



Operationalising Cultural Flows in Australia

Primer on Cultural Flows: Part 2 of 3

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This Note was written as part of Synexe's work with the First Peoples' Water Engagement Council and the National Water Commission in Australia.

This Knowledge Note, the second in a three-part series, addresses some of the practical and institutional issues involved in putting into practice the concept of “cultural flows” in the Australian context. (For an introduction to the concept generally, please see Part 1 in the series, Introduction to Cultural Flows in Australia.)

The Knowledge Note will begin with a jurisdiction-by-jurisdiction snapshot of current progress in implementing cultural flows considerations in water planning, and then move to a more in-depth analysis of some unresolved and emerging issues in the field.

Progress by jurisdiction

Murray-Darling Basin: MLDRIN is working with the Murray-Darling Basin Authority on the Indigenous Partnerships Project, which provides for culturally appropriate Indigenous input into environmental watering through Indigenous Working Groups, use-and-occupancy mapping and documenting Indigenous values. It is not clear whether this has yet resulted in any substantive changes to environmental watering, but the process may produce benefits in future.

Western Australia: The Department of Water commissions studies to determine Indigenous cultural values in water within each relevant planning area. Most Water Allocation Plans assume that environmental allocations are sufficient for Indigenous cultural purposes, though they provide for protection of significant sites identified through consultation and research.

Northern Territory: Most NT Water Allocation Plans assume that environmental water is enough to serve cultural values, but some explicitly say that if research shows that special

allocations are required then they will provide for these where possible. The NWI Implementation Plan commits to reporting annually on the provision of Indigenous cultural use allocations, and to using Indigenous ecological knowledge when deciding environmental water allocations.

There is provision for Strategic Indigenous Reserves in one plan (and two more to come), with the volume of the allocation proportional to the area of native title land granted. This water is for “Indigenous Commercial Development”, rather than for purely cultural purposes.

Queensland: There is a process of engagement with community reference panels, but these are often seen by Indigenous people as too technical and bureaucratic. In some cases Indigenous Working Groups are established and cultural assessment is conducted. Some Water Resource Plans require planners to take Aboriginal cultural values into account, but do not make any specific provision for this. Many plans protect Indigenous values by providing environmental flows, and some specific provisions for water sites of cultural significance.

For declared Wild Rivers, volumes of water are set aside from unallocated flows as “Indigenous reserves”, and are to be used “only for helping Indigenous communities in the Cape York Peninsula Region area to achieve their economic and social aspirations.” There may be some debate as to whether this includes, for example, watering sacred sites. There is also very little guidance as to how secure these reserves are compared with other reserved uses.

New South Wales: Two types of Indigenous Specific Purpose Licenses are identified under the Water Resource Management Act 2000 (NSW): cultural access licenses and

commercial access licenses. Cultural access licenses are capped at 10 ML per license, and they cannot be traded. Only one licence has been granted so far (Nari Nari Tribal Council), which has been used to water a culturally significant wetland in an Indigenous Protected Area, with the purpose being to protect fish life. Whether or not this is actually achieving the objectives is also an area of debate, in that the flooding that is required for the breeding of certain fish populations cannot be replicated. This licence costs the Nari Nari Tribal Council \$9000 per year, and applications must be filed every 3 months to keep the licence.

Victoria: There are mechanisms for Aboriginal involvement in developing river health plans under the Victoria River Health Strategy, and cultural heritage legislation provides for input by Registered Aboriginal Parties. However, it is difficult to find evidence of how these processes have worked. Further, while there is Indigenous consultation in the development of Sustainable Water Strategies (the equivalent of regional water plans), there does not seem to be much recognition of Indigenous values in determining environmental or cultural flow requirements.

Much of the activity in Victoria has been at the level of native title, for example a native title settlement at Lake Condah resulted in a joint management system, and the purchase of water to return the lake to a condition that would support traditional eel fishing activities. Under the soon-to-be passed Traditional Owners Settlement Bill 2010, settlements over land can be made outside the native title process, and include the joint management of natural resources (including water), and a statewide Natural Resource Management Collaborative Body, designed to facilitate knowledge and information sharing between the government and Traditional Owners. The Bill will also introduce “traditional owner rights” to take and use water “for traditional purposes”, though the content of these will depend on individual authorisations from government.

South Australia: Water plans in South Australia often do not mention Aboriginal interests or tend to assume that cultural purposes are met by environmental flows. One NRM Board (Alinytjara Wilurara) has an all-Aboriginal membership.

Emerging issues

Knowledge and communication

This brief sketch demonstrates that there are ongoing questions over how best to inject Indigenous knowledge into the official water planning processes, and how to identify and quantify Indigenous water requirements. There is a challenge in translating Indigenous values into water planning processes because Indigenous values tend to be difficult to express in the same language as other aspects of water planning, and are especially difficult to put into numbers. So there is a risk that water planners will be unable to account properly for Indigenous values because they cannot be reduced to quantifiable data.

