). It is the view of the NFF that this is entirely focussed on the environment at the expense of both social and economic. This is despite the objects of the *Water Act 2007* (Cloth) requiring the Act to balance the social, economic and environmental outcomes of the Act.

Moreover, the Federal arrangements and this framework are, as a result, ultra conservative. This is due to the priority accorded to the environment, followed by a quite conservative risk-based approach to allocations.

³ Ibid

This shortcoming must not be replicated at a catchment or water source scale, and the NFF would note that the Federal Water Act requires amendment to ensure that the provisions for the Basin Plan give effect to the objects of the Act.

5. Decision making not just consultation

NFF notes the proposal to ensure that stakeholders are engaged throughout the process. However, stakeholders do not want to be just engaged or told what is going on. Stakeholders need and should have involvement with the development of water resource plans. Such processes should not be used as token consultation. Farmers have had this type of consultation and it is poor policy. There must be a genuine two way dialogue.

In many cases, “Noah’s Ark” committees are established for consultation processes. What is required are committees established that include jurisdictions and stakeholders to jointly develop the plans. It is the view of NFF that these committees ought to include significant representation from those most likely to be affected by the implementation, i.e. entitlement holders. Having joint Government and stakeholder involvement with these important trade-off decisions is integral to successful acceptance and adoption of a plan.

Also important is quality and timing of information. The OECD handbook⁴ on consultation is worthy of note in this respect.

6. Interception Activities

NFF notes the comments on p. 7 that the environment should not bear the risk for increased interception. NFF also agrees that entitlement holders should also not bear the risk for interception (i.e. not just increased but all interception that affects entitlement reliability). To date, Governments have allowed by the environment and entitlement holders to be adversely affected.

As a high level principle NFF supports that all interceptions activities ought to be required to obtain an entitlement to offset this impact, not just “significant future” interception⁵ – by definition this includes an assessment of past, current and future interception and is important in systems that are approaching or at full development. To do otherwise is administrative attenuation of property rights and NFF rejects such an approach.

NFF does not support the proposed approach that these interception activities are just “*bought into the water access entitlements system*” as this is an attempt to attenuate entitlements leading to significant third party impacts. This is clearly unacceptable and inequitable.

NFF agrees that all future interception should acquire a water access entitlement. The question however, is what happens if the entitlement is traded either permanently or annually. Clearly, those causing the interception must either acquire further entitlements/allocation or cease the interception activity. Moreover, NFF queries who would be responsible for monitoring compliance, noting that to date, jurisdictions have not managed this area at all well.

⁴ 2001, OECD Citizens as Partners, OECD Handbook on Information, Consultation and Public Participation in Policy-Making

⁵ As required by the Basin Plan

The issuing of new water access entitlements should **only** be considered for water sources at low levels of development as only in these water sources can there be any confidence that existing entitlements will not be adversely affected.

Entitlements holders have a history of asking Governments to embargo the issue of new licences decades before Governments have realised full development has occurred. They are now facing the impacts of tardy decisions by Governments.

Should Government chose to issue new entitlements in low development water sources, the interceptor must acquire the entitlement (i.e. not be issued a “free” entitlement). This is consistent with the approach for other water users, who must enter the market to acquire new licences. Notably, NSW is the most recent state to sell new entitlements for the Great Artesian Basin.

In relation to surface and groundwater connectivity, the framework appears to be worded that any adjustment to account for the connectivity would need to be adjusted from surface water. The NFF notes that there should be equity in the adjustment spread between both surface water sources and groundwater, including consideration where groundwater entitlements (i.e. not allocations) have been substantially reduced already.

7. Indigenous Water

NFF concurs that the States have largely failed to deal with Indigenous cultural water use. It is the position of the NFF that Indigenous cultural water use and environmental water use are largely the same and would support the provision of cultural water use from planned or entitlement environmental water.

However, NFF does not support the provision of water for commercial use to Indigenous communities which attenuates the reliability of water entitlements (e.g. by issuing new entitlements or by using mechanisms within water resource plans, such as planned water). The NFF supports that water for Indigenous commercial use must be acquired by Governments from willing sellers for this purpose.

8. Erosion of Water Entitlement Reliability

While the framework recognises the rights of existing entitlement holders, it is unfortunate that these rights continue to be attenuated resulting in negative impacts and erosion to the reliability of water entitlements. Where these form part of the financial dealings of irrigators (e.g. are mortgaged), this erosion is untenable.

Erosion to reliability can occur by changing the rules that underpin allocations, including new planned water rules in a water resource plan and by the continued expansion of interception and other uses of the water resource. It is no longer good enough to simply state that future significant interception will be accounted for. Entitlement holders in the MDB have been required to comply with the Cap and will be required to comply with the new Sustainable Diversion Limit (SDL). It is most egregious that water planning in the Basin, which is deemed by many to be over allocation, is not and will not treat non-entitlement water use in the same manner.

