



Implementation of the Murray-Darling Basin Plan 2023: Information request, ACT

The purpose of this request is to collect information for the Productivity Commission's 2023 assessment of the effectiveness of the implementation of the Murray-Darling Basin Plan and water resource plans. Your response will inform the assessment and any recommendations for improving the framework. This inquiry is required under the *Water Act 2007* (Cth) and is the second such inquiry conducted by the Commission – the previous assessment was conducted in 2018.

We plan to release a draft report in September and our final report is due on 19 December 2023. Further information about the inquiry, including the terms of reference, can be found on our [website](#).

Please find attached our call for submissions, which discusses the scope of our inquiry and sets out a number of questions. We invite you to provide a submission addressing these questions. We also ask that you address the more specific questions set out below, either in your submission or in this document.

Submissions and responses to information requests are due **31 July 2023**. However, given the importance of your agency's input and our tight timeframe, we would appreciate your submission and response earlier, if at all possible.

Please respond to each question and include any relevant documents or weblinks. If a major change is likely in a particular area between now and December, please indicate this in the relevant section, along with likely timing.

Clearly mark any information that is confidential and provide reasons. Information not marked as confidential may be cited in our report and published on our website. The questions in this information request may also be published.

Information request 1: Implementation challenges

1(a) What are the three biggest challenges the ACT government will face implementing the Basin Plan over the next five years? How does the ACT government intend to address these challenges?

1. Drivers of change

1. Cross border water management arrangements

Water management in the upper Murrumbidgee River upstream of the ACT is leading to low river flows that are unable to support healthy, functioning river ecosystems and the communities that rely upon them.

In 2019 the Upper Murrumbidgee River ceased-to-flow due to dry conditions, inadequate passing flows through Tantangara Dam and alleged unauthorised water take for irrigation. Threatened native fish species are unable to be sustained within the upper Murrumbidgee River; Trout Cod are



extinct, Silver Perch are functionally extinct, and Macquarie Perch are isolated within disconnected populations. Annually, the water quality of summer river flows entering the ACT does not meet human health guidelines for bacterial loads.

The ACT annual Basin Plan reporting highlights that the river health is in decline^{1,2}. The declining health of the river was reported in the 2019 ACT State of the Environment Report³, and the trajectory has not improved. The upper Murrumbidgee community are expressing their concern at impact of river health and inaction to address the long-term issues⁴. The Territory's 2023-24 Basin Plan 5-year reporting is unlikely to report any positive environmental outcomes from the implementation of the Basin Plan within the upper Murrumbidgee region.

Under NSW's Water Sharing Plan for the Murrumbidgee Unregulated River Water Sources 2012, environmental water releases are not legally protected from extraction downstream. This is inconsistent with environmental water management requirements under the Basin Plan, and in contrast with the ACT where Murrumbidgee River inflows are protected under the ACT Environmental Flow Guidelines.

The operation of the Snowy Hydro scheme diverts between 90-99% of upper Murrumbidgee flows for hydroelectricity generation. Operations under the NSW Snowy Water Licence is explicitly excluded from the Commonwealth's water management framework to provide an environmentally sustainable water take. The impacts of Snowy Hydro upon the ACT's ability to implement the Basin Plan, and suggested solutions, are discussed further in the response to information request 5 below.

Responding to these challenges are a shared interest between the ACT, NSW and Australian governments. The ACT Government is seeking collaboration with governments to progress a solution, however, the responsibility for the necessary reforms is beyond its jurisdictional authority.

2. Water security and climate impacts

The ACT faces a key challenge to achieve water security while providing for sustainable regional development in a climate changed future.

The ACT's water security (water supply, water quality and water affordability) is vulnerable to external drivers that are external to the ACT: NSW water management and growth in use (farm dams, urban development); Basin Plan water take limits; water quality impacts from land management; and climate impacts on rainfall-runoff.