There are, however, tools being developed in Australia and overseas for integrating Indigenous values and knowledge into natural resource management and water planning.

Cultural mapping is a process where information is collected, often through interviews, about traditional use of resources

and occupancy of land by Indigenous people, and the presentation of those data in map form. The information can include habitat and breeding-grounds, food-gathering and fishing sites, sites of spiritual and cultural significance, place-names and stories, current and past flow levels, and other relevant information. This can provide useful data for planning purposes and for engagement with councils on water allocations and flows.

Working with water planners on the basis of this information can allow judgments to be made about what flow levels and allocations will be necessary to secure identified Indigenous values.

In New Zealand, a Cultural Health Index was developed to enable Maori to assess and monitor the health of their water. This involves an assessment of the site’s cultural and traditional-legal status, its value as a source of traditional food, and its cultural health. Cultural health includes matters such as the shape of river; sediment; riverbank condition; amount, speed and variation of flow; water quality, temperature, smell and sound; vegetation; catchment land use; biodiversity, edibility of fish and drinkability of water. Scores are given for these various values and combined to give a numerical assessment of a waterway’s health from a Maori perspective.

In South Africa, there is a methodology called Downstream Response to Imposed Flow Transformations (DRIFT), which involves researchers from social and economic backgrounds as well as earth-science, water-science and biology. The research program is intended to analyse the bio-physical and sociological landscape which may be affected by a proposed change (such as a dam or irrigation project), and then to work out the likely effects and necessary mitigation or compensation efforts that will arise from the development.

Institutions and implementation

In developing any cultural flows regime, choices will arise in relation to how any separate cultural allocations will be governed:

- Which is the appropriate Indigenous body to hold the allocations?
- How will they be accessed and used?

The first question is important partly because of a tendency by many State and Territory governments to assume that native title is the only relevant frame to view Indigenous entitlements. If cultural flow allocations are to be made outside the native title context, then there may be more than one group or body with an interest in the cultural flow. The question arises – who will make the decisions about how to use the allocation, and who will bear the administrative burden of interacting with water authorities? One option may be to create new water councils representing all appropriate voices.

The second question may throw up complex technical or logistical questions, which may require working with water authorities and other stakeholders. For example if cultural flows are to be released from a dam, there may be a problem with the temperature of the water. Additionally, if cultural flows as a concept covers the conditions necessary for fish-breeding, this will involve more than a simple allocation of water, if there are dams or other developments on a river.

Or, if cultural flows requires periods of low or no flow, the allocation of cultural flows may have to be combined with cooperation from other water users to achieve this variability. These issues may point to the usefulness of building linkages between cultural flows and environmental management and water planning more broadly, rather than relying on simple volumetric allocation.

A related issue is how the reporting or accounting of Indigenous allocations might be improved. Currently the National Water Initiative only requires accounting for allocations to native title holders. It is therefore difficult to obtain a reliable account of Indigenous specific water allocations, their volumes and conditions of use. Other reporting under the NWI is too general for independent evaluation of its implementation.

Conclusion

Cultural flows is an evolving part of the discourse of water management in Australia. Its exact relationship to environmental flows and to economic livelihoods is the subject of ongoing debate and exploration. So too are the optimum models for putting cultural flows into practice. For example, models include separate Indigenous allocations, or greater Indigenous involvement in mainstream decision-making, or a combination of both. Amidst all this fluidity is one area of certainty: that Indigenous people in Australia are likely to be ever-more active in communicating their values and priorities relating to water, and in pressing for their concerns to be meaningfully incorporated into processes of decision-making.

1. Water Allocation Plan for the Tindall Limestone Aquifer, Katherine 2009 (NT).
2. Water Resource (Mitchell) Plan 2007 (NT), s27; Water Resource (Gulf) Plan 2007 (NT), s32.
3. Traditional Owners Settlement Bill 2010 (Vic), cl 85.
4. Durette (2010) An integrative model for cultural flows: Using values in fisheries to determine water allocations, Working paper 2010/01. Available at <http://www.synexe.com/>
5. Durette (2010a), supra n4 at 1.
6. Tobias (2000) Chief Kerry's moose: A guidebook to land use and occupancy mapping, Vancouver: Union of BC Chiefs.
7. Durette (2010), supra n4, at 10-11.
8. Tipa and Teirney (2003) A Cultural Health Index for Steams and Waterways: Indicators for Recognising and Expressing Cultural Values, Technical Paper 75, ME number 475. Wellington: Ministry for Environment.
9. Durette (2010), supra n4.
10. Jackson, Tan and Altman (2009) Indigenous Fresh Water Planning Forum: Proceedings, Outcomes and Recommendations, Canberra: National Water Commission at 10.

further information

Synexe welcomes any inquiries regarding our current work or services offered. We look forward to hearing from you.



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