

Submission

Productivity Commission's Inquiry into National Water Reform

10 September 2020

The Aboriginal Health Council of Western Australia (AHCWA) welcomes the opportunity to provide a submission to the Productivity Commission's Inquiry into National Water Reform (the Inquiry).

AHCWA is the peak body for 23 Aboriginal Community Controlled Health Services (ACCHS) in Western Australia (WA). AHCWA exists to support and act on behalf of its Member ACCHS, actively representing and responding to their individual and collective needs. WA ACCHS are located across geographically diverse metropolitan, rural, remote and very remote locations. They provide comprehensive primary health care including prevention, early intervention, chronic illness management, and Social and Emotional Wellbeing (SEWB) across the life course. ACCHS deliver the most effective model of comprehensive primary health care for Aboriginal people¹, and are in a unique position to identify and respond to the local cultural and health needs of Aboriginal people and their communities across WA.

This submission responds to the Inquiry information request 7b and information request 3 by detailing the key water issues impacting Aboriginal people in WA, particularly pertaining to cultural practices, water quality and climate change. It will highlight that inadequate access to water has a detrimental impact on both the physical health and SEWB of Aboriginal people and their communities, as well as affecting the cultural practices of Aboriginal people.

Introduction

The right to water

The right to safe drinking water and access to water is a fundamental human right. It has been enshrined in international human rights law through the International Covenant on Economic, Social and Cultural Rights (ICESCR)², which details the right to an adequate standard of living, the right to enjoy the highest attainable standard of physical and mental health, and the right to freely dispose of their own natural resources. The International Covenant on Civil and Political Rights (ICCPR)³ also includes the right to freely dispose of natural resources and the right of ethnic, religious or linguistic minorities to enjoy their own culture.

In 2009, Australia endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)⁴, which acknowledges Aboriginal rights to water including:

- the right to maintain and strengthen their distinctive spiritual connection to water (Article 25);

¹ Throughout this submission, AHCWA uses the term 'Aboriginal' to respectfully refer to all Aboriginal and Torres Strait Islander people across Western Australia.

² <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf> [Accessed 14 August 2020]

³ <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> [Accessed 14 August 2020]

⁴ https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf [Accessed 14 August 2020]

- the right to access the resources required to maintain cultural heritage and undertake traditional practices (Article 31);
- the right to determine priorities and strategies for the development or use of their resources (Article 32); and
- the right to conserve and protect the environment and the productive capacity of their lands (Article 29)

Water is vital to life for all people, however it holds extra importance for some Aboriginal people who have a cultural obligation to look after rivers, lakes, wetlands, and the oceans, in addition to the land and Country.

Despite the obligations of international legislation, Australian laws and policies do not adequately recognise Aboriginal rights to water.

National Water Initiative

The National Water Initiative (NWI)⁵ was implemented in 2004 and formally recognised Aboriginal interests in water. It remains the national blueprint for best practice in relation to water.

WA signed up to the NWI in 2006. Despite this, the Productivity Commission's 2017 review found that whilst there had been some progress in various states towards consulting with Aboriginal people regarding water plans, WA has not integrated any Aboriginal rights or interests into legislation.

The recommendations at 3.1 and 3.2 in the 2017 inquiry state that:

- water plans should include explicit consideration of Indigenous cultural values, and involve adequate community and stakeholder engagement;
- indigenous cultural objectives are identified and provided for in water plans;
- progress in achieving Indigenous cultural objectives is regularly monitored and reported publicly;
- there is public reporting of how Indigenous cultural objectives have been considered in the management of environmental water;

These recommendations have still not been implemented in WA, and there is major scope for WA to better incorporate Aboriginal cultural objectives into water plans and legislation.

Cultural practices

Waterways have long been an important focal point of life for Aboriginal people and their communities, and they continue to play an important role in Aboriginal identity and social understanding. The cultural significance of water to Aboriginal people is unrecognised in the development and implementation of water law and policy in WA. This disregards the cultural importance of connection to, maintenance of and access to waterways and the ocean.

