



NSWIC
NEW SOUTH WALES
IRRIGATORS'
COUNCIL

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2011 NSW Election

Policy Suite

Andrew Gregson
Chief Executive Officer

Member Organisations: Bega Cheese Limited, Border Rivers Food & Fibre, Coleambally Irrigation Co-Op Ltd, Cotton Australia, Gwydir Valley Irrigators' Association Inc., High Security Irrigators Inc, Hunter Valley Water Users' Association, Lachlan Valley Water, Macquarie River Food & Fibre, Mid Coast Dairy Advancement Group, Mungindi-Menindee Advisory Council, Murray Irrigation Limited, Murray Valley Water Diverters' Association, Murrumbidgee Groundwater Inc., Murrumbidgee Irrigation Ltd, Murrumbidgee Private Irrigators' Inc., Murrumbidgee Valley Food and Fibre Association, Namoi Water, NSW Farmers' Dairy Committee, NSW Farmers' Association, Ricegrowers' Association of Australia, Richmond Wilson Combined Water Users Association, Riverina Citrus, Southern Riverina Irrigators, South Western Water Users', West Cororgan Private Irrigation District, Wine Grapes Marketing Board.

Introduction

NSW Irrigators' Council (NSWIC) represents more than 12,000 irrigation farmers across NSW. These irrigators access regulated, unregulated and groundwater systems. Our members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries.

This document represents the views of the members of NSWIC. However each member reserves the right to independent policy on issues that directly relate to their areas of operation, or expertise, or any other issues that they may deem relevant.

General Comments

The policy positions expressed in this document are those which NSWIC will seek to have all political parties endorse during the course of the 2011 NSW election. We will seek a commitment from all parties to deliver these positions in their entirety during the next term of Parliament.

NSWIC is an apolitical entity. We do not support or endorse any political party or philosophy.

During the course of the election campaign, NSWIC will seek details from each major party as to their adoption of this policy suite. The responses obtained will then be distributed to irrigators, the Members of NSWIC and other stakeholders. At that time, the organisation may choose to make public comment in respect of those parties based on their approach to our policy positions.

Please note that policy staff of the NSWIC are available to assist all major parties at any time leading up to the election campaign.

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Executive Summary

NSWIC holds some ten major policy positions which are relevant to the NSW election campaign in 2011.

The summary below provides a brief overview of each policy. Where relevant, full policy or other documents are appended as noted.

1. Murray-Darling Basin Plan

Much of the detail of the proposed Basin Plan is centred on the Commonwealth. Their *Water Act (2007)* claims spurious Constitutional grounds for overriding the water management capacity of NSW.

NSWIC believes that the NSW Government has an important role in ensuring that the irrigators, communities and people of NSW are adequately protected in the ongoing management of the Basin. In particular at a State level, NSWIC has called for this State to reject implementation of the Basin Plan through new Water Sharing Plans in the absence of an identical implementation date across all States.

Moreover, NSWIC calls upon the NSW Government to reject the approach of the Commonwealth in giving the environment primacy over social and economic considerations. Pursuant to the National Water Initiative that the NSW Government executed, NSWIC calls upon all parties in NSW to refuse to implement a Basin Plan that does not give equal weighting through *trade offs* (as noted in the NWI) to social and economic considerations.

2. Flood Plain Harvesting

(Full policy appended at [page 6](#))

NSWIC is particularly concerned at the lengthy delays in the release and implementation of policy on the issue of entitlements for Flood Plain Harvesting in NSW. We note that this is a key resource for a large swathe of irrigated agriculture and that security must be provided to it.

In the short term, NSWIC wishes to see perpetual entitlements issued for Flood Plain Harvesting.

3. Supplementary (Uncontrolled Flow) Entitlements

(Full policy appended at [page 13](#))

NSWIC wishes to see perpetual tenure of surface derived Supplementary Entitlements.

Further, Council wishes the alteration of nomenclature to properly reflect the nature of these entitlements and recommends Uncontrolled Flow as appropriate.

4. Commissioner of Water to be Statutory Office

(Letter to NSW Minister for Water appended at [page 17](#))

NSWIC wishes to see the Office of Water (and the Commissioner) established as a statutory office pursuant to the *Water Management Act* (NSW) 2000.

5. Fixed Charges Relief Trigger

(Full policy appended at [page 18](#))

NSWIC seeks relief for irrigators from the payment of fixed charges in extraordinary circumstances. Those threshold for relief should be two consecutive one-in-twenty-year events which should consequently trigger payment of charges on behalf of those entitlement holder affected.

6. Coastal Water

(Full policy appended at [page 20](#))

Whilst much focus of water policy lies within the Murray-Darling Basin, it is important to recognise the irrigation occurs in coastal areas across NSW. The management demands are very different and must be recognised as such.

7. Entitlement Conversion

(Full policy appended at [page 26](#))

NSWIC calls for the development – in consultation with industry – of a robust policy to deal with conversion of entitlement types.

8. Impacted Property Rights

(Full policy appended at [page 31](#))

NSWIC believes firmly that water entitlements must be considered as real property rights. Any impact against such right must be met by market-valued compensation.

More explicitly, NSWIC believes that the market is the best place for the acquisition of water for any purpose, including by governments.

9. Shepherding of Water

(Full policy appended at [page 36](#))

NSWIC does not support the development of “shepherding”, noting that the differential treatment of an entitlement based on the identity of the owner is clearly a breach of a Commonwealth commitment to not fundamentally alter the nature of any entitlement purchased from irrigators.

NSWIC may support the development of a trading regime between regulated and unregulated systems to deal with the matter provided that such scheme did not result in negative third party implications.

10. Basic Landholders Rights

(Full policy appended at [page 41](#))

NSWIC believes that proper management of water taken through a basic landholder right for stock and/or domestic purposes is essential to ensure that the resource base is not abused. We wish to see reasonable use guideless published and enforced.



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Flood Plain Harvesting Policy

(Response to Government Draft)

081103

Introduction

NSW Irrigators' Council (NSWIC) represents more than 12,000 irrigation farmers across NSW. These irrigators are on regulated, unregulated and groundwater systems. Our members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries.

This document represents the views of the members of NSWIC. However each member reserves the right to independent policy on issues that directly relate to their areas of operation, or expertise, or any other issues that they may deem relevant.

THIS DOCUMENT IS A RESPONSE TO DRAFT POLICY DISTRIBUTED BY THE NEW SOUTH WALES GOVERNMENT IN JULY OF 2008. AS SUCH, THIS DOCUMENT MUST BE READ IN CONJUNCTION WITH THE NSW GOVERNMENT DRAFT POLICY.