This is having an unequitable impact on entitlement holders and this cannot continue, nor should the mistakes of MDB water management be transferred to non-MDB areas and states.

The Draft Guidelines also appear to condone the continual erosion of property rights by changing allocation rules/policies on the basis that this is okay providing entitlement holders can fully understand what this means. This is attenuation and compulsory acquisition without due compensation. NFF does not accept this notion. Amendment and or new rules must be only undertaken where these are modelled and shown to either nullify negative impacts or improve entitlement reliability for the affected water products.

9. Basis for Plans

The Draft Guidelines indicate the water plans ought to be developed using knowledge based decision making. More importantly, the final plan must equally consider social, economic and environmental outcomes. There should not be a significant weighting of environment above all other users, as is currently the case with the MDB Basin Plan.

10. Competitive Neutrality

NFF concurs that farmers are best placed to manage their own risks and that this must be aided by clear rules and processes that describe how water availability is determined. More importantly, in a market based environment, this market should be allowed to operate without undue influence by jurisdictions, as has occurred over recent years (e.g. NSW ceasing water in accounts to provide for critical human water needs). If Governments wish to allocated water between user groups, then Government ought to enter the market to acquire those needs. To do otherwise contravenes competitive neutrality and impedes market operation.

11. Structural Adjustment

It would appear that jurisdictions are moving away from structural adjustment programs and now view structural adjustment as a process. This is unsatisfactory as there remains a need to consider structural adjustment programs, at least on an “as needs” basis. NFF encourages Governments to consider this an option for implementing reform.

12. High Conservation Value Aquatic Ecosystems

It would appear that jurisdictions are working on developing this framework, which is due in 2010. NFF are critical that there has been no engagement with stakeholders in this process, and therefore reserve comment until further information is available.

13. Risk Module and Module A

These were referred to in the documentation^{6 7} but have not been provided. NFF reserves comment until these are forthcoming.

⁶ p. 18

14. Modelling

The Draft Framework claims that relying on recent rather than the entire hydraulic history may be more realistic. Interestingly, the MDBA has in fact chosen to use the entire history (along with medium future climate scenario) and likewise, the CSIRO have stated that they cannot definitely say how much of the current drought is normal climate variability or climate change.

The following quote is from the NFF submission to the MDBA SDL Issues Paper. Interestingly, the CSIRO's own climate scenarios report indicates that the historic climate is similar to the last 20-30 years. It is only the last 10-15 years that shows less rainfall and runoff. As this timeframe reflects only around 13% of historical climate, surely it is at least statistically invalid use of data to underpin planning!

NFF notes the discussion at Attachment A of the SDL Issues Paper regarding the proposed suite of climate scenarios. NFF notes the comment that the "CSIRO report sets out the evidence that global warming has contributed to the current prolonged drought in south-eastern Australia". NFF would also note comments in a prior report by CSIRO (Chiew, Cai, & Smith, 2009) to the MDBA. Essentially this report advises that CSIRO cannot separate climate variability (drought) from climate change. The report states that only a small amount of climate change is currently applicable. This obviously may change over time.

NFF also notes that the IPCC models in the above report date only from 1961 during a period of higher rainfall and runoff. The models used for state water planning and hence the CSIRO SYA covers the period from 1895. The report also indicates that historic climate is similar to the last 20-30 years with only the last 10-15 years showing less rainfall and runoff⁸. This is at odds with the often stated premise that the last half of last century was drier than the first half of last century. CSIRO recommended that recent climate be used as the very dry scenario for a conservative risk based consideration⁹. Overall, CSIRO suggest that there is a significant need for greater research to provide more rigour in assessments.

15. Changing Community Attitudes

The NFF cannot support the statement that "*the outlook for resource use needs to consider the likely direction of community sentiment about sustainability of the resource use and likely preferences for the types of use*". Planning should be based on knowledge and equal weighting given to the environment, social and economic outcomes from planning. There is no role for Governments to start picking winners and losers in who gets the water. Clearly, property rights must be respected and to date there is considerable erosion and entitlement holders are facing a future of considerable more attenuation.

The market should be the mechanism to adjust between consumptive use and the environment.

16. Risk Assignment

⁷ p. 25

⁸ Table 1 on p. 12

⁹ Page 13

The NFF is on record regarding operationalisation of risk assignment and have drafted a paper that has been distributed to DEWHA, Productivity Commission, ACCC, MDBA, Minister Wong and the NWC. A copy of this substantive paper on this issue is available on request.