Water plays a role in Aboriginal people's connection to land and people. For example, some people in the Kimberley are described as saltwater people and others as freshwater people. This indicates their belonging and connection to a certain area, skin or language group and mob.

Sacred Sites

Aboriginal people often have a spiritual and holistic connection to land, water and sea with water being an important element in cultural practice, sacred sites and ceremonies. In some regions there

⁵ <https://www.pc.gov.au/inquiries/completed/water-reform/national-water-initiative-agreement-2004.pdf>
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is a cultural obligation to maintain and care for these water places and the involvement in management of the water is very important to Aboriginal people and their communities.

History has shown through cultural storytelling that these cultural protocols and practices also apply to the ocean and fresh waterways and rivers. Aboriginal people and their communities are the custodians of the land, water ways and sea and see this as their cultural responsibility.

Important ceremonial places and trading places are located along waterways, with spiritual and ceremonial access to water necessary to ensure connection to culture. Despite this importance, water sites with a special meaning to Aboriginal people are consistently considered secondary to the economic interests of the state and industry stakeholders.

Creation Stories

Stories across the regions of WA vary in their detail about the creation of waterways and waterholes, however many Aboriginal groups detail the carving of waterways by a serpent like being. The serpent has been described by some Aboriginal people as being the creator and protector of waterways, the one who shapes and designs the landscape and resides in the waterways and waterholes which are its spiritual home.

The connection of Aboriginal people and their communities to water, sea and land varies throughout WA due to the diversity of cultural groups. During consultation for this submission, one Aboriginal person explained that his mother taught him to greet water by putting it in his mouth and spitting it out, whilst another Aboriginal person explained that she throws sand into water. Despite the differences in greetings, both acknowledged this was a way of “saying hello to country”, a sign of respect and a way of letting the serpent know you are there, and on Country.

This demonstrates the ongoing importance and connection to water, sea and land and its interconnectedness with culture.

By altering how, and where water flows, water resource development has changed Aboriginal community interaction with the landscape⁶. Altering the path of water impacts on continuity of connection to the land, sea and waters, which can have an impact on the SEWB of Aboriginal people and communities.

The SEWB of Aboriginal people is a holistic concept, which is inclusive of and influenced by the social determinants of health. Ongoing connection to Country, water, land, culture, community and physical, emotional and cultural wellbeing is essential for SEWB. A disconnection from any of the dimensions of SEWB can cause an Aboriginal person to experience an imbalance in their overall health.

Food and medicine

Traditional hunting and gathering remains an important cultural activity for many Aboriginal people and their communities. Climate change, environmental degradation from mining and farming, lack of access to water, poor quality water and the extinction of traditional plants and animal species may prevent these traditional practices from continuing. This, in turn, may lead to significant health problems for Aboriginal people, including poor SEWB associated with a loss of culture.

Water influences the availability of animals and plants for Aboriginal people. Without an adequate water supply, animals and traditional plants cease to exist. This has negatively impacted on the availability of traditional foods and the ability to pass on traditional knowledge and culture. Bush

⁶ <https://ewater.org.au/h2othinking/?q=2011/07/cultural-value-water> [Accessed 24 August 2020]

food, or 'bush tucker', forms a large part of the diet of Aboriginal people, with many people using the land as their primary food source. This is not only problematic in itself but creates a dependence on non-traditional foods which have a higher fat and sugar content which can increase the risk of chronic diseases such as diabetes.

Further, access to water has been inhibited through pastoral leases and fencing off significant areas that occurred without Aboriginal consultation. .

Fishing is also an important cultural activity for Aboriginal people and impacts positively on SEWB of Aboriginal people. This helps to maintain relationships with Country, water, family, community and spirituality, as well as providing valuable sustenance.

Water Quality

Clean water access is critical for health in all communities. Without access to clean water and hygienic conditions, communities are prone to many avoidable illnesses and diseases.