Executive Summary

The NSW Irrigators Council is supportive of the need to licence floodplain harvesting activities and to issue the appropriate water access licences.

It believes the process should be done in a timely and efficient manner, balancing the competing needs of working with sound information, and the need to complete (or at least substantially complete) the process prior to the introduction of the 2011 Basin Plan.

The Council agrees:

1. That there may be third party impacts on other forms of water entitlement, including general security, high security and supplementary across the State from this policy. As such, Council requires a statement as part of the policy that this is a policy change pursuant to the terms of the National Water Initiative.
2. Work on essential components such as identify eligible licensees, gaining information on eligible works, and data on historical floodplain harvesting activity should start now, and should not wait until this policy is finalised;
3. Irrigators will willingly assist in gathering this information, provided they are given access to the raw data, and are consulted and involved in the floodplain harvesting model calibration process;
4. Floodplain Harvesting Water Sharing Plans should be stand alone plans, and not chapters attached to existing plans;
5. More information and consultation is required on any environmental impact assessments that may need to be carried out;
6. Clarity needs to be given about the July 3, 2008 works cut-off date. Specifically, information on how partially completed works, and approved but un-constructed works will be considered must be provided;
7. An Anomalies Committee will be required to adjudicate on issues such as the eligibility of works and the volume of entitlement shares issued to licence holders;
8. NSW Irrigators Council reserves its position on how the available entitlement pool should be shared among irrigators. It believes the emphasis now should be ensuring the Department's models accurately reflect the Long-term Average Extraction Limits. Further consultation and consideration is required before selecting a distribution method;
9. Floodplain harvesting accounts should be initialised, and allow full carry-over without a maximum account limit;
10. Floodplain Harvesting Water Access Licences should be issued in perpetuity; and
11. Floodplain Harvesting Water Access Licences should be fully tradeable.

NSW Irrigators Council recognises that the Department of Water and Energy is resource constrained, and meeting the 2011 target will be almost impossible without additional resources.

NSW Irrigators Council is sceptical about the proposed federally funded \$50 million floodplain management project.

The particular concern focus's on the Federal Government's pursuit of water licences in return for money spent. Sound floodplain management will return dividends to the environment without the need for issuing additional licences to the Federal Government.

NSW Irrigators Council asks that the NSW government actively involves itself in the development of a business case for this funding, and any negotiations it has with the Federal government over this priority project.

Introduction

This submission is a NSW Irrigators Council's (NSWIC) response to the NSW Government's Draft Floodplain Harvesting Policy Framework, which was first distributed to irrigator groups in late July 2008.

NSWIC recognises the efforts of the Department in providing briefing opportunities on the policy at Sydney, on August 28 and Moree on October 9, which were attended by a number of NSWIC members, primarily from Northern NSW.

NSWIC welcomes the extended time frame outlined by DWE staff at the Moree meeting to complete this planning process. It understands this time frame in general terms to be:

- Amended policy to be presented to NSW Cabinet for acceptance January / February 2009
- Public consultation and formal policy adoption completed August / September 2009
- Ground-truthing process to ensure accurate assessment of LTAEL for overland flows approximately October 2010
- Informing the policy detail regarding measurement and compliance issue as well as the application of environmental policy approximately October 2010

Background

The responsible and sustainable harvesting of waters as they cross the flood plain has been a critical part of the irrigation resource mix in the northern NSW valleys since large scale irrigation development commenced in the 1960's and 70's.

Its importance is not limited to the farm. Floodplain harvesting is a key economic and social driver for the towns of the Northern Murray-Darling Basin, and to a lesser degree the southern irrigation valleys. This policy will impact on the economic viability of the region, and the NSW Government must acknowledge that the NSW Water Reform process has already removed production capacity, and this policy will lead to a further reduction, that will not be able to be made up by simply increasing on-farm irrigation efficiency.

The historical reliance on this resource can be traced to a number of factors including:

1. The relatively low yield of public infrastructure dams;
2. The influence of the sub-tropical climate and the significant rainfall events which produce regular, large, medium and small floods; and
3. The historical switch of water infrastructure investment from public investment to privately funded on-farm investment.

In the northern valleys, floodplain harvested water may account for 25 to 60 per cent of the average available water resource, and in some seasons it represents the majority of the resource.

Up until the introduction of the *Water Management Act 2000* the taking of floodplain harvested water was an implied right, in a similar manner to the taking of supplementary (off-allocation) water.

In general terms, the practice and the development of the associated infrastructure has taken place with the full knowledge (and encouragement) of the Government of New South Wales.

NSWIC members accept the right of the NSW Government to licence floodplain harvesting in accordance with the *Water Management Act 2000*, but also strongly make the point that the timing of the licencing process has always been the responsibility of NSW government.

It should be recognised that it was the NSW Government, in consultation with the Federal Government that set the priorities and focus of the NSW Water Reform Agenda. Consequently the licensing of floodplain harvesting under the *Water Management Act 2000* is following the licensing of regulated water, supplementary, unregulated and groundwater in the major irrigation valleys.

Council also very strongly holds the view that the licensing of floodplain harvesting should not result in any net reduction of the overall Cap, or the Cap on any other classes of water.

State and Federal Government must recognise that the licensing of Floodplain Harvesting water is only bringing a recognised and accepted practice into line with the requirements of the *Water Management Act 2000*, and will not nor cannot lead to any increase in extractions.

The NSWIC strongly supports the NSW Government's decision to licence floodplain harvesting under the Transition/Interim Resource Management Plan arrangements as outlined in the Commonwealth *Water Act 2007*, and is therefore very mindful of the need to have the process completed before the introduction of the Basin Plan in 2011.

Potential Third Party Impacts

Council is concerned that this policy could produce third party impacts, particularly with the move to Commonwealth management of the Basin and the introduction of a Basin Wide Cap. These impacts are potential only given the non-definitive nature of the draft policy and the lack of detail of Commonwealth management, including the fact that the Basin Plan is not yet defined, let alone details.

Council believes that this issue can be adequately dealt with by a formal statement from the NSW Government that this is a policy change and, as such, is subject to the risk assignment provisions of the National Water Initiative.

(Detailed responses removed. The full policy can be accessed on the NSWIC website.

Conclusion

The NSW Irrigators Council is supportive of the need to licence floodplain harvesting activities and to issue the appropriate water access licences.

It believes the process should be done in a timely and efficient manner, balancing the competing needs of working with sound information, and the need to complete (or at least substantially complete) the process prior to the introduction of the 2011 Basin Plan.

