



31 August 2026

Our ref: HF:FNL

Water Act Review Team
Department of Climate Change,
Energy and Environment and Water
GPO Box 3090
Canberra ACT 2601

By email: [REDACTED]

Dear Review Team,

Review of *Water Act 2007* - Strong Voices, Healthy Waters: upholding Aboriginal and Torres Strait Islander peoples' water rights through the review of the *Water Act 2007* (Cth)

Queensland Law Society (QLS) welcomes the opportunity to provide feedback to the Review of the *Water Act 2007* (Cth) (**the Water Act**).

Queensland Law Society (**the Society**) is the peak professional body for the State's legal practitioners. This submission has been prepared with assistance from the First Nations Legal Policy Committee (FNLPC), who have substantial expertise in this area.

This submission responds to the consultation paper, *Strong Voices, Healthy Waters: upholding Aboriginal and Torres Strait Islander peoples' water rights through the review of the Water Act 2007 (Cth)* (**the Paper**). While we acknowledge the formal submission period for the Paper closed on 1 August 2026, we also understand consultation is ongoing for the wider review. We provide these comments to contribute to and inform the broader consultation of the *Water Act* Review.

It is noted the Paper appropriately identifies the need to move beyond consultation towards meaningful participation, self-determination and improved outcomes for First Nations communities. The Paper also acknowledges that the *Water Act* does not recognise Aboriginal and Torres Strait Islander peoples as having rights in water and that participation in water decisions has not consistently provided real power or improved outcomes. It also identifies the absence of a clear, culturally safe and independent mechanism for complaints, dispute resolution and accountability.

The Society supports reform that places First Nations peoples in a position of genuine partnership in water governance and ensures that Aboriginal and Torres Strait Islander communities have the resources, authority and legal mechanisms necessary to protect and manage water on Country over the long term.

The Society supports the consideration of the five key themes identified in the Paper and this submission will expand on these themes based on the feedback provided by our First Nations Legal Policy committee members, which includes Traditional Owners.

1. Shared decision making and governance

The Paper identifies the importance of moving beyond consultation toward meaningful participation and shared-decision making.

QLS supports approaches that provide Aboriginal and Torres Strait Islander peoples with meaningful opportunities to participate and influence decisions affecting water on Country.

We have received feedback that Traditional Owners have, at times, raised water-related concerns during consultation with proponents, only for those concerns to be characterised as falling within a different legislative or policy framework. For example, concerns relating to the cultural impacts of water use may be considered through a cultural heritage framework, while the underlying water management issue is addressed through a different legislative framework.

Additionally, it is suggested meaningful participation requires more than an opportunity to provide views after a proposal has been substantially developed. Engagement should occur early enough to allow Aboriginal and Torres Strait Islander peoples to understand proposals and contribute to the development of options and decisions.

We also note the importance of considering water as an interconnected system rather than through artificial administrative boundaries. One of our committee members has highlighted the concept of Gumoo Wangara – One Water, One People, identified through the Fitzroy Basin Elders Committee, reflects an understanding of connection between waterways, Country and people. Water flows from upstream areas through downstream Country and ultimately to the sea.

Water is also closely connected to the exercise of Native Title rights and interests. The ability to hunt, fish, conduct ceremony and access and enjoy resources from Country may depend upon the availability, quality and accessibility of water.

QLS considers that participation must also be appropriately resourced. Aboriginal and Torres Strait Islander organisations should not be expected to participate in complex water planning and regulatory processes without access to resources and expertise required to do so effectively.

To achieve this, consideration should be given to funding for legal, technical and scientific advice, government support for participation in meetings and decision-making processes and access to relevant water information and data.

Additionally, QLS considers that funding should be set up as long-term organisational and community capacity rather than short-term project-specific funding.

Recommendation 1: The Review should recommend that the Water Act provide for early, ongoing and meaningful participation of relevant Aboriginal and Torres Strait Islander peoples in water governance and decision-making affecting their Country.

Recommendation 2: The Review should consider appropriately resourced funding arrangements to enable Aboriginal and Torres Strait Islander organisations and communities to participate effectively in water governance, including access to independent legal, technical and scientific advice.

2. Recognition of rights and self-determination

The recognition of Aboriginal and Torres Strait Islander peoples' cultural, spiritual, environmental, social and economic interests in water should have a practical effect on water governance and decision-making.

QLS considers that self-determination should be reflected in the way Aboriginal and Torres Strait Islander peoples are engaged in decisions affecting water on Country. This includes recognising that communities and representative organisations may have different governance structures, priorities and decision-making processes.

Engagement should be consistent with the principles of Free, Prior and Informed Consent, as reflected in the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP). This requires engagement to occur sufficiently early for Aboriginal and Torres Strait Islander People to understand a proposed decision, consider its potential impacts and participate meaningfully in the decision-making process.

Water is fundamental to the relationship between Aboriginal and Torres Strait Islander peoples and Country. It supports cultural practices, connection to Country and the exercise of rights and interests, including the right to hunt and fish.

The Review should also consider how the Water Act can better support Aboriginal and Torres Strait Islander peoples to develop the capacity to manage and protect water on Country over the long term.