The upper Murrumbidgee River is a source of supply for regional population centres, providing run-of-river water supply for Cooma, Tharwa and Canberra, as well as Queanbeyan via the Murrumbidgee to Googong transfer pipeline. Regional development in the ACT-NSW border region

¹ [ACT Government Basin Annual Report Case Study, 2020-21](#)

² [ACT Government Basin Annual Report Case Study, 2021-22](#)

³ [ACT State of the Environment Report 2019](#)

⁴ [The Forgotten River, Australian River Restoration Centre, 2022](#)



is increasing demand for water supply, with the Murrumbidgee River regarded as a key water source for burgeoning townships such as Michelago.

The ACT's baseline diversion limit (BDL) does not reflect the full water balance for the ACT. The BDLs were always intended to be adjusted as improved information became available, and while other jurisdictions' BDLs are based on modelling adaptive to population growth, the ACT's figure represents a negotiated limit based on 2009 population figures. The application of climate projections onto regional water resource availability shifts the planning benchmark from current hydrological conditions to the millennium drought. Planning for this paradigm shift requires rapid escalation.

In 2022, the ACT Government established the Office of Water to drive holistic water policy, planning and program delivery. The Office has developed analytical tools to incorporate climate projections into its water planning framework, is working with water delivery partners to reaffirm the Territory's vision for long term water management (ACT Water Strategy refresh), that is leading towards the development of a long-term water security plan.

A national approach to defining and tackling water security is needed that addresses issues including quantity, quality, and affordability. A renewed National Water Initiative and a new National Water Commission could be best placed to deliver a national response on water security.

3. Basin Plan water take settings

The ACT's water resources was established under the *Seat of Government Acceptance Act 1909*. This included prescription of catchment areas that extended beyond the ACT jurisdictional boundary into NSW, for example the upper Molonglo River water catchment.

The Basin Plan baseline diversion limit (BDL) and sustainable diversion limit (SDL) for the ACT were negotiated values, not based on any scientific definition of an environmentally sustainable level of take and uses a 2009 level of development that does not support the nation's capital that is still developing and yet to fully utilise its water resources. The Basin Plan settings for the ACT cedes the Territory's previously legislated water rights to downstream NSW water managements areas, rewarding unsustainable development rather than conservative water management.

The Basin Plan Review provides an opportunity to revisit the unfounded water take settings for the ACT to embed science that they reflects the actual hydrology and water availability of the Territory. The burden of proof is solely on the ACT, the rigor of the scientific evidence significantly greater than required for the original policy setting, and the decision-making for amendment opaque.

Information request 2: Water Resource Plans

2(a) Please describe the experience of getting WRPs accredited. What worked, what didn't and what improvements could be made? What contributed to the delays in meeting the extended 30 December 2019 deadline? How could the assessment and accreditation process have been more efficient?



WRPs are conceptually an important Commonwealth planning instrument with detailed requirements described in the Basin Plan. However, the design of the document, the scale of the water management area, scope of requirements and interpretation of those requirements, limit their effectiveness.

Developing the WRP was labour intensive, with a high transactional cost that is not reflected in the apparent use (value) of the plan.

The ACT WRP was accredited on the 25 June 2020. Delays to the development and accreditation of the plans (surface and groundwater) can be attributed to:

- iterative process for developing guidance and interpretation of the Basin Plan's (and MDBA's) water planning requirements;
- analytical capability for understanding the basis for the Basin Plan water take settings and negotiation;
- public consultation that required developing an understanding of the planning requirements; and
- the WRP represented the first targeted consultation with Traditional Custodians on water planning, that required a longer timeframe than afforded under funding agreements.

The process to accredit plans and low materiality threshold for amendments create a barrier for incorporating better scientific knowledge, refined content and to embed policy improvements designed by jurisdictions to address future resource challenges. The accreditation process is labour intensive and requests for relatively minor text amendments trigger reaccreditation. For example, incorporating 'minor' amendments requested by the Ngunnawal Traditional Custodians would result in a reaccreditation of the WRP, despite having no material effect on risks to the water resource or Basin Plan outcomes.

The guidance material developed by the MDBA supported the development of the WRPs, however this material was iteratively developed as issues arose. Collaborative during the assist phase was constructive and the MDBA were engaged throughout community consultation to support plan development.