The Council agrees:

1. Work on essential components such as identify eligible licensees, gaining information on eligible works, and data on historical floodplain harvesting activity should start now, and should not wait until this policy is finalised;
2. Irrigators will willingly assist in gathering this information, provided they are given access to the raw data, and are consulted and involved in the floodplain harvesting model calibration process;
3. Floodplain Harvesting Water Sharing Plans should be stand alone plans, and not chapters attached to existing plans;
4. More information and consultation is required on any environmental impact assessments that may need to be carried out;
5. Clarity needs to be given about the July 3, 2008 works cut-off date. Specifically, information on how partially completed works, and approved but un-constructed works will be considered must be provided;
6. An Anomalies Committee will be required to adjudicate on issues such as the eligibility of works and the volume of entitlement shares issued to licence holders;
7. NSW Irrigators Council reserves its position on how the available entitlement pool should be shared among irrigators. It believes the emphasis now should be ensuring the Department's models accurately reflect the Long-term Average Extraction Limits. Further consultation and consideration is required before selecting a distribution method;
8. Floodplain harvesting accounts should be initialised, and allow full carry-over without a maximum account limit;
9. Floodplain Harvesting Water Access Licences should be issued in perpetuity; and
10. Floodplain Harvesting Water Access Licences should be fully tradeable.

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Supplementary or Uncontrolled Flow Water Policy

090121

Andrew Gregson
Chief Executive Officer

Introduction

NSW Irrigators' Council (NSWIC) represents more than 12,000 irrigation farmers across NSW. These irrigators are on regulated, unregulated and groundwater systems. Our members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries.

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Executive Summary

This document deals with Supplementary Water licences in New South Wales, primarily the tenure and name of this water access entitlement.

NSWIC has adopted a policy to change the tenure of surface derived¹ Supplementary entitlements to a perpetual licence aligning them with other categories of water access licenses pursuant to the *Water Management Act* (NSW) 2000.

The reliability of this entitlement is such that it is a vital source for operators in parts of NSW and therefore ought be renamed. "Supplementary" is an incorrect way of describing an asset upon which businesses and communities rely. Further, as some Supplementary licenses were issued as a transitional measure only (particularly in groundwater sources), the nomenclature ought be altered to take account those that are not transitional in nature.

NSWIC has adopted a policy to change the name of the entitlement to Uncontrolled Flow Entitlement.

Background

Supplementary licences are an important part of irrigation operations in northern NSW, the Lower Darling, the NSW Murray and coastal areas. In some cases, the entitlement is more reliable than regulated General Security water.

Prior to the introduction of the *Water Management Act* 2000, in some systems no license was required to access Supplementary water. Referred to by various names (including High Flow and Off Allocation water), access to this water was an implied right.

Supplementary water, for the purposes of defining this licence category, is water that is available and surplus to other requirement, generally during wet periods or at times of low water demand. Access to supplementary water is triggered when a dam overflows due to natural inflows or there are significant flows on regulated rivers.

¹ But specifically not groundwater supplementary licenses or transitional arrangements.

The *Water Management Act* 2000 lists supplementary water in the “Categories of licence”². As such, licences were issued for regulated rivers and groundwater sources. These licences were not issued in perpetuity but rather as “Life of Plan”³.

The Life of Plan approach establishes that licences are valid for ten (10) years from the commencement of the relevant Water Sharing Plan.

Tenure of Licence

Supplementary licenses in NSW will expire in 2014. As such, they are currently a depreciating asset and do not provide any investment certainly for the irrigators that rely on them, the communities that they support or the financiers that have secured them to fund investment. In an era where high levels of investment in efficient irrigation infrastructure by both the public and private sector are being encouraged by government, it is important that the asset that underpins that investment is secure. Only a perpetual license can achieve that.

Council supports the Life of Plan approach where Supplementary licences have been issued for groundwater sources as a transitional adjustment method.

The National Water Initiative

Clause 28 of the National Water Initiative set the goal of licensing of water to provide irrigators with a property right separate to their land. It stated that licenses ought be perpetual and expressed as a share in an available resource. This has clearly not been achieved in relation to Supplementary Water in NSW.

Clause 33 of the NWI allowed for fixed term entitlements, such as “Life of Plan”, where it is “demonstrably necessary”. The relevant example of this in the NWI is stated as “where the access is contingent upon opportunistic allocations.”

The term “opportunistic” is not defined in the NWI, was not defined in the original *Water Act* 2007 (Commonwealth) or the subsequent amendments to the Act passed in 2008.

In any event, even if supplementary water is deemed to be opportunistic, the temporary licensing of it is certainly not demonstrably necessary. Supplementary Water has been a feature of the NSW landscape for many decades underpins the operations of many irrigators and is, in some instances, more reliable than other forms of perpetual water entitlement.

Third Party Impacts

NSW Irrigators Council recognises that the priority and security of supplementary water is low. We do not wish to alter that, nor the rules that surround determination of access periods to supplementary water. We note that supplementary water is not presently made available until all environmental and higher priority rights holders have been satisfied.

² Water Management Act 2000 Section 57, Chapter 3, Part 2

³ Where “plan” represents Water Sharing Plans pursuant to the Act.

Further, we recognise that Supplementary Entitlement provides significant flexibility in NSW against activation of entitlement (growth in use) across the state. We do not wish to see this buffer removed.

We do not, however, believe that limiting tenure of Supplementary Entitlement is required to achieve these ends.

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Commissioner of Water to be Statutory Office



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The Hon. Phillip Costa
Minister for Water

Via Electronic Mail

16 November 2009

Dear Minister Costa,

Re: Office of Water

As you know, NSW Irrigators Council was pleased that you moved to quarantine the water portfolio in the move to centralise government agencies in this state. The result of your efforts was a separately established Office of Water pursuant to the authority granted in a letter from the Premier.

We would now like to see this arrangement formalised through the creation of a Statutory Office under the authority of the *Water Management Act*.

We understand that several amendments to the *Act* are currently being prepared. We therefore suggest that this may constitute ideal timing to formally establish the Office of Water as a Statutory Office.

We look forward to hearing from you.

Sincerely,



Andrew Gregson
Chief Executive Officer

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Fixed Charges Relief Proposal

December 2007

Executive Summary:

- **NSW Irrigators Council seeks relief from the payment of fixed charges in extraordinary circumstances.**
- **The threshold for extraordinary circumstances should be two consecutive years of one-in-twenty-year events.**
- **If that threshold is met, government should make the fixed charges payment on behalf of irrigators.**

Objective:

To establish the principles that would apply to trigger support from the NSW Government for irrigated agriculture during times of extreme hardship.