The ripple effect of poor water quality has far reaching direct impacts on health and wellbeing (including preventable communicable diseases such as rheumatic fever, trachoma, scabies and typhoid), and implications for the social determinants of health including community cohesion, environmental health, living conditions and SEWB. AHCWA's Member Services bear witness to these impacts on Aboriginal people and their communities on a daily basis.

Contaminants and minerals in water

The role of drinking water quality in chronic illness is a major concern in remote and regional areas of WA. Water is unsafe to drink in many areas due to the high level of nitrates, uranium and other contaminants.

For the past 10 years, 11 regional towns in WA have been exempt from the drinking water safety guidelines due to high levels of nitrate contamination⁷. It has been highlighted through various forums with the ACCHS sector that high nitrate levels are likely to contribute to kidney diseases and diabetes, and has already proven to be harmful to babies.

Uranium is naturally occurring in WA, and researchers have found that contamination of aquifers with uranium impairs kidney function and damages bones, and that ingestion of uranium causes nephritis or inflammation of the kidneys⁸. The 2015 Western Australian Auditor General reported there are three WA communities where safe drinking water levels exceeded acceptable levels of uranium. The remote community of Tjuntjuntjarra failed 18 out of 22 water quality tests for uranium⁹.

Anecdotal evidence was provided by a staff member about their experience working in a remote area of WA. The roadhouse in the community had a sign detailing that the water was not safe for human consumption, yet it was coming from the only public drinking water supply available to the

⁷ Jeffries-Stokes CA, Stokes AM, McDonald L, Evans S, Anderson L, Robinson PM. "Risk factors for renal disease and diabetes in remote Australia – findings from The Western Desert Kidney Health Project". *Rural and Remote Health* 2020, 20: 5440

⁸ Rajapakse. J; Rainer-Smith, S; Millar, G; Grace, P; Hutton, A, Hoy, W; Jeffries-Stokes, C and Hudson, B (2018) Unsafe drinking water quality in remote Western Australian Aboriginal communities: Chronic kidney disease and water quality *Geographical Research*, 57(2): 178-188

⁹ IBID

community. “When staying in the roadhouse, it says please don’t drink this water, but I’m sure it doesn’t say that in the communities as they all drink the water”¹⁰.

Out of necessity, communities are reliant on unsafe drinking water. If they are surviving on a low income, they are often unable to buy water at the local community shop due to the cost. Some communities have a filtering system but there are often reports of systems becoming blocked. As a solution to this, one community provided bottle water, but that created an additional issue of extra rubbish, which became a hazard in the community.

Water infrastructure in WA remote communities must be improved to ensure access to safe drinking water for all.

Bacterial disease

Access to clean drinking water with acceptable levels of bacteria is an ongoing concern in remote Australia and has been repeatedly mentioned as a matter of concern by WA ACCHS and the sector at a state and national level.

Microbiological tests in remote areas of WA have found many communities have failed water safety tests by testing positive for E-Coli or Naegleria¹¹. These bacteria can cause infections and gastrointestinal illnesses.

Gastroenteritis is the second leading cause (after respiratory infections) of hospitalisation for children under 2 years old, with rates 11 times higher amongst Aboriginal children, compared to non-Aboriginal children. Research has found that the rates of hospitalisation for Aboriginal children under 5 years of age due to Gastroenteritis was 3.5 times higher in the Kimberley and Pilbara – Gascoyne areas than Aboriginal children in Metropolitan areas¹².

Hygiene

Environmental Health teams in ACCHS, and ACCHS sector staff, Aboriginal people and communities more broadly, have all expressed concern with the quality of water in remote areas.

Clean water is essential to ensure good hygiene and efficient sanitation. Illnesses such as trachoma and scabies are unable to be addressed if people are unable to clean or launder clothes properly. Many communities lack the washing facilities and safe water to practise effective hygiene.

Due to the content of minerals and type of water in particular areas, there is an inability to lather when using soap. Producing lather and access to running water is necessary to dissolve certain products, break through oils and grease and ensure adequate hygiene. This is particularly pertinent with the introduction of COVID-19.

