

Legal eagles keen to improve water accounting



NATIONAL CENTRE FOR
GROUNDWATER
RESEARCH AND TRAINING

This resource introduces the work of NCGRT researchers based at the University of Western Australia. They propose a number of reforms to Australian water law to support transparency and accountability of water use.

BACKGROUND

Water availability is a major issue for Australia. Water accounting aims to improve public knowledge and understanding of how Australia's water resources are shared and used.

Water accounting is the systematic process of measuring and keeping records on people's rights to water, the obligations against those rights, and how much and where water is used.

To make sure that water is available where it is most useful, water rights are increasingly being traded between regions. In 2010–11, nearly 1,204 gigalitres of water entitlements and 3,493 gigalitres of water allocations were traded throughout Australia. This all needs water accounting.

The National Water Initiative is a major agreement between the Australian federal, state and territory governments which is a blueprint for policy reform and sets the stage for a more cooperative approach to water management.

A key objective of the National Water Initiative is to ensure that water accounting systems are in place to support public confidence in the amount of water being traded and used, both for private, environmental and public benefit.



THE CHALLENGE

Legal researchers from the NCGRT argue that there are problems and inconsistencies with state and territory laws that mean that water accounting information is either not collected in sufficient detail, or not made publicly available.

Researchers from the University of Western Australia argue that transparent public disclosure of water accounting information is important to both encourage compliance with water extraction limits, and to foster public awareness of the uses to which water is put.

They suggest that three core elements are needed for transparent water accounting in Australia:

- a clear and accessible statement of conditions applicable to water licence holders
- a clear and accessible statement

on the obligations of licensees to install water meters, record and report extractions, and report water trading

- a clear and accessible record of aggregated and individual water accounting data, searchable by the public.

These criteria should apply to both surface-water and groundwater extraction.

However, different states and territories in Australia have different laws governing water. Furthermore, the requirements for water accounting vary substantially, and the nature and amount of information recorded is often different. These systems are not always compatible and create inconsistencies in the transparency and effectiveness of water accounting systems.

For example, in New South Wales,

Want to know more?

This document summarises the following paper:

C McKay and A Gardner 2013, 'Water Accounting Information and Confidentiality in Australia', *Federal Law Review*, vol. 41.1, pp. 127–162.

For more information on the NCGRT's research, visit www.groundwater.com.au

water license holders may be required to install a water meter and forward readings to the Office of Water, while in Victoria the practice is usually that the installation, maintenance and reading of meters is undertaken by water authorities.

Most water accounting frameworks in Australia satisfy the first criterion, and some also satisfy the second.

The third criterion, however, is more problematic. Public disclosure of water accounting information is restricted. While generally, the publication of aggregated data is permitted, water and privacy statutes prohibit the disclosure of water accounting data classified as 'personal information' or 'confidential'. Access to this information may be sought under freedom of information legislation (though this is slow and costly).

NCGRT researchers question whether water information should be considered personal or confidential, and argue that on balance, making water accounting information (normally) freely available is in the public interest, as it concerns the security and future sustainability of Australia's natural water supply.

PROPOSALS FOR CHANGE

The NCGRT researchers propose three different methods of making water accounting information available:

- Aggregated data could be published in state water registers, revealing total amounts of water extracted, as well as the numbers of licensees who use more or less than they are entitled to.
- Water accounting data could be disclosed anonymously, revealing patterns of water usage and compliance. This could facilitate public pressure for water users to stick to the rules and limits of their water licenses.
- Data could be disclosed exclusively to other license holders, to facilitate community self-management. This option has recently been piloted in New Zealand with some success.

Furthermore, they argue that water law should presume that water accounting data should be made publicly available, unless a water user wishing to maintain privacy or confidentiality can specifically establish a reason why they should be exempt.

There are practical limitations to

reform: much rural and industrial water usage is not metered, and even where water use is reported, sometimes amounts are estimated rather than metered because of financial constraints. Additionally, there is considerable disparity between the detail of water metering required in Australia: many large water trusts and irrigation corporations receive bulk water allocations to share between individual users. Any reporting of usage is done in bulk, and thus individual water users (a large proportion of Australia's rural and industrial water users) are not required to meter or report their individual usage.

These limitations mean that any reform will need to proceed slowly. However, the NCGRT researchers propose a move towards greater Commonwealth oversight of water licensing regimes, to ensure adequate water accounting and the provision of information to national water accounts.

Ultimately, the NCGRT researchers propose, reforms should be implemented in all states and territories to increase transparency and accountability in line with National Water Initiative reforms, so that the public can be confident in the amount of water being used, traded, and reserved for the environment.

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