Background:

Both State Water and the Department of Water and Energy levy fixed charges against water entitlements.

Fixed charges, in large part, pay for the essential maintenance of delivery infrastructure.

NSW Irrigators Council does not disagree with the levying of fixed charges.

In times of extreme hardship, however, fixed charges are a significant impost to survival. When, for a significant period, irrigators are not able to receive the benefit of the infrastructure, the payment for its maintenance should be viewed as a public service obligation to government.

In recent years, the NSW government has assisted with payment of fixed charges for irrigators in the Lachlan region. A recent Federal Government assistance package for irrigators in the Murray Darling Basin has provided a "one off" support mechanism for irrigators. Subsequent to heavy lobbying by NSWIC, this grant can be used in certain circumstances to assist with the payment of fixed charges.

The response by Governments has been a reaction to specific circumstances rather than part of a consistent policy framework to support irrigated agriculture.

Irrigators respond to drought by reducing their own operating costs. The current water pricing system requires license holders to bear the costs of running the rivers to provide water for non-paying beneficiaries, such as basic rights holders, the environment and recreational users. The relative cost of meeting this obligation rises steeply under severe drought conditions when most of the flow in the river is to meet these

obligations and very little is available for license holders. In extreme circumstances, this cost should be treated as a public service obligation for government and hence funded by Treasury.

Proposal:

NSWIC proposes establishing a trigger for drought relief for irrigated agriculture, based on objective indicators of the impact of drought on the irrigation sector, which can be applied to each river.

Meeting the drought threshold trigger would result in fixed charges being paid by government on behalf of irrigators.

Trigger:

River systems across NSW have a range of expected reliabilities. Any potential trigger for drought relief must accommodate this range, whilst distinguishing between an extraordinary drought that merits relief and the normal climatic variability that irrigators can (and should) handle through their own risk management strategies.

NSWIC recommends a drought relief trigger which is based on identifying circumstances that rarely occur. That is, support should only be expected when an event that is a remote possibility occurs.

NSWIC recommends that the trigger be two consecutive years of 1 in 20 year low announced Available Water Determinations (AWD's).

There are a range of indicators that could be used to indicate an exceptional drought. Water allocation reliability (yield) is recommended as the primary indicator because it is a direct and objective reflection of the impact of drought on irrigated agriculture.

The trigger would be defined as when water allocation or cumulative AWD as at 31 October in any year is within the lowest 5% of historical allocations for that valley for two consecutive years.

Meeting the trigger would result in fixed charges for that licence category being paid by government and possibly other relief measures appropriate to that valley.

The Government may apply some eligibility criteria to ensure that the assistance is targeted at those producers who earn the majority of their income from primary production.

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Coastal Water Policy

081104

Mark Moore
Policy Analyst

Introduction

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Executive Summary

This document deals with water management in coastal areas of NSW.

There is a need for Coastal water management to be treated separately to inland water management due to very different

- climate;
- hydrology; and
- water demands

With approximately 80% of the NSW population living on the coast and projections of substantial growth in the near future, water management becomes increasingly important.

Coastal irrigation water use is characterized by a large number of small licences. Approximately 80% of Water Access License holders are located on the coast, accounting for only 20% of total extraction. Specific coastal policies addressing these unique characteristics will protect and enhance the important place in the economy of NSW of coastal irrigation.

This document specifically deals with issues identified by coastal irrigators:

- Barriers to Agricultural Growth
- Water Pricing
- Population Growth, Urban Encroachment and Resource Planning
- Harvestable Right and the Storage of Water
- Government Policy and Funding

Background

Irrigation water in coastal areas is derived from regulated⁴ rivers and unregulated⁵ rivers, groundwater sources and rainfall runoff. Large rainfall events occur in coastal areas, however these are not consistent throughout the year, requiring supplementary irrigation to take crops through to harvesting.

Coastal rivers are short in nature and discharge into the ocean, with only very short time frames from head of system to final discharge. Most of these rivers are unregulated with very few dams or weirs in place to control flows. Coastal users have demonstrated very effective self regulation over many years with water users groups who self monitor flow rates and implement pumping restrictions and cessations. The vast majority of irrigators rely on pressurised or piped (drip) systems.

Generally, unregulated coastal irrigators have small volume licences, but there are many thousands of them. Licence holders accessing water during high and low-flow occurrences are extracting between 3 – 10% of the total water yield, leaving 90 – 97% to be discharged. Presently most are unmetered.

Irrigators acknowledge that diverting too much water from river systems can change the natural flow regime of the river, potentially affecting environmental flows. It is important to maintain a balanced system which benefits all involved. There are however times when extracting large amounts of water is possible without compromising environmental benefits.

Population on the coast is predicted to double in the next 50 years. Urban water authorities will be seeking greater access to water and, under current legislation these authorities take priority over all other users, without compensation to irrigators. There is an obvious need for an integrated water management plan on a catchment by catchment basis. This should take into account the forecast of future needs for agricultural, industrial and urban/rural residential use, so that water supply authorities and governments have accurate information on which to base decision making as well as to reduce the chances of conflict between those competing for the resource.

The present drought situation and predictions of future water shortages means the storage of water overall needs to be encouraged. Whether this is on farm, cooperative or public storages, effective management of this resource points to the ability to capture large amounts during times of plenty in order to supply needs in times of shortages.

BARRIERS TO AGRICULTURAL GROWTH

Embargo

Situation:

An embargo in place since 1995 on any new licenses or increases to existing licenses for unregulated water sources (exception of some groundwater sources). Initially a temporary measure prior to the implementation of Water Sharing Plans, now 12 years on

⁴ Regulated Rivers – have a managed flow regime due to the structures in place controlling them.

⁵ Unregulated Rivers – operate in two states, high-flow and low-flow.

and only limited plans are in place, leaving a majority of water users with no security of access conditions.

Solution Proposed:

Water Sharing Plans need to be in place throughout coastal areas giving security to access conditions and hence farmers confidence to invest.

Metering

Situation:

There is no standardised metering in place for water usage on the coast with currently about 1% of unregulated licenses being metered.

Solutions Proposed:

A partnership program for the phasing in of meters on all water access points. Funding from the NSW Government for phasing in meters.

Stock and domestic use under riparian rights would need to be taken into account in the plans because it accounts for a lot of water, but it must retain its unlicensed status.

WATER PRICING

Situation:

On average, system and delivery charges on regulated coastal water is 2 to 3 times more expensive per ML than inland water. This is due to regulated systems having high costs per ML which have to be met by irrigators with small allocations.