2(b) Please describe how the ACT government's water planning and management practices have changed as a result of WRPs being implemented?

There have been no changes to the water management arrangements within the ACT resulting from WRPs becoming accredited. There is concern as to the impact of WRP on limiting progressive policy development and sustainable resource management by the ACT Government that cannot be accommodated by a rigid WRP framework and burdensome Commonwealth administrative processes.

2(c) How do WRPs interact with the ACT Water Strategy and other water planning instruments?

Water management arrangements within the ACT have been driven by national water reforms and responding to local circumstances. The WRP reflects the water management activities that existed



within the ACT prior to the Basin Plan and provides no value-add to the Territory's water management.

The ACT Water Strategy provides an adaptive management framework for the period 2014 to 2044. The Strategy is currently subject to its mid-term review. The WRP is a static policy document of the Australian Government. Without changes to its structure, and improved administrative processes for amendment and accreditation, the WRP will become outdated and serve to limit progressive policy implementation.

Information request 3: Environmental water planning and management

3(a) What have been the key developments and changes in planned environmental water management (including cultural flows) since 2018?

Since 2018, there have been no developments and changes in planned environment water management within the ACT.

The [ACT Water Resources Environmental Flow Guidelines](#) (2019) specifies the planned environmental water (PEW) provisions and their associated rules. The Guidelines are undergoing review during 2023-24.

The [Water Resources \(Water available from areas\) Determination](#) (2019) specifies the environmental allocation in each ACT water management area. The volume of water available for abstraction within each water management area is limited to the volume remaining after environmental flow volumes have been provided. The methodology for determining the environmental volumes is described in the Environmental Flow Guidelines.

3(b) What outcomes have been achieved via the provision of planned and held (if relevant) environmental water over the last 5 years? Please provide case studies.

The five-yearly evaluation and review of the Environmental Flow Guidelines is currently underway, due to be completed by end of 2023. The [review of the 2013 Environmental Flow Guidelines](#) indicated that the planned environmental provisions were met and exceeded. Indicator targets for native fish and macroinvertebrates suggest that the environmental flows were having beneficial influence on ecological outcomes.

The ACT Conservation Effectiveness Monitoring Program Monitoring includes an [Aquatic and Riparian Ecosystem Condition Assessment](#). The 2019 condition assessment indicates that environmental flows within the Cotter River system have supported native fish populations with improvement in Macquarie Perch and abated further decline in the Two-spined Blackfish.

In 2019, environmental flows between Bendora and Cotter Dams supported a large breeding event of the Blackfish that is highly significant following the population decline that resulted from the 2020 bushfires. Blackfish populations above Corin Dam, without environmental flows, have not recovered from the bushfires and remain at risk.



Outcomes within the Murrumbidgee River are not discernible as the hydrological drivers for decline in river health and function are subject to influences that are external to the ACT, specifically upstream water management in NSW and the operation of Tantangara Dam by Snowy Hydro. Case studies on the issues effecting the health of the upper Murrumbidgee River were reported by the ACT in the annual Basin Plan reports in [2020-21](#) and [2021-22](#).

3(c) How helpful is MDBA guidance on preparing and revising long-term watering plans (ACT Environmental Flow Guidelines)? How could it be improved?

The MDBA have provided feedback on the ACT Environmental Flow Guidelines. This feedback is being used to inform revision of the Guidelines and to support development of the ACT Long Term Watering Plan that is in development. The ACT Government will work with the MDBA in the development of the new LTWP.

3(d) Where are there opportunities to simplify the Environmental Watering Plan (chapter 8 of the Murray-Darling Basin Plan) and its implementation, such as the environmental management framework, methods for identifying environmental assets and ecosystem functions, principles for prioritisation of environmental water and monitoring progress?

The Basin Plan's Environmental Watering Plan (EWP) establishes a sound framework for achieving the environmental objectives and outcomes of the Basin Plan. Notwithstanding, some refinements can be made to improve its effectiveness for basin-scale outcomes. Understanding what refinements may be required would ideally be founded on the outcomes of the Basin Evaluation due in 2025.