During the recent COVID-19 pandemic, while key public health messages to prevent transmission of the infection centred on hand-washing with clean water, a remote community in the Kimberley region received a ‘Boil Water, No Play’ notice from the state government’s Water Quality Manager. Due to the high turbidity and low residual chlorine in the drinking water supply system, residents of Kundat Djaru did not have access to clean water at the height of the pandemic.

¹⁰ AHCWA National Water Reform Workshop Participant (2020)

¹¹ <https://www.theguardian.com/australia-news/2015/may/06/remote-indigenous-communities-in-western-australia-fail-water-safety-tests> [Accessed 20 August 2020]

¹² Clifford H, Pearson G, Franklin P, Walker R and Zosky G (2015) Environmental health challenges in remote Aboriginal Australian communities: clean air, clean water and safe housing. *Australian Indigenous Health Bulletin* 15 (2).

Climate Change

Many Aboriginal people in WA are living in areas experiencing the biggest impacts of climate change, including coastal, rural and remote areas¹³. For Aboriginal people, connection to Country and water is a fundamental part of their way of life and is vital for cultural continuity and SEWB¹⁴. Caring for Country has significant cultural and spiritual ties, and disruptions to this can cause significant problems for wellbeing. Climate change has the potential to destroy cultural practices such as bush medicine and access to bush tucker, traditional knowledge, the natural flow of rivers, community lands and family homes, and can force Aboriginal communities to relocate to new, unfamiliar Country. This not only breaks traditional ties but can also compound experiences of trauma related to Aboriginal people being forcibly removed from land in the past.

Water, environment and disease have a complex relationship. Fluctuating rainfall patterns creates extreme variables and lead to a shortage of, or too much water in community. This can severely impact health. Flooding can increase disease transmission whilst fresh water scarcity can lead to drought and increased water salinity, impacting on the health of crops and livestock¹⁵. Both extremes can cause unsafe drinking water, which affects hygiene, and increases the risk of water borne diseases, such as diarrhoea, cholera, dysentery, gastroenteritis and typhoid¹⁶. Climate change will continue to expose and compound existing flaws in the water system¹⁷.

Seasons

WA's climate is diverse and cannot be simplified into a rigid European, colonial calendar. Aboriginal seasons are dependent on localised weather patterns and are central to Aboriginal understanding. Aboriginal culture observes plant and animal patterns to understand changes in the environment and track different seasons.

Traditional knowledge of the varied seasons across the different regions of Western Australia informs Aboriginal communities' understanding of their environment. An example of this is the "six Noongar seasons" in WA's South West. Animals travelled with the different seasons, which was important knowledge for Aboriginal people both culturally, and for sustenance. The blooming of orange blossoms or peppermint trees indicated that it was salmon season and a good fishing time. Understanding the environment helped to predict when there would be an abundance of rain, and which plants would provide bush tucker and medicines, and when.

This shows the Aboriginal holistic view of the environment and demonstrates their reciprocal relationship. Connection to land and waterways helps to understand where and when to find animals, plants and water. During consultation for this submission, one Aboriginal person described the landscape as "a language you read"¹⁸.

Droughts and Flooding

Severe droughts and floods can cause water supplies to become contaminated, compounding water security challenges already experienced by many Aboriginal people and communities in WA. In the Kimberley, water from shallow aquifers are prone to experiencing salinity when water levels are low.

¹³ http://glham.org/wp-content/uploads/GLHAA_TownsvilleTuvalu-08.pdf [Accessed 24 August 2020]

¹⁴ https://aiatsis.gov.au/sites/default/files/products/report_research_outputs/ganesharajah-2009-indigenous-health-wellbeing-importance-country.pdf [Accessed 19 August 2020]

¹⁵ http://glham.org/wp-content/uploads/GLHAA_TownsvilleTuvalu-08.pdf [Accessed 24 August 2020]

¹⁶ IBID

¹⁷ Please see AHCWA's Opening Statement to the WA Climate Health Inquiry at Attachment A for further detail: 'What Climate Change means for Aboriginal people and their communities'

¹⁸ AHCWA National Water Reform Workshop Participant (2020)

Conversely, water contamination in wet seasons or regions of WA may occur when flooding restricts access to clean drinking water and wastewater services.

