National Irrigators' Council
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NIC Member Brief: Water Act Review Interim Report

November 2026

The purpose of this document is to provide members with initial priority areas, to inform face-to-face public consultation. NIC will circulate a more detailed draft submission shortly.

Snapshot

- This is a statutory independent review of the Water Act 2007 (Cth) – the Federal water legislation.
- The Interim Report finds that "*Wholesale redesign is not required*" however "*Targeted reform is, however, needed to ensure the Act is clear, and remains effective in a changing environmental, social and technological context*".
- Despite this, the Interim Review proposes some significant reforms focusing on **climate change, First Nations** and **environmental prioritisation** particularly.
- The Interim Review also appears more ideological, directly recommending the environmental objectives be prioritised over all others (contrary to the current Act and its legislative history).
- The Interim Review appears in some sections, to be taking a different direction to the Basin Plan Review, although it does reinforce the need for broader outcomes.
- The Interim Review lacks detailed background and critical assessment of its findings and recommendations.

Key messages

- The Water Act 2007 (Cth) is **not** environmental legislation, it is natural resource management legislation established to enact the Prime Minister John Howard's 10-point $10 billion plan for National Water Security. It must serve the triple bottom line in the interests of the whole Nation and the Basin.
- It is not the role of this Review to fundamentally recast the Objects, nor to have to prioritise between objectives.
- We support greater recognition of integrated catchment management, and the non-water drivers of environmental outcomes. While that is beyond the scope of this Act, given it is an increasing focus of related reviews, this Review should look to provide guidance on possible governance arrangements given this inter-relationship between water and non-water management arrangements.
- The Interim Report failed to recognise the extensive First Nations water rights which exist at a state level, which made those chapters misleading. It is a matter for the States to issue water rights, and it is beyond the jurisdiction of the Commonwealth to do this.
- The Interim Report has made new recommendations to establish a new Office of Cultural Water under the Act, of which can be argued can exist already within either the DCCEEW or the National Indigenous Australian's Agency which is charged with improving the recognition, rights and conditions of Indigenous Australians across all Federal Government agencies.

- Any recommendations must be consistent with the recommendations of the Basin Plan Review, and National Water Agreement.

Key Resources

- DCCEEW Water Act Review webpage: Water Act 2007 - DCCEEW
- NIC Water Act Review Submission: Water Act Review Submission August
- NIC Water Act Review Submission on First Nations Discussion Paper : Water Act Review - First Nations Submission

Consultation Note

Face to face consultation (invite only) is planned this fortnight in St George, Moree, Tamworth, Murray Bridge and Shepparton. Feedback has been provided on missed areas.

A webinar will be held at 1pm (AEDT) on Friday 13 November 2026. Register to attend here. Questions can be submitted in advance by emailing wateractreview@dcceew.gov.au.

Key issues are assessed below

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Key issues

Theme	What the Interim Report said (direct excerpts)	NIC Response
Prioritisation of the environment	*The Water Act 2007 is a significant piece of national **environmental** legislation.* *The environmental objects should more clearly express the priority given to environmentally sustainable water management and its relationship with Cultural, social and economic outcomes.* *The Act does not clearly and definitively express its environmental priorities or recognise climate change in its objects. This contributes to differing views about the relationship between environmental, cultural, social and economic outcomes, and about which environmental values should be prioritised under a changing climate.* *The objects of the Act should be amended to more clearly express the priority given to environmentally sustainable water management and its relationship with cultural, social and economic outcomes, including priority for:* *• protecting, and where appropriate restoring, key water-dependent environmental and cultural assets and key ecosystem functions; and* *• water resilience for essential human needs and associated community uses.*	The Water Act 2007 (Cth) is **not** environmental legislation, it is natural resource management legislation. It must serve a broad range of purposes, including the environment, for the national interest. It is not the role of this Review to fundamentally recast the Objects, nor to have to prioritise between them. The Act currently is clear on these multiple objectives, saying: Object C – "*in giving effect to those agreements, to promote the use and management of the Basin water resources in a way that **optimises** economic, social **and** environmental outcomes"* *Object E – "to improve water security **for all uses** of Basin water resources"*
ESLT	*The ESLT remains the central fundamental concept within the Basin framework, while Sustainable Diversion Limits (SDLs) provide the principal volumetric mechanism for limiting take. Their relationship should be clarified so that the differences between the two concepts are clear. Water volumes are essential, but environmental outcomes also depend on factors including flow timing and duration, connectivity, water quality, river operations, physical constraints, habitat condition and groundwater interactions.*	Support the intent of this to recognise the multiple drivers of environmental outcomes outside of just water volumes. There are concerns if the definition of ESLT is expanded to include minimum flow