Recommendation 3: The Review should recommend that the Water Act support early, ongoing and meaningful participation of relevant Aboriginal and Torres Strait Islander peoples in water planning and decision-making processes, consistent with the principles of Free, Prior and Informed Consent under UNDRIP.

Recommendation 4: The Review should consider appropriately resourced funding arrangements that build long-term First Nations capacity to participate in water governance, including access to independent legal, technical and scientific advice.

3. Protecting Cultural and spiritual water and water places

We highlight that water-related decisions can affect culturally significant places practices, knowledge and relationships with Country. These impacts may not be adequately identified or addressed through conventional environmental or economic assessments.

Traditional Owners have identified that there are spirit places in and around waterways that hold deep cultural significance. Stories and knowledge associated with these places have been passed down through generations and form part of the transfer of knowledge. Cultural knowledge may include protocols concerning when particular places should be accessed and who has access to them.

These values may not always be adequately identified or addressed through conventional water management or environmental decision-making processes.

The relationship between waterways and culturally significant species should also be recognised. Traditional Owners have identified that species may frequent particular waterways

and culturally significant places. Changes to waterways, including changes that displace species from those areas, may therefore have consequences extending beyond the individual species or location. This may have impacts on cultural practices, knowledge and the broader ecosystem.

The Review should therefore consider whether existing decision-making processes adequately facilitate the identification and protection of Cultural and spiritual water and water places.

Culturally appropriate engagement should occur before decisions affecting such places or water resources are made.

Decision makers should also have access to appropriate Cultural knowledge and expertise, with appropriate safeguards for sensitive Cultural information.

Recommendation 5: The review should consider mechanisms to strengthen the protection of Cultural and spiritual water and water places in water planning and decision-making.

Recommendation 6: The Water Act should require culturally appropriate engagement with Aboriginal and Torres Strait Islander peoples before decisions are made that may materially affect Cultural or spiritual water, culturally significant water places or other significant aspects of Country.

4. Better outcomes for communities, especially with climate change and water quality

QLS recognises that Traditional Owners possess significant knowledge of the spiritual, cultural and environmental importance of water and the role healthy waterways play in sustaining Country.

We acknowledge that Aboriginal and Torres Strait Islander peoples and communities are experiencing reduced access to water, while others continue to draw on the same resources, and this is compounded by declining water quality and the effects of climate change.

The review should recognise that Aboriginal and Torres Strait Islander peoples hold enduring Cultural and customary responsibilities for water but still have limited access to, or control over the water systems on their own Country. As a result of this, Aboriginal and Torres Strait Islander communities are exposed to the impacts of overuse and poor water management without having the power to prevent it.

Recommendation 7: The Review should consider embedding enforceable mechanisms that guarantee Traditional Owner participation in water planning and decision-making, not just consultation.

Recommendation 8: The Review should support appropriately resourced Aboriginal and Torres Strait Islander participation in monitoring water quality, environmental conditions and water management outcomes affecting Country. This may include through access to relevant information and data and support for long-term community capacity.

5. Accountability, complaints and fair processes

The Paper identifies concerns about the absence of clear and culturally appropriate avenues for Aboriginal and Torres Strait Islander peoples to raise concerns about water related decisions and impacts.

QLS has received feedback that, where Traditional Owners experience impacts or have concerns about water use or management, it may not always be clear which decision-maker, regulator or legislative framework is responsible for addressing those concerns.

This creates a risk of lack of accountability and may make it difficult for communities to obtain an effective response.

QLS considers that there should be accessible mechanisms to raise and address concerns about:

- Water-related decisions;
- Failures to appropriately engage with Aboriginal and Torres Strait Islander peoples;
- The conduct of proponents and other water users;
- Compliance with water management requirements; and
- Impacts or harm to Country.

An independent and culturally appropriate complaints and dispute resolution mechanism would provide an avenue for concerns to be raised and addressed without requiring communities to navigate complex regulatory or legal processes.

The mechanism should be sufficiently independent to provide confidence that complaints will be considered fairly, especially where the complaint concerns a government decision-maker, regulator or other water user. Additionally, where consultation requirements have not been met and conditions have not been complied with, there should be clear pathways for review, enforcement, remediation and where appropriate, redress.

Recommendation 9: The Review should consider establishing an independent, accessible, and culturally appropriate complaints and dispute resolution mechanism for Aboriginal and Torres Strait Islander peoples in relation to water-related decisions and impacts.

Recommendation 10: The Review should consider whether existing requirements and pathways for engagement, review, enforcement and redress are sufficiently accessible and effective for Aboriginal and Torres Strait Islander peoples. This should also address consultation failures, non-compliance and harm to Country.

Conclusion

The feedback from our FNLP Committee members provided to QLS reinforces the interconnected nature of the themes highlighted in the Paper.

Water cannot be readily separated from Country, Native Title rights and interests, community wellbeing, climate and the broader environment.

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A water governance framework should recognise the connections between water, Country, culture and community, while also considering the environmental and economic uses of water. This is important to achieving sustainable outcomes for current and future generations.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [REDACTED] [REDACTED]

Yours faithfully



Peter Jolly
President