AUSTRALIAN
Grape & Wine

Consultation on the draft principles of a National Water Agreement

SUBMISSION

September 2024

Australian Grape and Wine welcomes the opportunity to comment on the National Water Agreement (NWA). Integral to this submission is our view that a meaningful and impactful NWA, which has strong buy-in to its intended outcomes, requires an extension of the timeline for consultation, development and finalisation. The prosperity of our sector relies on access to a reliable supply of affordable water, and for governments to balance the range of competing needs. It is for this reason that we support an effective NWA that promotes efficient and productive use and one that seeks to achieve sustainable levels of extraction through more sophisticated management techniques. Poor water policy could exacerbate impacts of drought, lead to uncertainty or cause environmental damage. It is also critical to ensure that the use of water to achieve economic, environmental, social and Cultural outcomes balances our needs with those of other users and that flows are managed in a way that minimises unnecessary losses or negative impacts such as flooding. Further to that, policies should be focused on outcomes and recognise that the best outcomes do not necessarily come from an approach that is purely based on volumetric measures.

The likelihood of reduced water availability will inevitably place upward pressure on the cost of water and the cost of irrigated agriculture. Both the wine sector and the regional economies it supports are heavily exposed to increasing prices for water. The Government's commitment to restoring the water balance and dealing with overallocation, whilst supported, is liable to impact irrigators. The future could, and probably will, see unprecedented pressure on irrigators. Reduced allocation of water impacts users very differently with fixed requirement users such as perennial horticulture (including vines) liable to be impacted particularly hard, and those relying on temporary trade being the most immediately vulnerable. Increasing cost of entitlements for new entrants and businesses seeking to expand, along with higher transactional costs for existing users, will put pressure on entire industries and the regions they support. The extent to which this is the case, and the level of equity with respect to how these hardships are distributed, depends on how well water policy is designed. Policies for water recovery should minimise disruption to the supply demand balance as much as possible and allow flexibility for a broad range of approaches such as water leasing as an alternative to buybacks. While a national approach that pays respect to Australia's global commitments is needed, there also needs to remain some flexibility to allow State and territory governments and their respective regional water policy makers the liberty to meet their own discrete needs. It would be a mistake not to recognise that water is not a fungible commodity and that there will be challenges with respect to achieving consistency in pricing policies across sectors and jurisdictions. It is the rules relating to the prevention of overextraction (or failure to account for extraction) that are the most critical to the NWA. And, it is more important to see an NWA that is consistently accepted and adopted by all States and territories than one that is too aspirational or prescriptive. With that in mind, this process deserves additional time for consultation.

We note the Australian Government Department of Climate Change, Energy, the Environment and Water and the National Water Committee wants to hear about the principles relating to climate change, urban water and science, knowledge and partnerships. But it is the principles that sit beneath those that are perhaps the least likely to raise any concerns. It is curious therefore that authors of submissions have been told where to focus and our approach has been to consider the whole document.

There are multiple stakeholders in water management in Australia and all beneficiaries should be highly valued and equally respected in the NWA. This submission has been guided by feedback from stakeholders for a need for clarity and certainty in how water will be managed in the future and what events might threaten their future water security. Ensuring that the NWA is sufficiently clear in its intent is therefore a key objective of ours. Specifically, the NWA should ensure that there is clarity with respect to its legal powers and in particular what matters remain with the States and territories to determine so as to manage expectations accordingly.

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The Draft Principles

Objective 1 – The safe and secure supply of sufficient water quality and quantity to sustain our natural environments, Culture, economic prosperity and communities.

Australian Grape and Wine supports Objective 1 as stated above and the recognition of the importance of reliable water. The principles that relate to added transparency in how States and territories pursue innovation and efficiency, and are publicly accountable around costs and pricing, will be integral to this. Innovative solutions including use of water from alternative sources will be an important feature of a water constrained future so principles to that effect such as 1.19 are supported. States and territories must be more accountable for how they have integrated the NWA into their own regulatory frameworks so as to ensure a level playing field. There are many cases where there is connectivity between water resources that cross state borders and the NWA should prevent action by State or territory that provides them competitive advantage over another due to unsustainable management of a water resource or failure to control direct use or interception.