The EWP has a specific purpose within the Basin Plan, to deliver on the environmental objectives and outcomes (Chapter 8, Part 2). Elements of the EWP, e.g. Principles and method to determine priorities for applying environmental water identify matters to have "regard to" as a secondary consideration. With the current enthusiasm of some entities to demonstrate multiple benefits from the environmental watering program, caution should prevail to avoid favouring a publicly acceptable narrative at the expense of the primary environmental objective.

Improving the effectiveness of the EWP could be achieved through a change in the scale of planning and co-funding regional monitoring and science rather than wholesale changes to the legislated framework. Environmental water planning is yet to transition from sub-catchment, catchment and state-based management to basin-scale; noting the multi-site watering conducted by the Commonwealth Environmental Water Holder. The Environmental Watering Plan provides the foundation, however improving its effectiveness could occur by Long-term Watering Plans (LTWP) being developed at a geographical scale appropriate for addressing the causal factors impacting environmental outcomes and facilitating regional collaboration. For example, developing a LTWP for the upper Murrumbidgee region that transcends jurisdictional/catchment boundaries.

Improved effectiveness of the Basin Plans environmental water management framework could be achieved through:

- alignment of evaluation and review processes to support better integration of adaptive management within the environmental framework, including continued refinement of environmental watering requirements;



- LWTP to be developed at an appropriate geographical scale to affect the causal factors impacting basin-scale outcomes, e.g., upper Murrumbidgee region;
- the Basin Plan and BWS to directly address the causal factors adversely impacting environmental outcomes, for example the operation of Tantangara Dam;
- improving public information reporting with independent assurance on the effective volume of environmental water from Basin Plan implementation to inform future evaluation and reviews;
- publishing the underpinning planning assumptions for the quantified environmental outcomes, environmental water requirements and environmental watering decisions to support the review and adaptation for the BWS and LTWP; and
- refining the Principles to be applied in environmental watering⁵ to maintain focus on the core purpose of the environmental watering framework rather than on secondary matters “to have regard to”.

Information request 4: Recovering water for the environment

4(a) Why did a water recovery gap emerge in the ACT since 2018? What could have been done differently to manage that process or avoid that outcome? How is the gap currently being addressed?

In 2014, the Commonwealth Department confirmed the settlement of 9.383GL of General Security Murrumbidgee water entitlement from ACTEW. This transaction met the ACT Government’s commitment to the Shared Reduction Amount.

In 2019, the Commonwealth Department/MDBA received legal advice during the review of the ACT Water Resource Plan that determined the previous water recovery as being invalid due to the location of the entitlements.

During 2019-2022, the ACT Government received Australian Government funding to explore urban water efficiency projects to deliver the water recovery amount. The conditions of the water efficiency program were not conducive to urban water projects and negotiation on bespoke arrangements commenced however were overtaken by the announcement in February 2023 of a new strategic water purchasing program.

A revised ACT water recovery proposal has been developed to align with the Australian Government’s Strategic Water Purchasing Framework. ACT and Commonwealth officials are working towards finalising the water recovery commitment by end December 2023.

Information request 5: Snowy Hydro

5(a) How does the operation of Snowy Hydro affect Basin Plan outcomes in the ACT, including environmental outcomes in the upper Murrumbidgee River?

A key objective of the Basin Plan (s5.04) is to maintain appropriate water quality for environmental, social, cultural, and economic activities in the Murray-Darling Basin, yet the operation of Snowy Hydro, which presents a significant risk to water quality and achievement of broader Basin Plan

⁵ Basin Plan, Chapter 8, Part 4, Division 6



outcomes in the upper Murrumbidgee River, is explicitly excluded from the Water Act and Basin Plan.

The ACT Government invites the Productivity Commission to review its case study reports provided to the MDBA as part of the ACT's annual Schedule 12 reporting.⁶ The [2021](#) and [2022](#) case studies document adverse social and environmental impacts on the upper Murrumbidgee River resulting from Tantangara Dam's operation and upstream NSW water management.