In the unregulated system, trading is relatively new with access to data (value and metering) very difficult.

IPART prices for bulk water are moving towards full cost recovery.

Coastal irrigators also rely on piped and pressurized systems, which although being very water efficient, have high application and maintenance costs.

Solutions Proposed:

Water pricing should not be cross subsidised. Pricing should be based on the rate for the Hunter Regulated system (after the Paterson system costs have been removed) as this is more representative of a sustainable water pricing cap for the coast. All other regulated coastal river costs in excess of this cap, be recognised by Government as a community service obligation.

Uncontrolled and supplementary water on regulated coastal streams should be charged at a lower rate.

IPART must remain as the price regulator and NSW must not “opt-in” to ACCC rules outside the MDB.

POPULATION GROWTH / URBAN ENCROACHMENT / RESOURCE PLANNING

Situation:

Planning of subdivisions and hobby farms is not accounting for the increased demand for water and the effect of this on existing riparian rights.

Solutions Proposed:

Improved planning of rural subdivision and hobby farms to manage water volumes extracted under riparian rights.

Development of plans needs to be consistent across coastal areas. Plans need to be fully integrated across all classes of users, including urban and mining users.

Any developments requiring water must access this need via the water market.

Coastal irrigators need to be involved in the creation of these plans. These plans must define property rights including water from aquifers. Plans must include the effect of activities such as mining, gas extraction, plantation expansion and bottled water business on aquifers and harvestable rights.

HARVESTABLE RIGHT / STORAGE OF WATER

An Irrigators harvestable right permits the capture of 10% of rainfall runoff. Several issues exist which make it difficult for farmers to capture this 10%. On farm and community water storage is a practical and viable solution to water management on the coast, but current policies prohibit this solution from being implemented.

Situation:

A proposed 2.5 to 1 rate as an incentive to move users out of low flow licences to high flow licences does nothing to encourage extraction at times of high flow as gains are lost due to evaporation.

State Water policy of imposing a usage charge for uncontrolled and supplementary water discourages on farm storage of high flow water.

Without a licence, small dams are permitted on 1st and 2nd order streams, however these are often not feasible as most farms cannot find suitable sites to enable the capture of the 10% harvestable right in single efficient storages. Multiple on farm storages are an inefficient and costly option.

Licensing restrictions for farm dams on 3rd order streams or above restrict irrigators ability to access the harvestable right.

Solutions Proposed:

Streamline the licensing process.

Increase access to high-flow entitlements to maximize the benefits of this additional water.

Uncontrolled and supplementary water on regulated coastal streams should be charged at a lower rate.

Amendment to present regulations affecting farm dam construction on 3rd order streams is required to allow for full capture of the harvestable right.

Increased incentive of a better conversion rate from low flow licence to dam filling is required.

CONCLUSION

Clear policy to manage coastal water sources fairly is imperative to the success of existing and further development within the region.

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Entitlement Conversion Policy

100311

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Introduction

NSW Irrigators' Council (NSWIC) represents more than 12,000 irrigation farmers across NSW. These irrigators are on regulated, unregulated and groundwater systems. Our members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries.

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Background

Owners of High Security (HS) licences are for the most part involved in permanent plantings (horticulture and grapes). These plantings require a constant annual application of water to remain productive. The capital investment involved with permanent plantings is significant (irrigation systems such as sub-surface drip).

General Security (GS) licences owners are flexible with their management decisions and water requirements. Annual production decisions are based on resource availability and crop values. Crops such as wheat, sorghum, corn and tomatoes to rice and cotton are largely produced on GS water.

WATER MANAGEMENT ACT 2000

The *Water Management Act 200 (NSW)* established HS as a licence category⁶ and establishes that HS has priority over GS and Supplementary water licences.⁷

By prioritising the licence categories, the Act specifies that a reduction in water allocations will affect lower priority licences prior to those of a higher priority. This essentially established HS as a more reliable and valuable access licence.

CONVERSION FROM GS TO HS

Converting a licence between security classes is possible pursuant to a conversion factor established in WSPs. The conversion rate varies in each area depending on localised factors. A limit on the total amount of conversion is sometimes imposed.

One of the last large conversions took place in the Murrumbidgee. A total of 142,240 shares of GS licences were converted to HS in 2007–08 (which became 78,232 HS shares). The ratio of conversion was permitted at 0.55 shares of HS for each GS share (ex. 100 GS shares became 55 HS shares). The practice was suspended in July 2008 until further notice.

THIRD PARTY IMPACTS

In order to not impact on other GS licence holders, when conversion from GS to HS is undertaken, a loss of entitlement through the conversion is incurred. The attempt is to not affect the reliability of the remaining GS licence holders by giving less entitlement in HS.

A rigorous policy considering the impacts and benefits of any further conversion that protects the long term reliability to all licence holders has to be implemented.

NSWIC maintains a basic philosophy; *“there must be no impact of a decision taken on 3rd parties not involved in the issue”*.

⁶ Section 57 (1) (a) of the Water Management Act 2000

⁷ Section 58 and 60 of the Water Management Act 2000

CURRENT ABILITY TO CONVERT LICENCES

Pursuant to the *Revocation of Access Licence Conversion Factor, New South Wales Murray Regulated River Water Source*⁸ the ability to convert a licence is presently not possible.

This does not however mean that in the future the following section of the *Water Management Act 2000 (NSW)* cannot be reinstated:

Changing a category – conversion of access licences to a new category (s.71O Water Management Act 2000)

On the application of the holder of a water access licence, the Minister may consent to the cancellation of a licence and the grant of a new licence of a different category or subcategory. This does not apply to a local water utility access licence or to a supplementary water access licence.

The resulting access licence may only be granted in relation to the same water source as the cancelled water access licence. Conversion factors may apply and may require amendment of the share component of the licence.

Reasons for requiring a change in the category of a water access licence include changing from general security to high security licence category on a regulated river as a result of moving from growing annual crops to permanent plantings (subject to water sharing plan rules and embargos).

If an application for a change in the category of a water access licence is granted, the Minister will cancel the existing access licence and issue a new access licence with the new category, subject to:

- the application of a conversion factor established by the Minister and published in an Order made under section 71Z of the Act that protects environmental water, domestic and stock rights, native title rights and the reliability of supply to all other access licences in this water source (see Note 1 below); and
- the volume of water in the existing access licence water allocation account being equal to the maximum sum of available water determinations permitted (100 per cent).

Note 1: Water access licences for only three water sources have been gazetted under the above provisions (the Hunter, Murray and Murrumbidgee water sources) as eligible for the conversion.