That said, consistency in pricing policies across sectors and jurisdictions is only possible to the extent that all water is the same which of course is not the case. Making water fungible is challenged by quality and availability variances and constraints of moving it between different point sources. Complexities in the various water markets flow from this. The principles that sit beneath Objective 1 relating to institutional arrangements and pricing of water appear to have been expanded since the first rounds of public consultation and are edging towards over-reach given these complexities and that States retain the vested right to use and control water. The principles about how water is to be priced could be pared back with focus on the objective of equity between users and avoidance of loopholes that allow for market manipulation, especially within highly connected systems where there are different rules across borders. While there is general support for the user-pays principle the NWA could be less prescriptive provide case by case flexibility paying consideration to economic circumstances, existing rights and the transaction costs that can arise from unnecessary bureaucracy. Further to that, rural and regional areas often warrant a different approach. This is more clearly stepped out in the equivalent section within the 2004 NWI. The NWA contains multiple references to full cost recovery for water services, including the recovery of environmental externalities. This should reconsidered as in the absence of market-based approaches, it is not clear how externalities should be priced nor if/how this should be reported. Setting regulatory limits in conjunction with market-based instruments has proved to be an effective measure rather than assigning a recoverable cost to negative externalities.

Objective 2 – Investment in major[1] water infrastructure that is effective, strategic and transparent.

Australian Grape and Wine supports the critical role of water infrastructure in securing water supply along with any policy principle that support well-informed investment decisions. Climate related impacts on water supply, reliability and demand are likely to place considerable pressure on irrigators under status quo. Certain capital expenditure and operational costs are justifiably publicly funded and should continue to be publicly funded. Feedback has been that strict qualification rules for project proposals has been a barrier to achieving the targeted outcomes of Government investment in water infrastructure, particularly in the Basin. Government investment in major water infrastructure remains critical and entirely appropriate because water creates significant public benefits. Therefore, it is not always appropriate to say that the Government should recover these costs from users. Whether it should be is case by case and does not need to be stipulated in the NWA. Therefore it is recommended that principle 2.3 be removed.

[1] Major water infrastructure refers to large scale projects and facilities designed to manage, store, distribute and treat water resources across the country.

Objective 3 – 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.

Acknowledgement that Aboriginal and Torres Strait Islander Peoples holistically managed lands and waters for more than 65,000 years, is a critical improvement in the NWA. The fact that their knowledge is highly valued and respected should remain up front and central to the NWA.

Feedback from stakeholders suggests that while there is certainly support for integrating Aboriginal and Torres Strait Islander Peoples' Cultural, spiritual, social, economic and environmental rights into water planning and management, it is not sufficiently clear in the draft principles how this will impact existing water users' rights. There are frequent attempts to add clarity by making reference to alignment with the National Agreement on Closing the Gap. There are four priority reform areas for Joint National Action within the National Agreement on Closing the Gaps which could be referenced to add this clarity. Further to that, a principle within that Agreement is to ensure that decisions are presented in terms that are easily understood by all parties and that there is enough information and time provided to understand the implications of the decision. This same philosophy should be applied within the NWA to ensure clarity exists for *all* stakeholders, particularly those who have come to value their water as a perpetual property right and are sensitive to any uncertainty that water policy decisions introduce with respect to those rights. A suggested solution to add clarity for stakeholders would be to make reference to the specific policies within that the National Agreement on Closing the Gap rather than the broader Agreement. Specific examples of principles that are not clear are 3.2 – are there potential legal implications for owners of water rights by stating that "lands and waters ownership have never been ceded"? If so, what consequences could be expected for irrigators' existing rights? In 3.11 the term "primary substantive rights" could be replaced by its plain English meaning, which is understood to be referring to their right to be involved in decisions that affect them.