NFF supports that this mechanism is made transparent and is consistently implemented by Governments. Moreover, entitlement holders should not be caught in a blame game between Governments over who bears the responsibility for risk assignment between the Commonwealth and State Governments.

17.3rd Party Impacts

In any planning or water management context, the impact of change to third parties must be recognised. Modelling most form the basis of such an assessment using the 2004 Water Plans as the benchmark (otherwise how do you know how and if change has occurred). The Draft Framework only mentions this in relation to unregulated and ephemeral streams. The principle must be widely applied to all aspects of water planning.

18. Urban Water

In some jurisdictions, the Minister has the ability to issue additional (new) water entitlements to urban centres for projected population increases. This right must be removed immediately for water source approaching, at or over developed. The water market is the most appropriate mechanism to adjust between users to avoid unacceptable negative impacts on other entitlement holders.

19. Environmental Water

NFF accepts that there are largely four sources of environmental water:

- Storage and transmission losses and evaporation;
- Base river flows (and to a lesser extent water being delivered down the river system for consumptive use);
- Planned environmental water; and
- Water Access Entitlements.

Most community concern is related to the latter two categories and how these can be increased, therefore, the following comments related to these.

Planned water is contained as rules in statutory water plans and is therefore as protected as other users providing water plans are not suspended. When water plans are suspended, all water users (including the environment) are exposed to Government attenuation and negatively affected.

Water Access Entitlements are acquired by Governments (through acquisition or infrastructure programs). Providing these remain as “tagged” entitlements, they retain the same rights and characteristics as the same entitlements owned by other users such as urban, recreation, industrial and irrigation.

It is unclear whether comments in the Draft Framework¹⁰ refer to all types of environmental water or just water access entitlements. NFF recommends clarification of this issue. NFF will not support additional measures are applied to Environmental Water Access Entitlements making these a class of “super” high security water entitlements. To do so will have a deleterious impact on other entitlement holders and as such cannot be supported.

20. Environmental Works & Measures

NFF strongly supports the implementation of an environmental works and measures program across all water sources. This should include engineering and other solutions that will reduce the environmental water requirement due to its more efficient use.

Likewise, consideration of land use management for significant wetlands ought to form part of the consideration of their management and in the determination of an appropriate watering program. As an example, it is hard to obtain environmental outcomes regardless of the volume of a water applied to a wetland when it is mostly private owned. The Macquarie Marshes is a good example.

21. Mining of Non-Renewable Groundwater Resources

NFF does not condone the mining of non-renewable groundwater resources by any sector (including to satisfy mining demands in arid areas), particularly where the environment and other users will be impacted. Such actions would never be tolerated by the community and Governments in relation to agriculture and hence there must be a consistent approach.

NFF also notes that in many respects, mining sites have considerable water losses and efforts should be put in place to reduce these losses. Where physically possible, mining companies should be able to trade water between sites (e.g. by putting in place a pipeline) to assist reduce groundwater demands.

22. Special Rights for Mining

NFF disagrees with the statement that current water entitlement system has been designed for other uses. Planning frameworks have been put in place by jurisdictions and NFF are not convinced that this is inappropriate for mining. All water uses can and do fit in with such planning frameworks. Mining, like urban and irrigation, is just another user in the system. As a result, mining should not be afforded any special rights or liberties not available to other users. It should be required to obtain appropriate entitlements and be able to participate in the water market like other users.

Mining should, like other interception activities, be required to acquire entitlements to offset dewatering of aquifers with such entitlements to be permanently “retired”. Moreover, water flowing from the mine site should comply with wider planning requirements for water quality, i.e. be retained within the mine site for use by the mine site. Such actions must be required to

¹⁰ Paragraph 3.36.3, point i), p. 31

obtain an entitlement to offset the reduce flow to streams and rivers. Such entitlements cannot be traded but could be sold post mine site closure.

23. Salt Interception Schemes

The Draft Framework is silent on the extraction of groundwater via salt interception schemes. Moreover, jurisdictions treat salt mining similar to “mining” with royalties from mining of the salt going to state general revenue rather than being used to offset the operating costs of the schemes. This issue must be addressed.

24. Conclusion

The NFF notes the framework seeks to ensure a consistent approach to implementation of water planning and management across jurisdictions. However, the framework does take an approach which accepts limited consultation and a continued attenuation of property rights. While the framework notes that this is unacceptable for the environment, NFF would agree and add that it is also unacceptable for water entitlement holders.

Moreover, NFF does not support special approaches for individual interest groups. As a high level principle, the market should be used (where available) to assist the reallocation of water from agriculture to the environment, mining, urban and even Indigenous commercial use. Ad hoc interventions by Governments should cease.

In terms of the environment, there is more work required to ensure efficient use of water, including engineering and other solutions.

NFF welcomes the opportunity to discuss this submission in more detail.

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