CONCLUSION

NSWIC believes that even though conversion of licences is presently not permitted, a robust policy to deal with conversion needs to be created. Developing a thorough understanding of the capacity within a system to support one category of licence over another is required prior to any conversion being allowed.

This must include an impacts and benefits analysis for all other licence holders in the system.

⁸ Issued by David Harriss (DWE) on 01 July 2008 – NSW Government Gazette 04 July 2008

These requirements must apply to all entitlement holders, regardless of the designation of the licence or the intended use.

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Impacted Property Rights Policy

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Introduction

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Executive Summary

NSWIC and its members have long been interested in programs and policies which impact on Water Access Licence holders' property rights in NSW. This interest has manifested at both State and Commonwealth level.

Significant work has been undertaken to establish processes by which an affected property right is compensated. Immense challenges have resulted from continued alteration of program design.

NSWIC believes that incremental changes to program design have been evolutionary in nature and have progressed closer to a satisfactory outcome. In light of that belief, Council now calls for a full and final step toward recognition of Water Access Licenses as an indefeasible property right which, when affected, must be met with full market value compensation.

Background

Water Sharing Plans

In NSW, Water Sharing Plans (WSP's) under the *Water Management Act* (NSW) 2000 commenced the process of reduction in entitlement reliability, primarily explained as a transition to sustainability.

A Water Sharing Plan (WSP) is a legal document creating rules by which water will be shared by all water users. This includes the environment, town supply, stock and domestic, industry and irrigation.

The plans, which last for ten years, determine how water is allocated between water users including a specific portion protected for the environment (planned environmental water) and another portion committed from recovery projects or the purchase of licences (adaptive environmental water).

Irrigators faced reductions in their reliability due to a change in the share distribution. That is not to say the irrigators do not agree that the environment needs to obtain a share, but it was at a great expense to their business.

There was no compensation provision written into the WSP to compensate for a change in reliability as a result of a reduction in reliability of shares within the WSP.

Risk Assignment Principles

The introduction of the Risk Assignment Principles within the National Water Initiative (NWI) formalised concepts of liability and attached shares of that liability pool variously to license holders, State and Commonwealth Governments. Whilst variations to the quantum and attachment of that liability ensued, the principle of a compensable right was essentially formed.

The NWI of 2004 introduced the concept of Risk Assignment. This Inter-Governmental Agreement was part of outcome of a Council of Australian Governments (COAG) meeting and executed by all States⁹.

The stated objective of the NWI was:

“Full implementation of this Agreement will result in a nationally-compatible, market, regulatory and planning based system of managing surface and groundwater resources for rural and urban use that optimises economic, social and environmental outcomes...”¹⁰

Achieving this included:

“statutory provision for environmental and other public benefit outcomes, and improved environmental management practices;”¹¹

“complete the return of all currently overallocated or overused systems to environmentally-sustainable levels of extraction;”¹²

“clarity around the assignment of risk arising from future changes in the availability of water for the consumptive pool;”¹³

The introduction of Risk Assignment noted the premise that in 2014 (when all WSPs expire in NSW) there needed to be clarity around liability for future changes in availability to the consumptive pool. The NWI did not provide detail around the implementation of risk assignment, but stated that the *“risk assignment framework is intended to apply to any future reduction in the availability of water for consumptive use, that are additional to those identified for the purpose of addressing known overallocation and/or overuse”¹⁴* and also states *“a pathway for dealing with known overallocation and/or overuse has been agreed.”¹⁵*

⁹ Tasmania joined the agreement in '05 and Western Australia in '06.

¹⁰ Point 23 of the NWI.

¹¹ Objectives sub-point (iii)

¹² Objectives sub-point (iv)

¹³ Objectives sub-point (vi)

¹⁴ Point 46 of the NWI.

¹⁵ Point 47 of the NWI.

For full details on our Risk Assignment policy, please see the “NSWIC Policy for Application of Risk Assignment Principles.”¹⁶

Achieving Sustainable Groundwater Entitlements

The Achieving Sustainable Groundwater Entitlement program (ASGE) across NSW further entrenched the concept of compensation, but at levels not associated (nor referenced to) market value.

The program (2005) was designed to assist groundwater users in the Upper and Lower Namoi, Lower Macquarie, Lower Lachlan, Lower Murray, Lower Gwydir and Lower Murrumbidgee groundwater sources to manage a reduction in their entitlements through the provision of an *ex gratia* payment.

The programs aim was to reduce the use of groundwater in each aquifer to a sustainable level. Funded by both the Commonwealth and NSW Governments, it was not originally designed to compensate groundwater users for their losses. However, with industry involvement, both the Commonwealth and NSW Governments invested \$60 million each to the program specifically for compensation.

The program implemented a reduction in the entitlement (licence) on a valley by valley basis. This permanently affected the actual property right, not the allocation against the property right.

Compensation was provided based on history of use and divided from a pool allocated to each aquifer. Acknowledging that these imposed changes required compensation to be paid was a big step forward. The value of the compensation paid however was well below market value.

Purchasing Programs

Recent programs aimed at acquiring entitlement-based water for environmental use (including the NSW Governments “Riverbank” and the Commonwealth “Restoring the Balance”, for example) are both aimed at obtaining entitlement from water access licence holders through direct market interaction. The result is, essentially, compensation for entitlement reduction at market value.

The NSW RiverBank was a five year program announced by the NSW Government in 2005. The program set aside \$105 million to buy water entitlements from willing sellers for the most stressed and valued inland rivers and wetlands.

This was considered an innovative new way of obtaining water for the environment by becoming a licence holder and managing these entitlements for the benefit of the rivers and wetlands.

To date the program has obtained over 32,000 ML¹⁷ at market value from the Macquarie, Gwydir, Lachlan and Murrumbidgee Valleys.

¹⁶ Published in draft form presently and available by contacting NSWIC.

¹⁷ Obtained from NOW website (16 Feb 10)

As part of the Commonwealth Governments Water for the Future program, *Restoring the Balance in the Murray-Darling Basin* is a \$3.1 billion investment to purchase water entitlements from willing sellers.

Purchases under *Restoring the Balance* program will be managed by the Commonwealth Environmental Water Holder (CEWH). The purpose of acquiring water access licences is to use this water to manage the environmental assets identified in the Basin Plan.

The CEWH has purchased 563,544 ML (as of January 2010¹⁸) of entitlement. These entitlements were purchased through market mechanisms at a market determined price.

Conclusion

There is a clear progress of how environmental water is being obtained, how compensation is being recognised and how that payment is being valued. NSWIC believes that this progress ought be heeded and continued to a final step which recognises the necessity to compensate when entitlements are affected, either in reliability or quantum, at a market determined value.