The upper Murrumbidgee River provides critical aquatic habitat for several listed threatened native fish and crayfish species (including species listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*). Monitoring indicates that altered flow regimes from Tantangara diversions are impacting native fish in multiple ways through reduced flow variability, sedimentation of river channels which prevents fish movement, and lowered water quality (algal blooms and lower dissolved oxygen). Trout Cod are now extinct, Silver Perch are considered functionally extinct, and Macquarie Perch linger in isolated populations and in decline.

Low flows are also presenting a risk to human health from microbial contamination and there are frequent recreational river closures in the ACT section of the Murrumbidgee River (up to 200 days in a year⁷) particularly in the hot summer months and during periods of low flow.

Tantangara Dam reduces the downstream river flows by over 90%, an average 120GL per year under dry years. The Snowy Montane Increased Flow (environmental water allowance) provides up to 27GL of additional water designed to supplement rainfall-runoff and unregulated flows below the dam. The environmental flow releases are not protected from extraction under the NSW water sharing plan.

In 2019, the Murrumbidgee River ceased to flow at Tharwa township on the ACT border. Analysis by the ACT Environment, Planning and Sustainable Development Directorate (EPSDD) on climate impacts to river flow indicate the mean annual flow may be further reduced by 30-45GL per year by 2050 within the Murrumbidgee River during dry periods. This level of climate induced flow reduction is comparable to the Millennium Drought conditions in 2003-2010.

The current level of water diversion within the upper Murrumbidgee River is unlikely to be sustainable for providing a healthy river or meeting critical human water needs under even moderate climate projections. Shifting from this current trajectory requires intergovernmental commitment to deliver the Basin Plan outcomes within the region, that would include re-examining the operation of Snowy Hydro to contribute to these outcomes.

⁶ ACT Government (2022) **Water quality issues in the Upper Murrumbidgee** and ACT Government (2021) **Maximising Benefits in the Upper Murrumbidgee River**

⁷ Kathryn Vincent, Danswell Starrs, Victoria Wansink, Natasha Waters and Aparna Lal, 2022 **Relationships between extreme flows and microbial contamination in inland recreational swimming areas**. Journal of Water and Health Vol 20 No 5, 781 doi: 10.2166/wh.2022.294



Information request 6: Climate change

6(a) How has the ACT government factored climate change into the development and implementation of its WRPs? In your response, please address:

- *whether climate risks are assessed, and management responses developed, at a local or WRP area level*

The ACT's Water Resource Plan for Surface Water and Groundwater (accredited in 2020) was developed using historical climate data only, considered best available information at the time of development.

In 2019, the ACT water storage levels reduced below 50% triggering a review of Icon Water's planning model. The water source planning model has been updated to include the NSW / ACT Regional Climate Modelling (NarClim 1.5). The previous planning model incorporated the CSIRO 2030 climate scenario.

An ACT Government 2022 Climate Change Risk Assessment identified water security as a priority risk area. It identified that due to the expected increase in population and severity of droughts and other extreme weather events expected between now and 2045, there is insufficient drinking water storage to guarantee adequate drinking water for all residents.

The EPSDD commenced a project in 2022 to develop model that incorporates climate projections to assess the vulnerability of the ACT water resource. The vulnerability assessment uses two scenarios (RCP 4.5, RCP 8.5) drawn from NarClim 1.5. Stage 1 of the assessment evaluates the impacts of hotter and drier climate projections and the impacts of drought on water supply, water quality and aquatic and riparian values.

The combined analysis is supporting a re-evaluation of the ACT's water security and response that has commenced with drought management planning by Icon Water and a review of the ACT Water Strategy in 2023.

- *how consistent and comparable are climate models and risk assessment methods across different WRPs, and*

NarClim1.5 is the preferred climate model that is used by the ACT and NSW Governments, and has been incorporated into planning models across the upper Murrumbidgee region (ACT and NSW water resource plan areas).

- *how climate change is considered in setting rules for planned environmental water.*

The 2023 review of the Environmental Flow Guidelines provides an opportunity to evaluate the effectiveness of planned environmental water rules, and consider refinements supported by the updated planning model and outcomes from the vulnerability assessment.