Objective 4 – The robust and coordinated use of science, data and Cultural knowledge underpins evidence-based decision making in water management

The fact that sustainable water planning and management is supported by evidence-based decision making, innovation and continuous improvement is critical to the NWA and consistent with Australian Grape and Wine's own policy position on water. There is strong support from the wine sector for this objective, particularly the need for a proactive approach by Governments for the gathering and provision of information regarding projections, uncertainty and risks associated with changes in water availability. The need to ensure that Aboriginal and Torres Strait Islander peoples' knowledges and sciences has been captured in principles 4.15 through to 4.19. However, under 4.14 it does not seem appropriate to suggest that information from one particular source should be considered of equal weight in decision making. Under a true definition of evidenced-based decision-making, it may in some circumstances be weighted more highly or in others less. Evidence-based policy is usually based on evidence that is broad, tested, rigorous, and ideally capable of replication and the process of its assessment should be transparent and contestable. Those characteristics should form the basis for how knowledge and information is brought to the table for the purpose of water planning and management.

Australian Grape and Wine supports a risk-based approach to decision making. To take such an approach relies on sufficient data and modelling frameworks to support effective water planning and management. In considering risk, policy developers and water planners must pay respect to the significant cost to industry from drought and lack of water particularly in the case of perennial crops that rely on an annual supply of water to survive. The precautionary principle, whilst accepted, must consider all beneficiaries of reliable water supply and not be so "precautionary" that it neglects to consider the economic risks when supply is restricted.

Objective 5 – Sustained community trust and confidence in government, water agencies, water managers and users

Public trust and confidence in the governance and management of water is essential and it is pleasing to see that value is placed on this in the NWA. The need for metering and monitoring commensurate with the risks to the resource is also supported, as is effective compliance. Some other principles beneath this objective should give greater attention to the extent to which regional communities are reliant on water to support their economies.

As stated previously, Australian Grape and Wine is aware of divergent views across the sector around purchase of water on the market whether it be by direct tender or other market-based mechanisms. Of major community concern within the regional communities that grape producers operate within is the devastating effect that buy-backs can have on their local businesses, their industries and their entire economies. In line with our feedback provided to the Basin Plan's Restoring our Rivers consultation, Australian Grape and Wine would like to see prioritisation of non-water purchase recovery options, sufficient consultation regarding water recovery options offered from the very beginning and that policy decision makers demonstrably minimise socio-economic impacts. With that in mind, the NWA needs to greater emphasize a socio-economic neutrality commitment to water policy.

It is well known that the impacts of water recovery can be tempered by well- tailored solutions and effective targeted compensation. Actions that disproportionately harm one business or industry should be avoided, however invariably they cannot be which is why compensation needs to be commensurate to the individual impacts. The NWA should refrain from being prescriptive about what might be the best mechanism for achieving structural and community adjustment following water recovery. In horticulture, choosing to exit comes with costs of business re-structure, disconnection from the irrigation delivery network and removal of permanent plantings and infrastructure. Fair compensation tends to cost well above the cost of the water itself. Consequences of water recovery flow beyond those directly affected to other irrigators left with higher costs and support businesses within those regional communities left with fewer customers. Compensation measures that are most impactful are often those driven from the bottom up, so States and regions must retain flexibility for working with communities to design well-funded recovery and compensation. Therefore, consideration should be given to removing 5.4 that states that where adjustment measures are used, that policy makers 'avoid direct industry assistance and subsidies'. While the other parts to the principle are broadly agreed, a directive against industry assistance may prove unnecessarily restrictive given the need to deal with stranded assets and the overarching objectives of ensuring the solutions are sufficiently tailored to the challenges of the range of sectors that suffer quite differently as a result of water policy decisions. When it comes to rebuilding communities impacted by water policies, investments that are supported are often very industry targeted such as those that expediate structural readjustment, that allow people to maintain their dignity when exiting an industry or that bring new employment to regions. Those that tend to be less likely to be embraced are those that focus too heavily on admiring the problem without practical and meaningful solutions, investments in writing plans that don't have the means of delivery or social infrastructure unrelated to the problem. With that in mind, the importance of evaluation of adjustment measures is supported, but this principle could be expanded to include learning from past experiences and taking corrective action where the outcomes are not delivering upon expectations.

