Module 3.1
This module looks at how the requirements for Indigenous participation and the protection of Indigenous values in the water planning process have been implemented across north Australia. It shows some of the ways Indigenous communities and Traditional Owners have been engaged by government, with a particular focus on the north jurisdictions. It also identifies those areas where improvements in Indigenous engagement have been proposed by the National Water Commission.
WHAT ARE THE REQUIREMENTS FOR INDIGENOUS ENGAGEMENT IN WATER PLANNING?

Governments have obligations under the National Water Initiative to involve Indigenous communities in water management.

Some efforts to include Indigenous people in decision-making have resulted in real benefits for communities, for the protection of cultural values and for the environment.

Improving Indigenous participation and including Indigenous knowledge are key priorities for improving water management.
Under the NWI, governments are required to involve Indigenous people in water planning, and to ensure that their cultural, social and spiritual interests in water are protected.

In each of the jurisdictions, legal and policy requirements have been put in place to make sure that Indigenous communities are involved in the water planning process.
SECTION 52

INDIGENOUS ACCESS

Under Section 52 of the National Water Initiative, governments must provide for Indigenous access to water resources through planning processes that ensure:

- Indigenous people are included and represented when water plans are developed;
- water plans should include Indigenous social, spiritual and customary objectives; and
- water plans will include strategies for achieving these objectives.
SECTION 53

NATIVE TITLE RIGHTS

Under Section 53 of the National Water Initiative, governments must take account of the possible existence of Native Title rights to water in the catchment or aquifer area.
GOVERNMENTS HAVE FOUND IMPLEMENTING THESE SECTIONS CHALLENGING

There are currently no national guidelines to help ensure the inclusion of Indigenous rights or interests in water reform.

Each state has approached Indigenous participation in different ways. However, this has led to inconsistent approaches in different areas.

The National Water Commission review of water reform in 2011 found that the inclusion of Indigenous interests in water plans has been uneven and rare.

All water agencies are keen to learn more from Indigenous experts and have used studies of Indigenous water knowledge to inform their water plans.
INDIGENOUS KNOWLEDGE CAN IMPROVE WATER MANAGEMENT

Indigenous knowledge, values, and contemporary practices can contribute to repairing and managing the environment.

Water management is based upon using the best available knowledge to manage Australia’s water resources. This includes Indigenous knowledge, as well as the knowledge of scientists and others.

Indigenous knowledge is not used often in water resource assessments and planning at the moment, particularly in environmental flow studies.

Indigenous knowledge also includes values and beliefs about customary law, such as water sharing principles, and the origins of life, landscapes and social arrangements for managing land and water.

All of this knowledge can contribute to water planning.
To make good decisions about how we share water, we need to understand the water resource, the needs of all the water users, and the social and environmental impacts of those uses.

No one has all of this knowledge, so we all need to work together with water managers, scientists and planners. That way, we can be confident that decisions will be based on good evidence and facts.

Indigenous people have valuable perspectives and knowledge to contribute to this.

*Wagiman Traditional Owners, NT. Photo: © TRaCK*
IMPROVING INDIGENOUS PARTICIPATION SHOULD RESULT IN:

- communication and understanding of Indigenous values and aspirations for water resources and management;
- communication and understanding of water management institutions (customary and state-based) and water planning processes;
- recognition and protection of Indigenous rights and interests in water management;
- identification of water requirements to meet and sustain Indigenous people’s values;
- effective mechanisms to meet those requirements, particularly mechanisms that allow for and support direct Indigenous participation in water resource management;
- transparent decision making;
- opportunities to mitigate negative impacts of water use decisions; and
- improved certainty and confidence in water reform processes.
IMPROVING ENGAGEMENT

Approaches include representation on community panels through to involving Indigenous community members in documenting Indigenous knowledge and values.

But as many Indigenous groups know from previous experience with advisory groups, there are problems with consultation where one or two individuals are expected to represent numerous language and land owner groups.

Without adequate support, it is difficult for Indigenous representatives to fulfil their responsibilities to inform and get information from other group members, particularly if the people live in remote locations.

Many benefits flow from proper engagement, including the recognition and protection of Indigenous rights and interests in water management.
Daly River Aboriginal Reference Group

Around the country, some Indigenous community groups and organisations are defining their own culturally appropriate ways for communities to be engaged in water planning and decision making.

For example, some governments support a separate Indigenous reference group. Representatives can then be chosen to participate in the larger water advisory committee.

In the Daly, for example, an Aboriginal Reference Group was formed in direct response to the difficulties faced by Traditional Owners in participating in the Advisory Committee.
DALY RIVER ABORIGINAL REFERENCE GROUP

Land and water use planning over the Daly River catchment started in 2002. This very large area is home to at least 11 language groups and therefore planning required extensive and comprehensive Indigenous input.

At first, there were only two Traditional Owners on the Community Reference Group. This made it very difficult for those representatives.

It didn’t provide the time and space to allow all Indigenous groups to meet frequently and work out their own aspirations for land and water use, economic development and cultural heritage protection.

In 2005, in response to the requests from Traditional Owners, the NT Government agreed to establish a 22-person Aboriginal Reference Group.

The model of two members (a young and older representative) from each language group was agreed to following extensive consultation.

The Daly River Aboriginal Reference Group is now supported by the Northern Territory Government.
PROTECTING CULTURAL VALUES IN WESTERN AUSTRALIA

The Western Australian Department of Water has shown great interest in Indigenous knowledge of water.

The Department has done a number of studies in areas where water use is growing, for example, the Ord River and the south west regions.

These studies describe the rich knowledge held by Indigenous groups, the value systems and institutions that govern Indigenous resource use and management, and the environmental and cultural outcomes that Traditional Owners want from water management.

In some cases, assessments of Indigenous cultural values have resulted in groundwater allocation limits being set conservatively to protect cultural sites.
ASSERTING YOUR RIGHT TO PARTICIPATE

Indigenous people across north Australia have cultural and kinship responsibilities and obligations under customary law to look after water. Indigenous people also have responsibilities to water under law and custom. Some of these responsibilities relate to the maintaining the rivers and the environment in their natural state to make sure that country remains healthy.

As water use and management can impact on those responsibilities, Traditional Owners have a right to be involved in making decisions and managing water use.

Water agencies should be encouraged to engage appropriately with Traditional Owner groups as well as resident Indigenous groups.

Water planners and water advisory committees are beginning to understand the importance of learning about Indigenous interests in a catchment before developing a water plan.
Governments continue to point to difficulties in achieving appropriate Indigenous representation in local, regional and policy level decision making and technical difficulties in quantifying Indigenous water requirements.

Most jurisdictions have improved consultation with Indigenous communities in water planning and management, but have generally found it difficult to incorporate effective strategies for achieving Indigenous social, spiritual and customary objectives in water plans, as envisaged under the NWI.

The National Water Commission says that building the capacity of Indigenous leaders to participate in water planning and recognising Indigenous knowledge of water systems in water plans are the main priorities for improving Indigenous engagement in water planning.