NSWIC believes that the market is the best place for those wanting to obtain water entitlements to act. This ensures that water is taken from those who are willing, allows for targeting of the asset required and provides a market-determined price as compensation.

In the absence of a market mechanism being used, the market price should still be the benchmark for compensation to be paid.

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¹⁸ MDBA website as of 16 Feb. 10



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Water Shepherding Policy

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Introduction

NSW Irrigators' Council (NSWIC) represents more than 12,000 irrigation farmers across NSW. These irrigators are on regulated, unregulated and groundwater systems. Our Members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries.

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Executive Summary

Water shepherding involves the movement of parcels of water through unregulated systems to the benefit of a single user. The potential introduction of water shepherding is of significant interest to NSWIC.

Protecting a parcel of water for delivery to another extraction point without affecting other users is both nigh impossible and, if only available to environmental users, will fundamentally alter the characteristics of those entitlements.

NSWIC has long maintained – and the Commonwealth have provided commitments that – the characteristics of entitlements will not alter when purchased for environmental use¹⁹.

This policy document was created to ensure stakeholders are aware of the details involved in water shepherding and the potential consequences of such action. It was developed in response to negotiations between the State of NSW and the Commonwealth agreed in 2009 and continue in 2010²⁰.

NSWIC believes that shepherding is inappropriate as it will advantage one class of user over another and potentially result in disadvantages to some users. NSWIC recognises the need for water to move from unregulated to regulated systems as part of sustainability measures Basin-wide. We believe that this will be best accommodated by developed a trading system, if possible, within unregulated systems and between unregulated and regulated systems that all users can access.

¹⁹ DEWHA – Review of the 2007-08 Water Entitlement Purchases – section 1.4.2.

DWE Proposal to enable environmental water entitlements acquired in the Darling River at Toorale Station, to be diverted downstream of the Menindee Lakes – March 2009 (page 9).

DEWHA – Commonwealth Environmental Water Holder 2009-10 Business Plan

Water Act 2007 – Schedule 3 – Basin water market and trading objectives and principles

²⁰ MoU in relation to water for the environment signed 22 Sept 09 The Honourable Julia Gillard MP (Acting PM at the time) and 23 Sept 09 The Honourable Nathan Rees MP

Background

NSWIC expressed concern when a “trial” shepherding arrangement was agreed to by the NSW Office of Water (NOW) (Department of Water and Energy at the time) and the Commonwealth to move unregulated water from Toorale in the Northern Darling to South Australia for environmental purposes in 2009.

The NSW and Commonwealth Governments have now entered into a Memorandum of Understanding (MoU) in relation to water for the environment to negotiate a bilateral agreement for consideration by Ministers which includes a section on shepherding of environmental water.

Toorale Shepherding Details

The Toorale arrangement involved the issuing of a “zero entitlement share Water Access Licence” in the NSW Murray water source. This licence meant it had no access to general or high security allocation but instead had an amount of water (11,400 ML) credited to it. This volume was calculated on assumptions as to what volume Toorale would have extracted in the operating conditions that prevailed prior to the Commonwealth purchase of the property. NOW then facilitated delivery of the water (minus calculated and later readjusted system losses) for environmental purposes in the Murray Valley or transfer a designated volume as determined by the Commonwealth Environmental Water Holder (CEWH).²¹

This event was identified as a test and was only possible due to a range of localised and unique factors, including:

- no active licences located between Toorale and the Menindee Lakes; and
- the ability for NOW to control the release from Menindee Lakes so as not to trigger licences between Menindee and the NSW – VIC border.

The unique conditions which allowed this shepherding event to take place still required certain special arrangements to complete it. Of note is the issuing of a zero share licence in a system which is variously recognised as “over allocated” or at full allocation and the exclusion of the water that entered the Menindee system from the interstate water sharing agreement.

Although the process appears to have been accurately implemented, the concern is the precedent that this has now set. If water from Queensland was to be sent through NSW for delivery to South Australia it would have to comply with WSP through the areas it passed. A shepherding arrangement such as the one for Toorale would bypass these regulations and therefore affect entitlement holders in each area.

Flow Rate Thresholds

The nature of an unregulated river system is the lack of structures to control the river flow. WAL holders access their entitlement when certain flow rates (water quantum or river

²¹ Information from DWE Proposal to enable environmental water entitlements acquired in the Darling River at Toorale Station, to be diverted downstream of the Menindee Lakes – March 2009.

height) are met. Water is then extracted and used immediately or stored in on-farm in dams until needed.

Flow-rate thresholds are set at various levels in unregulated rivers depending on the river system and the location of the entitlement on it. WAL holders have a specific maximum daily volume allowed or possibly a maximum storage volume limit²². In some systems there are multiple thresholds on an individual licence, each threshold specifying a different volume and commencement threshold depending on the levels. Announcements are made daily when an event occurs.

Due to the irregularity of these events, a water shepherding arrangement with sufficient volume could trigger such threshold levels. The arrangements required to then protect this water from extraction would be immense and must necessarily have third party impacts.

Memorandum of Understanding

A MoU was signed between NSW and the Commonwealth Government and has agreed to the following²³:

31. The parties agree that the benefits of investing in water for the environment can only be fully realised if water rights can be used in an optimal way to meet priority needs.

32. To implement the commitment made by their respective water ministers to negotiate a bilateral agreement to ensure that all water for the environment can be protected from access by downstream consumptive users, the Commonwealth and New South Wales agree that:

- a. A joint taskforce comprising officials from NSW and the Commonwealth, funded by the Commonwealth, will develop a draft bilateral agreement for consideration by Ministers by 30 November, which provides for water shepherding in NSW.
- b. The bilateral agreement will establish principles for water shepherding and its implementation including:
 - i. Scope, terms of reference and resourcing for the ongoing work of the joint task force.
 - ii. Provisions for shepherding throughout NSW and from the Queensland border, for environmental water held by the Commonwealth;
- c. The objective of the agreement is to optimise the use of all water for the environment, to provide the capacity to deliver water to high priority environmental assets, and, in the case of in-stream environmental watering, to provide protection for environmental flows to pass through the system as far as transmission losses allow.
- d. NSW undertakes to implement the agreed water shepherding strategy subject to;

²² Flood Plain Harvesting Licenses under development by NSW Government.