The policy principles relating to public communication and transparency are strongly supported but could be strengthened by making specific reference to engagement with industries as well as communities. This transparency principle should be reflected in the NWA itself by ensuring that principles are written in plain English and tested so that their interpretation is understood by Governments who will be tasked with incorporating these into their policies, as well as stakeholders who are likely to try to interpret the document for their own business decision making.

Objective 6 – Environmentally sustainable water planning and management that is interconnected, adaptive and responsive to climate change and other circumstances

With the evolving challenges posed by climate change, introducing greater capacity for climate adaptable water management policies and processes across Australia is an essential part of the NWA, and one that could be strengthened in the policy principles. Despite the 2024 Productivity Commission (PC) review's strong focus on the impacts of extreme weather, the NWA lacks due emphasis on the need to find solutions matched to that very problem. Extreme weather includes floods as well as droughts. This stresses the need for innovative loss-minimising water storage solutions that will lessen impacts of floods while increasing drought resilience. This opportunity requires a significant change to the way of thinking from the previous NWI which was under-done when it came to planning for climate change. A greater emphasis on this opportunity should be more evident throughout the policy principles.

Working towards a more holistic management of surface and groundwater systems should be a strong focus and in many regions remains underdeveloped in water policy, due to insufficient science to support surface and groundwater water modelling. Similarly, there is a lot to be gained from better science relating to groundwater recharge and discharge rates and hydrological and hydrogeological boundaries, albeit that this is requires strong commitment between planning cycles and sufficient resources for water managers to motivate them to outlay what can be a considerable research investment.

Although responsibility for the regulation of water interception ultimately rests with State and territory governments where the risk associated with the interception is significant, it is important to see this addressed. Despite this having been included in the 2004 NWI, there remain examples where this has not yet been fully implemented. Whether it be groundwater or surface water, there is the potential for anti-competitive effect on downstream users. This could be addressed by strengthening reporting obligations where interception is impacting a water resource that crosses state or water planning boundaries so that States and territories that have been slow to adopt the NWA principles are exposed to greater public scrutiny.

The principle of investing in behavioral change under 6.23.4 is supported but it should be equally applied beyond urban users to other users. There are many examples in agriculture where behavioural science has presented opportunities to empower better decision making and also revealed barriers to practice change. A case in point might be inability to invest in irrigation infrastructure required for greater precision in water application. There remain opportunities for irrigators to optimise the economic return on their water use through better decision-making and that this opportunity presents benefits that are both private and public. Therefore, in a water constrained future, these behavioural change opportunities should be prioritised for government investment.

Under 6.23.2 it needs to be recognised that when Governments announces buy-backs, businesses under financial stress are under enormous pressure from financiers to use this opportunity to recapitalise their business. In effect, when buy backs by open tender are assumed to be targeted only to willing sellers, this does not play out that way and there are almost always further impacts on remaining users. Governments must be encouraged to consider all alternatives before removing water from businesses and an important principle is that they must ensure that there are high levels of accountability with respect to transparent public consultation and reporting on outcomes, taking on lessons learned from past experiences to ensure the least harmful approach is taken.