Prolonged droughts and floods, causes significant damage to the biodiversity of the natural environment, and threaten the survival of many animal and plant species. The destruction of native plant species and wildlife habitats affects the food and water security of many Aboriginal people and their communities, whilst simultaneously impacting on their connection to culture.

Recently there has been reduced rainfall in many areas of WA and this has affected regions in differing ways including a decreased water supply impacting hydropower production in the Kimberley region. Declining rainfall in WA means less surface water into water catchment areas and less recharge to the ground water. Extracting water from the ground has increased due to a lack of available surface water, increased population and industry. This has resulted in extracting more ground water than is able to be recharged.

Recommendations

All Australian Governments in the National Agreement on Closing the Gap have identified water as a priority. Target 15 requires that Aboriginal People maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters and aims for a 15 per cent increase in areas covered by Aboriginal people's legal rights or interests in the sea by 2030. The agreement also outlines that within 12 months of signing, inland waters will be an additional priority area:

“the inland waters target will measure progress towards securing Aboriginal and Torres Strait Islander interests in water bodies inland from the coastal zone under state and territory water rights regimes. This will include data development to identify a nationally consistent measure for inland waters encompassing, for example, water licenses, water rights and water allocation plans”¹⁹.

All State and Territory Governments, along with the Commonwealth Government, have signed this agreement, which acknowledges and demonstrates a commitment of governments to the ongoing importance of water to Aboriginal people, communities and livelihood.

Consultation and partnerships

To ensure water security for WA citizens, AHCWA and its Member ACCHS strongly recommend that Aboriginal communities are genuinely consulted, their expertise is valued, and their voices are heard in water management. They have practical knowledge and generations of experience in land and waterway management, and the WA Government must engage genuinely with Aboriginal people to ensure appropriate climate solutions are developed.

ACCHS, Aboriginal people and their communities are innovative and resilient. They have generations of traditional knowledge and expertise in managing and living on the land and it is essential that, in any National Water Reform discussion, Aboriginal sovereignty and relationship with Country and waterways is respected, protected and promoted.

The ACCHS are the preferred providers for any Aboriginal primary health care programs in WA, and it is essential that they are engaged in genuine partnerships for addressing the health impacts caused

¹⁹ National Agreement on Closing the Gap (2020) <https://www.closingthegap.gov.au/sites/default/files/files/national-agreement-ctg.pdf?q=0720> [Accessed 02 September 2020]

by poor quality water. ACCHS and their communities must co-lead, co-design, co-produce and co-evaluate water management initiatives and plans.

Rangers

Aboriginal people are in a unique position to work as rangers in national parks and local communities to support water conservation and monitor the impacts of climate change as per the current Aboriginal Ranger programs that are in place. This has proven successful in relation to controlled burning of landscape. Many Aboriginal rangers have an in-depth knowledge of the land and water systems, can read the natural environment, and anticipate weather changes. Employing Aboriginal rangers would support community employment, build on generations of knowledge, and utilise these unique skills.

Infrastructure

Environmental Health and human health are inextricably linked. The social determinants of health cannot be addressed without improving water infrastructure in regional and remote communities. This includes sufficient water treatment systems, effective housing design and increased housing to reduce overcrowding. The Productivity Commission should recommend that governments and states invest in community infrastructure, water management plans and transparent testing. There should also be a recommendation to invest in Environmental Health teams across the state to improve the current capacity and capability of the established Environmental Health teams in the ACCHS, and establish new teams in the regions.

Water Testing

The ACCHS sector has repeatedly expressed concern about the lack of transparency around water, particularly in relation to the dissemination of testing data. Water testing is under the purview of the WA Department of Health (DoH), however ACCHS and their communities rarely receive the results. The DoH is the current holder of test results and it is the responsibility of the community or health service to approach DoH if they wish to get any information regarding this. Given the responsibility that Aboriginal people have for water resources and land, as well as the impact of poor water quality on the community, results of water monitoring should be sent to the community's office, the nearest ACCHS and the community's health clinic. Further, there should be a centralised database detailing every community that undergoes water testing, information on what the water was tested for, and how often testing takes place.