²³ MoU in relation to water for the environment signed 22 Sept 09 The Honourable Julia Gillard MP (Acting PM at the time) and 23 Sept 09 The Honourable Nathan Rees MP

- i. Commonwealth funding of costs associated with implementation (including costs arising from modelling, monitoring, operational, licensing or compliance issues), in excess of those incurred by NSW in meeting its statutory obligation to manage water in NSW; and implementing existing commitments under the NWI and the Intergovernmental Agreement on Murray-Darling Basin Reform
 - ii. Entitlements and allocations held by water users in NSW will not be enhanced nor diminished as a result of environmental watering actions and shepherding for environmental watering.
- e. In the period before permanent arrangements are agreed:
 - i. NSW will endeavour to shepherd Commonwealth holdings for environmental watering acquired by purchase or investment in infrastructure by the Commonwealth; and
 - ii. The Commonwealth will fund the costs associated with this shepherding (including costs arising from modelling, monitoring, operational, licensing or compliance issues), in excess of those incurred by NSW in meeting its statutory obligations to manage water in NSW; and implementing existing commitments under the NWI and the Intergovernmental Agreement on Murray-Darling Basin Reform.

At the time of writing no bilateral agreements are in place.

Conclusion

We understand that water purchased for the environment needs to be moved to assets which will be identified in the Basin Plan. We cannot agree with arrangements that impact on other entitlement holders and changes the characteristics of a licence.

Any water shepherding arrangements that are applicable only on the basis of whom the holder is, is fundamentally a change in the characteristics. The ACCC Water Trading Rules (draft advice)²⁴ won't allow negative discrimination based on the identity of the entitlement holder, so it would be improper for positive discrimination based on the holder to be mandated.

NSWIC may not oppose shepherding or, more specifically, trade within unregulated and between unregulated and regulated systems, if two preconditions are met:

1. It is available to all holders; and
2. There is no negative impact on any third party.

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²⁴ Water trading rules draft advice – <http://www.accc.gov.au/content/index.phtml/itemId/906693>



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Basic Landholder Rights

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Introduction

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Executive Summary

Basic Landholder Rights (BLR) refers to the taking of water for stock and domestic use without the requirement for a license.

NSWIC recognises and supports this right, but calls for it to be adequately managed in order to:

- (a) Properly manage the resource base from which it is drawn; and
- (b) Ensure that the resource base is not abused.

Background

Replacing the *Water Act 1912*, the *Water Management Act 2000 (WMA)* introduced Basic Landholder Rights (BLR) as a replacement for Riparian Extraction. This change maintained the right of those adjacent to rivers, estuaries, lakes or aquifers underlying the land to extract water for domestic and stock use without a licence. It does not, however, specify how much water can be extracted.

Definition of “Basic Landholder Rights”²⁵

Domestic and Stock Rights – An owner or occupier of a landholding is entitled, without the need for an access licence, water supply work approval or water use approval:

- To take water from any river, estuary or lake to which the land has frontage or from any aquifer underlying the land, and
- To construct and use a water supply work for that purpose, and
- To use the water so taken for domestic consumption and stock watering, but not for any other purpose.

This does not authorise a landholder to construct a dam or water bore without a water supply work approval.

Domestic Consumption, in relation to land, means consumption for normal household purposes in domestic premises situated on the land.

Stock Watering, in relation to land, means the watering of stock being raised on the land, but does not include the use of water in connection with intensive animal husbandry.

MEASURING OF BLR

NSWIC maintains a basic philosophy; *“if you can’t measure it, you can’t manage it.”*

Presently a works approval is not required when accessing BLR²⁶. The result is that there are no accurate records of how many BLR pumps exist, no restrictions in place for pump size or pipe size and no requirement for meters to measure the amount of water taken.

With no effective management of BLR, the water is accrued to losses rather than usage. Operational losses are increased not only by the water extracted for BLR but also by the water required to run the river and / or creeks to deliver BLR. This skews data on the river meaning less water being available for Available Water Determinations (AWD’s).

NSWIC submits that an accurate understanding of capacity and extraction of BLR is required in order to manage our river systems for the benefit of all users.

²⁵ *Water Management Act 2000* – Section 52, Chapter 3, Part 1, Division 1

²⁶ Landholder not authorised to construct a dam or water bore without a works approval.

Furthermore, NSWIC is cognoscente of the requirement to comply with National Water Initiative principles. We submit that adequately *managing* the water resource committed to BLR provides such compliance.

REASONABLE USE GUIDELINES

Contents

NSWIC submits that the establishment and enforcement of a set of Reasonable Use Guidelines (RUG) is a vital part of implementing a BLR policy. We note that, subsequent to amendments to the Act in 2008, this enforcement is now jurisdictionally possible.

A formula for assessing how much water is required for reasonable use must be developed in consultation with stakeholders. Guidelines for both what *is* and what *is not* reasonable use must then be published for a reasonable period prior to enforcement.

Basis of Determination

NSWIC recognises that the reasonable use amount can be set in a number of ways, primarily by megalitres per hectare or pump and/or pipe size.

Whilst we recognise that either of these would best be managed by a requirement for metering, NSWIC submits that the significant expense that would be incurred by such a measure would not justify the benefit accrued. For that reason, we do not support a requirement for metering of all stock and domestic water.

Where stock and domestic water is taken through works that are metered (such as an irrigation pump), the BLR should be measured through such means.

We submit that defining a BLR by pump and/or pipe size may not adequately address the range of issues that water resources will face in coming years, including effective management, subdivision of property and shortage of available resource. For that reason, we submit that a RUG be set on the basis of megalitres per hectare (land area and variables relating to rainfall and land use).

For the purposes of defining the entitlement, we note that they could be issued by *property* or by *works approval*. NSWIC submits that the former is the only logical determinant as it relates to the size of the property which, in our submission, ought be the basis of the BLR. Even in the event of pump or pipe size being the determinant of the BLR, multiple works approvals may exist on one property potentially significantly affecting the volume taken as a BLR.

Enforcement

NSWIC reiterates that it does not support metering of all stock and domestic use, but instead supports the effective monitoring of RUG.

To assist in enforcement, a register should be created where all landholders who have any works extracting BLR are required to register them with DWE. This is not a license, merely a means of tracking all points where BLR is extracted.

Where non-compliance with the RUG is reasonably suspected, NSWIC supports the requirement for a meter to be fitted *without expense to the water user*. In the event that subsequent monitoring of the meter shows a breach of the RUG, the costs of installation and monitoring should be levied against the offending user. Revenue from fines for misuse should be directed toward installation and monitoring to ensure no net increases in cost to water users.

Longer Term

The NSW Irrigators' Council appreciates that national water initiatives will mean that, over time, all water extractions will be the subject of metering.

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