Objective 7 – Water management frameworks that facilitate the judicious and efficient use of water

Australian Grape and Wine supports the principles relating to water management frameworks. It is critical to ensure water management is evidence-based, correctly accounted for and considerate of how water moves through the landscape (including accounting for recharge, coproduction etc). The need for statutory arrangements that establish perpetual access to a share of a water resource for irrigators and other users such as through entitlements and allocations are integral to this, as are mechanisms for facilitating water markets and trade. The imperative to seek cross jurisdictional consistency where possible, whilst supported to an extent, will likely continue to present challenges due to the varying priorities of users and associated political pressures. The 2004 NWI highlighted the need to reflect regional differences in the variability of water supply. An important consideration is getting the right balance between harmonisation and localisation of rules, and this should also be made clear in the NWA. The approach in 7.11 to supporting that water for the environment and other benefits to be traded when available will be welcomed.

General Comments

The assumption is that the NWA is intended for a wide audience that includes all stakeholders (State and territory governments, researchers, policy makers, stakeholder such as irrigators, Aboriginal and Torres Strait Islander people, industries that rely on water and the general public). It would add value to the document to state this up front. Some additional commentary regarding the purpose and outcomes expected from the NWA would also be useful.

There is a need to ensure clarity of the intent of every principle and removal or any ambiguous statements that are not required for water policy and planning purposes. There are opportunities to improve the language so that it resonates with the target audience. One example might be replacing the words customers with users or irrigators.

There are recommendations contained within the 2024 PC report that could be better addressed such as better defining water security. Another that is not well reflected in the NWA is the reporting of outcomes by some of the environmental water holders. Examples provided in the PC report are:

- what both held and planned environmental water achieved in terms of outcomes
- the counterfactual – that is, what would have happened if the water had not been delivered, and,
- whether the environmental water allocations are sufficient to achieve environmental outcomes specified in water plans. [2]

One disappointing aspect of the consultation process and the discussion paper is a lack of clear delineation in the principles regarding what is new since the 2004 NWI. The review process would have been made easier for participants if new policy principles were highlighted as those would be deemed more likely to result in changes from status quo. While many of the principles remain unchanged, others have been changed in their wording without explanation. Of additional interest would be which changes have been introduced as a result of the 2024 PC recommendations and/or as a result of other input. Whilst this information has been provided at a high level, this is not always helpful given the extent of detail in the draft and the number of principles provided for review. There is room for consolidation of principles. Statements that are duplicitous can generate confusion to the interpreter and potentially detract from the principles that are of critical importance, many of which are yet to be addressed despite featuring in the NWI of 2004. And finally, as stated up front, additional time for consultation would be welcomed given the importance of this agreement.

[2] https://www.pc.gov.au/inquiries/completed/water-reform-2024/report/water-reform-2024.pdf

About Us

Grape and Wine Production in Australia

There are more than 2000 wine producers and 6,000 wine grape growers across Australia. The wine sector has significant flow-on effects to other businesses in the economy, more so than many (if not all) other sectors we compete for water with. Grape and wine businesses make a significant contribution to rural and regional Australia and driving economic growth. While grapes contribute close to $1 billion to the economy and wine production $5 billion, the gross output to the Australian economy when accounting for multiplier effects brings it to $45 billion.[3] [4] Grape and wine producers are considered intensive in their use of labour.

More than 60 per cent of Australia's total grapevine area is in the Basin, and the Murray–Darling Basin accounts for around 80 per cent of Australia's total irrigated grape production (MDBA 2016). [5] Other sources include groundwater, other catchments and dams (approx. 9%, 4% and 4% respectively), and small volumes from recycled water or reticulated mains. [6]

Climate change, poses challenges for most agricultural industries due to their significant dependence on the earth's natural resources. But the winegrape growing sector has an additional challenge. Earlier phenology brings grape ripening into a warmer period of the year. Because of this effect, any elevation in temperatures due to climate change is positively reinforced. Modelling has predicted that this positive feedback loop will result in temperatures at the new time of ripening being over twice the number of degrees of increase from climate change alone. [7] Increasing temperatures as a result of climate change mean that the demand for irrigation water is almost certainly going to increase significantly. This will continue to put upward pressure on water prices on the permanent and temporary markets. Several regions have already started to consider how their future water needs will be impacted by climate change. The Barossa for example has estimated that under a mid-range 2050 projected climate, with current planted area and viticultural practices maintained, the average irrigation water demand will increase by approximately 23% by 2050. [8] This percentage is likely to vary from region to region and across varieties and crop type but unarguably the impact on demand, and therefore water availability and value, has the potential to be extreme and widespread.