Information request 7: Helping communities adjust

7(a) Since 2018, has the ACT government changed how it assists Basin communities adjust to reduced water availability? Are new approaches needed, and if so, what should they look like?

The ACT has permanent water conservation measures in place to manage available water resources and this combined with demand reduction initiatives has halved the per capita use of ACT mains water supply over the last fifteen years.

The ACT Government's Healthy Waterways Program aims to improve waterway health and water quality in the ACT across the region, including through infrastructure such as wetlands to improve biodiversity and amenity, and restoration works in rural catchments. The ACT Government's H2OK program is a government-community partnership teaching the ACT community about actions that can help our waterways.

New strategies will be needed to help the ACT community adapt to increasing climate variability and reduced water availability in the future. The ACT Government is undertaking a vulnerability assessment (refer to response to information request 6) to understand what approaches may be needed. The review of the ACT Water Strategy, due in 2024, will incorporate findings from the vulnerability assessment and develop a plan for implementation.

Information request 8: Community engagement

8(a) What actions have been taken by the ACT government since 2018 to improve engagement with Basin communities and First Nations people and incorporate feedback into decision-making?

The ACT Government has fostered strong relationships with the Ngunnawal Traditional Custodians through the Dhawura Ngunnawal Caring for Country Committee (DNCCC). The DNCCC is a consultative group established to advise the EPSDD on a broad range of land, water, and heritage matters.

Since 2020 the ACT Government has also employed a Ngunnawal Traditional Custodian to lead the ACT Government's engagement with the Ngunnawal Community on water matters in the ACT. This is further discussed in the response to information request 9.

The ACT and Region Catchment Coordination Group Government is a legislated advisory body to the ACT Government on catchment water management issues. Since 2022, Ngunnawal representatives have participated in the Catchment Group. Amendments to the ACT Water Resources Act in 2023 formalise the Ngunnawal membership.

ACT water management issues extend beyond its borders: they are regional issues that demand a regional solution. The ACT Government support regional conversations and collaborations that work to bring the concerns of the local community to decision-makers, for example through the Upper Murrumbidgee Catchment Network (ACT participates on the executive committee), and the Upper Murrumbidgee Demonstration Reach and Upper Murrumbidgee Waterwatch Programs (jointly funded by the ACT Government).



8(b) How could community engagement be further improved and consistently practiced in Basin Plan implementation?

The MDBA's regional community forums were established in 2021 with the purpose of helping communities to understand the role of science in Basin decision making, and to capture community priorities and knowledge to build upon existing basin science.

Yet, there is still no regional community forum for the upper Murrumbidgee and the MDBA has not engaged with upper Murrumbidgee communities to understand basin-scale issues impacting environmental values and water security. This is a missed opportunity that sends the unfortunate message to the local community that their concerns, input and knowledge are not a valued priority for the Commonwealth government.

Information request 9: First Nations water interests

9(a) How does the ACT government engage First Nations people in managing water resources in the Basin and support First Nations organisations to contribute to decision making?

The ACT Government is committed to increasing First Nations' participation in decision-making on water matters in the ACT in a way that reflects the aspirations of the community.

The Ngunnawal nation are the Traditional Custodians of the ACT. Since 2020 the ACT Government has employed a Ngunnawal Traditional Custodian to lead the ACT Government's engagement with the Ngunnawal Community.

The Ngunnawal Water Policy Officer is a community Elder and is working closely with the Ngunnawal community to explore ways to increase First Nations participation in water management including through access to water for cultural use and economic development.

The Ngunnawal Water Policy Officer is also supported by the Office of Water to facilitate Ngunnawal Aboriginal Water Assessments. They provide a framework for Ngunnawal Traditional Custodians to capture cultural knowledge, values and uses that may be used to inform legislation, policy and planning. The Office of Water are working with the Ngunnawal Traditional Custodians to incorporate the outcomes from the assessments into water strategy and planning. Examples for 2022-23 include review of the ACT Water Strategy 2014-44, ACT Environmental Flow Guidelines, urban catchment planning.