Legislation

The right to water has not been adequately integrated into WA legislation as identified in previous NWI reviews. AHCWA and its Member ACCHS support the 2017 recommendations that water plans should include Aboriginal cultural values and cultural objectives, along with community and stakeholder engagement. In addition to recognising the cultural value of water in WA legislation, there should be a recognition of Aboriginal people and their community's interest in water in relation to both climate change and the impact on the health of communities. The implementation of measures and policies to supply safe drinking water to WA's remote Aboriginal communities should also be a priority for the WA government, with a firm commitment to ensure Aboriginal people and their communities are consulted and engaged as a priority group in government water reform planning meetings.

Conclusion

As detailed in this submission, water availability, access and quality are key issues that influence the health and wellbeing and SEWB of Aboriginal people, and impact the social determinants of health for people living in Aboriginal communities across WA.

Currently Aboriginal people are omitted from water policy and planning in WA and the Productivity Commission's recommendations to the NWI should emphasise greater engagement and partnerships with ACCHS, Aboriginal people and communities in the planning, management and testing of water.

Placing Aboriginal people and culture at the centre of water management planning activities is the best way to mitigate the impacts of climate change and ensure water sustainability, ongoing cultural connection and access to water and the provision of high quality water to Aboriginal communities.

ACHWA and its member ACCHS are using this submission process to demonstrate that they are key, interested stakeholders in water management, and are committed to collaborating with partners across the government and non-government sector to develop solutions.

ATTACHMENT A

What Climate Change means for Aboriginal people and their communities

Aboriginal people are the traditional custodians of the land on which we walk, work and live. It is important that we recognise their continued connection to the land, sea and community, and acknowledge that this connection to the land has extended for over sixty thousand years, with Aboriginal people and their culture continuing to survive, despite the ongoing trauma experienced by invasion and colonisation.

For Aboriginal people and their communities, the impacts of climate change resemble the experiences of colonisation. When the first settlers invaded Australia, falsely and disrespectfully calling it Terra Nullius - 'No One's Land' - they brought with them many strangers, carrying many new diseases. Today, the man made impacts of climate change are bringing a new form of disease to country.

For Aboriginal people, their culture and beliefs are underpinned by their dreamtime, language, skin groups, family and kinship systems, community, as well as the land and country on which they live. For thousands of years, Aboriginal people have continued to live in harmony with the land, sharing their traditions, values, culture and beliefs, as they hunted, fished, and gathered food. Aboriginal culture has been shared from generation to generation by means of storytelling through many forms, including through stories, song, dance, and art. The dreaming is history, a history of how the world, which was once featureless, was transformed into mountains, hills, valleys and waterways, the dreaming tells about how the stars were formed and how the sun came to be.

The changing climate is having significant impacts on all elements of Aboriginal culture, people and communities, and some of these impacts include:

- Changes to the landscape, including waterways and waterholes – these are drying up
- The loss of traditional bush medicines and bush tucker
- Decreased numbers and increased migration of native animals many of which are traditional food sources that contribute to the diets of Aboriginal people
- Changes in biodiversity effecting fish species in oceans and rivers
- Loss of precious Aboriginal culture, heritage, dreamtime, history and land
- Aboriginal people being forced from their lands and homes due to extreme weather, such as floods or fires
- Loss and dispossession of traditional lands, including sacred sites, meeting places and waterways

Importantly, and of most relevance to this inquiry, Climate change is effecting the physical health and social and emotional wellbeing of Aboriginal people and their communities like a disease with impacts felt most severely by our most vulnerable; pregnant women, infants, children, youth, the chronically ill, the disabled, and the elderly.

If we were to call climate change a disease, would more people take notice?

This is the Opening Statement from AHCWA's attendance at a hearing to the WA Climate Health Inquiry on 28 November 2019.