	Amend the Act to clarify the concept of the Environmentally Sustainable Level of Take while retaining its fundamental intent and clarifying its relationship with other elements of the Act. *…However, the relationship established by section 23(1) has contributed to the ESLT and the SDLs, which are intended to reflect it, being treated as the same thing. SDLs are a critical volumetric component of environmentally sustainable extraction. However, they are by themselves not determinative of an environmentally sustainable level of extraction, or of environmental outcomes more broadly. These are influenced by a broader range of factors than water volumes alone.* *The ESLT and SDL framework in the Act has so far assumed that a specified volume of water would deliver the necessary and desired environmental outcomes. However, the minimum flow requirements to support environmental outcomes cover the volume (magnitude), timing, duration, seasonality and quality of flow regimes. It is critical that the Act and Basin Plan frameworks recognise and support these additional factors for both surface water and groundwater systems, whether through the environmental management framework (for example, the Basin-wide environmental watering strategy), or through rules and arrangements in Water Resource Plans.*	requirements, timing, duration etc. This would likely be reflected in rules-changes, which poses risks to access and entitlement reliability. This is going beyond the scope of what the original purpose of ESLT was. In short – we support amending the Act to clarify the relationship between ESLT/SDL and environmental outcomes, in terms of better recognising the role of non-water drivers and broader natural resource management. However, we don't support Cth prescription beyond 'levels of take' and 'diversion limits', into areas such as timings, duration, water quality etc, as this is a new concept.
Integrated Catchment Management (ICM)	*Environmental outcomes are influenced by a range of factors beyond environmental water management, including presence and management of instream structures, land management, invasive species, riparian zone management, pollution and climate change. Many of these factors sit outside the Act's framework and Commonwealth responsibilities.*	Support this recognition, which has been a key part of NIC advocacy and anticipated major finding of the Basin Plan Review. While it is correct that many of these factors sit outside the Act and Commonwealth responsibilities – it was expected that this Review would provide proposed solutions or ways forward on that, given the prominence of this issue, and likely direction of the Basin Plan Review.

		It is also noted that almost all of the major findings and recommendations of the Interim Review are also outside the scope of the Act and Commonwealth responsibility, yet the Interim Review did propose recommendations regardless. There is a need for consistency.
First Nations	*The Act does not adequately support First Nations governance, nor does it have mechanisms to recognise Cultural authority.* *The First Nations object should provide a stronger foundation for recognising First Nations rights, interests, knowledge and participation.* *The Act does not currently provide an enduring mechanism through which First Nations peoples can participate in and influence water management decisions or exercise Cultural authority.* *The Act should be amended to establish an Office of Cultural Water, to serve as a national First Nations-led water governance mechanism and incubator for reform, that recognises Cultural authority and strengthens First Nations participation in water planning, management and decision-making.* *A representative First Nations Water Council should be established to support Cultural authority and representative participation in water planning, governance and decision-making processes.* *A representative First Nations Water Council would perform a separate but complementary role by supporting representative participation and bringing diverse First Nations perspectives together at the national level. Standards for First Nations participation and engagement, together with shared decision-making and agreement-making arrangements, would provide more consistent pathways for First Nations peoples to influence water planning and management.* *The Act should be amended to introduce a preamble which recognises the historical impacts of aqua nullius and acknowledges First Nations peoples' unique connection to*	As NIC noted in our two submissions, it is a matter for the States to issue water rights, and it is beyond the jurisdiction of the Commonwealth to do this. Irrespective of the merits or not, this is not the right legislative instrument – the State legislation is. The Interim Report failed to recognise the extensive First Nations water rights which exist at a state level, which provided a misleading indication of the current framework. Refer to NIC submission for case study of NSW. The Final Report must (1) be clear that it is beyond the scope of the Cth legislation to issue rights to manage expectations on the scope of this Review, and (2) provide information on the extent of those rights, to ensure it is factually correct. Many of these concepts were not included in the final National Water Agreement for legal reasons, and because States would not support them. To the extent they could not be included in the final NWA, they must also be removed from the recommendations here. This includes living entity in a legal context, and the

	land, country and waters, and the concept of rivers and waterways as living entities capable of recognition as such. *A national register should be established for living rivers and any dual name associated with the river.* *Object 3(fa) of the Act should be strengthened to better recognise and advance the rights, interests and aspirations of First Nations peoples in water management at a national level.*	notion of cultural authority. Consistency is required. The reference to aqua nullius also requires care - unlike terra nullius - it is not formally recognised. It is an academic conceptual term, not a formally articulated legal claim. Referring to aqua nullius in national legislation risks conflating a contemporary analytical construct with an historical legal doctrine. In terms of participation and decision-making, there are no express provisions for any one stakeholder group to have greater influence in decision-making in the Act. The way for influence is via democratic structures and elected representatives in parliament.
Climate change	*Climate change is not expressly recognised in the objects. The Review proposes explicit recognition of adaptive management, particularly in the context of climate change.* *The Review proposes replacing this object [water security] with a nationally applicable water resilience object supported by an appropriate definition. For the purposes of consultation, water resilience, in relation to human needs, is proposed to mean the capacity to reliably maintain access to water of suitable quality, particularly when faced with disruptive events or longer-term stresses such as climate variability, climate change or pollution. It includes the capacity to recover from shocks and adapt proactively to changing water availability conditions.* *While human needs are the principal focus, water resilience is connected to integrated water resource and environmental management because reliable water access and quality depend on the water resources and ecosystems that sustain them.*	It is unclear what this Object is seeking to achieve, in terms of how it would be delivered. Note the Object it is proposed to replace is: *Object E – "to improve water security **for all uses** of Basin water resources"* It will be critical that any change maintains the focus on "all uses". There must be greater recognition of the role of the States, whom already manage climate variability through water allocations, as an adaptive process.

Socio-economic	*The chapter finds that implementation of the Act has not been the principal driver of social and economic change across most Basin communities. Basin-wide evidence can, however, obscure local and distributional effects. Some smaller, remote and irrigation-dependent communities have experienced adjustment pressures, reinforcing the need for continued attention to local conditions, adjustment and transition.*	The Interim Report downplays the significance of social and economic impacts from water reform. Need to note the data gaps, and poor reporting. This should also be a recommendation for better information on monitoring social and economic outcomes. The Interim Review also goes to de-prioritise socio-economic objectives compared to environmental objectives.