Strengthening Ngunnawal contribution to decision-making requires creating more opportunities for Ngunnawal people to engage with government (refer to response to information request 8), but also building the capacity of Ngunnawal people to engage with government, and of the government to engage with Ngunnawal people ('cultural capacity').

9 (b) How does the ACT government address the Priority Reforms under the National Agreement on Closing the Gap in implementing the Basin Plan?



The ACT Government Office of Water are working to strengthen formal partnership arrangements with the Ngunnawal community, including through the EPSDD Dhawura Ngunnawal Caring for Country Committee and the ACT and Region Catchment Coordination Group (refer information request 8).

9 (c) In what ways is First Nations' science and knowledge used and valued in water and natural resource management in the Basin in the ACT?

The objectives and outcomes of First Nations people in relation to managing water resources are captured in the ACT WRP (Part 14 – Indigenous Values and Uses). The ACT Government worked closely with the Ngunnawal Traditional Custodians and in collaboration with MLDRIN in the development of the WRP and identification of Part 14 outcomes and objectives.

The ACT Government Office of Water are working with the Ngunnawal Traditional Custodians to incorporate the outcomes from the Aboriginal Waterway Assessments into water strategy and planning. Examples for 2022-23 include review of the ACT Water Strategy 2014-44, ACT Environmental Flow Guidelines and urban catchment planning.

Do gaps in the legal frameworks governing the use of Indigenous Cultural and Intellectual Property (ICIP) inhibit partnerships with First Nations people and the sharing of Indigenous knowledges in Basin Plan implementation?

The ACT Government does not currently have a legal framework in place governing the use of Indigenous Cultural and Intellectual Property. The arrangements around sharing of Indigenous knowledge are resolved on a project-by-project basis, guided by the Ngunnawal community.

The ACT Government is committed to ensuring that any Indigenous Cultural and Intellectual Property shared with it is managed appropriately. As part of its commitment to Closing the Gap, the ACT Government is currently co-designing a set of principles around data sovereignty. These principles will be applied by directorates across the ACT Government.

The ACT Government would welcome any guidance from the Commonwealth (e.g., through the Committee on Aboriginal Water Interests) that would help inform the development of such principles, or how a legal framework governing the use of ICIP might be implemented.

9(d) How are outcomes measured in relation to engagement with First Nations people?

Since they began, there has been increasing engagement in the Aboriginal Water Assessments, both in terms of participant numbers, and in the increasingly detailed responses provided by participants in response to the questions provided. This may reflect improving water literacy and willingness to engage on water issues within the Ngunnawal community.

The ACT Government Office of Water is developing its thinking on how to measure First Nation engagement outcomes in the water space and would welcome guidance on this from, e.g., the Committee on Aboriginal Water Interests.



9(e) What actions has the ACT government taken to increase First Nations' water rights and access? For any relevant programs:

- *What was the objective?*
- *What form did the action take (co-management, water entitlements, funding an investment vehicle etc)*
- *What worked, and what did not?*
- *What lessons can be learnt?*

The ACT Government is working with the Ngunnawal community to build partnerships and improve its understanding about community aspirations for water access and management. The Ngunnawal Water Policy Officer is supporting engagement with the Ngunnawal community on the kind of strategies and governance arrangements that may be needed to facilitate access to water entitlements.

The key lesson learnt to date is that these are difficult and complex issues and conversations to navigate. Co-designing solutions that genuinely reflect community aspirations and objectives takes time. The ACT Government respects this process and is dedicated to allowing the space for it to occur, prioritising building trustful relationships over rushed and un-supported solutions.

As for other states and territories, this represents a new and important policy and implementation challenge for the ACT, and the ACT Government welcomes any guidance and learnings on mechanisms and approaches being applied elsewhere in the Basin or nationally.

The ACT Government looks forward to engaging with the Commonwealth (DCCEEW First Nations Water Branch) and seeing the outcomes of the Aboriginal Water Entitlements Program AWEP 'Gatherings' process now underway. The ACT is particularly interested in any emerging insights on purchasing principles and governance frameworks to support First Nations water access.