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[3] https://www.wineaustralia.com/getmedia/c9d253cf-05ea-4417-a6b1-43ed031c5250/MI_PSI_Report_2022-23_F.pdf
[4] https://www.wineaustralia.com/getmedia/34d4f68c-c8e9-4625-a078-bdaf197c09ef/AgEconPlus-Gillespie-Economic-Contribution-Wine-Report-2019.pdf
[5] https://www.agriculture.gov.au/abares/research-topics/surveys/irrigation/grapes
[6] ABS 2015 1329.0.55.002 - Vineyards, Australia, 2014-15 (abs.gov.au)
[7] Molitor, D. and Junk, J. Climate change is implicating a two-fold impact on air temperature increase in the ripening period under the conditions of the Luxembourgish grapegrowing region. OENO One https://doi.org/10.20870/oeno-one.2019.53.3.2329 (2019).
[8] BAROSSA WATER SECURITY STRATEGY 2050 p 11 sourced 865572-Barossa-Water-Security-Strategy-summary-FIN-WEB-v2-081122.pdf (environment.sa.gov.au)

Our Industry Policy Position

Australian Grape and Wine acknowledges and accepts the need to ensure critical human and environmental needs are factored into planning. Australian Grape and Wine also supports a national water reform that provides for stronger management measures to achieve cultural and economic outcomes for Aboriginal and Torres Strait Islander people.

Policies for water recovery should be designed to minimise disruption to the supply demand balance and they should generate a neutral or positive net socio-economic impact at both a business and regional level. Australian Grape and Wine is committed to advocating a 'do no harm philosophy'. This means that all policy response options should be explored before making an intervention that is liable to distort the water market or damage an industry or a regional community.

The sector is not naïve to the fact that water recovery is likely to be an unwelcomed but necessary feature of the years ahead. Governments are prone to knee-jerk policies when it comes to agriculture, forgetting that rushed interventions can distort water markets at best and devastate communities at worst. More economic research towards well-designed water recovery policies is needed, as is a commitment that regions will be suitably supported if water is to be removed from their economies. Our own planning decisions should be backed up by the appropriate science and understanding of the likely impacts of the changing climate on plant water use and rainfall patterns. Irrigation communities should be involved in decision making at the same time as being kept informed so they understand their water security risk profile before problems arise.

The wine sector is committed to its own role in ensuring sustainable water use. As the leadership organisation, we take seriously our responsibility in encouraging:

- Sector wide support for the optimisation of water use through strategic planning and research;
- Government and industry co-investment in technology that improves efficiency;
- Adoption by grape and wine producers of best-practice water management to optimise sustainability and profitability of both the resource and individual businesses;
- That all grape and wine producers measure and report on both water use and waste water generation through Sustainable Winegrowing Australia.

Australian Grape and Wine

Australian Grape and Wine Incorporated is Australia's national association of winegrape and wine producers. Our role is to help forge a political, social and regulatory environment - in Australia and overseas - that enables profitable and sustainable Australian grape and wine businesses. To do this, our activities focus upon the objective of providing leadership, strategy, advocacy, and practical support. We represent small, medium and large winemakers and winegrape growers, with policy decisions taken by the Australian Grape and Wine Board requiring 80% support, ensuring no single category can dominate the decision-making process and guaranteeing industry policy positions are only formed if they provide significant industry benefit. In practice, most decisions are determined by consensus. Australian Grape and Wine is recognised as a representative organisation for winegrape and wine producers under the *Wine Australia Act* 2013 and is incorporated under the *SA Associations Incorporation Act* 1985.

We would be delighted to discuss this submission further if required.

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