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SUBMISSION

NSW Natural Resource Commission 2018-19 Water Sharing Plan Review

*Review of the Barwon-Darling Unregulated and Alluvial
Water Sources 2012*

March 2019



Preamble

The NSW Irrigators' Council (NSWIC) is the peak body representing irrigation farmers and the irrigation farming industry in NSW. Our Members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries. Through our members, NSWIC represents over 12,000 water access licence holders in NSW who access regulated, unregulated and groundwater systems.

NSWIC engages in advocacy and policy development on behalf of the irrigation farming sector. As an apolitical entity, the Council provides advice to all stakeholders and decision makers.

Irrigation farmers are stewards of tremendous local, operational and practical knowledge in water management. With over 12,000 irrigation farmers in NSW, there is a wealth of knowledge available. To best utilise this knowledge requires participatory decision making and extensive consultation to ensure this knowledge can be incorporated into best-practice, evidence-based policy. NSWIC and our Members are a valuable way for Governments and agencies to access this knowledge.

NSWIC welcomes this public exhibition as an opportunity to share local, practical and operational knowledge and expertise in water management. NSWIC offers the expertise from our network of irrigation farmers and organisations on an ongoing basis to ensure water management is practical, community-minded and follows participatory process.

Scope of the Review

This submission represents the views of the Members of NSWIC with respect to the *review of the Barwon-Darling Unregulated and Alluvial Water Sources 2012*. Each member reserves the right to independent policy on issues that directly relate to their areas of operation, expertise or any other issues that they deem relevant.

Under s.43A of the *Water Management Act 2000*, NRC is to provide advice to the Minister on:

- the extent that water sharing provisions have contributed to environmental, social and economic outcomes; and
- whether changes to those provisions are warranted.

NSWIC understands that NRC are specifically asking the extent to which the WSP is meeting its objects and aligns with the objectives of the Water Management Act 2000; and whether the WSP can better contribute to environmental, social and economic outcomes. NSWIC note that water source connectivity will also be a key focus of the review in recognition of the connected nature of the waterways of the northern Basin. These questions are addressed in the key points below.



Overview

NSWIC recommends that NRC advises the Minister that:

- **Water availability is the largest hindrance for realising the objectives** of the Barwon-Darling WSP (environmental, economic and social). The lack of water available restricts the WSP from reaching its potential across every objective, and also restricts the connectivity of the system.
- **Irrigation farming is well below cap levels** - The cap limit of 189GL is under-utilised by irrigation farmers because the water simply isn't there. The current amount is 111GL, just 59% of the cap amount of 189GL.
- **Water availability to irrigation farmers is in continual decline** - Claims that the WSP has allowed irrigation farmers to use more water are simply untrue. Irrigation farmers have less water than ever before, due to both the extensive drought, and the continued reforms which reduce the water available for farming.
- **Lack of understanding of the WSP** - There is a lack of understanding about how the WSP operates. This has serious social impacts on irrigation farmers and rural communities, including their mental health, as they are the target of bullying and vilification by media. Greater explanatory materials are needed to foster public confidence in the system, and to prevent misinformed public opinion leading to misinformed policy decisions with real and severe impacts on rural communities.
- **Review must follow due process with no bias or prejudicial outcome** - The early commencement of this review, as explained by the public interest in the recent fish deaths, must not lead to a prejudicial or biased outcome. NSWIC notes that the *Vertessy Assessment* found that the majority of impacts from extraction on Menindee inflows, and therefore Menindee Lake volumes, are not from the Barwon-Darling itself. A holistic and expansive approach is needed to understand the complexity of issues, which have varying degrees of relevance to this particular WSP.

Introduction

The Barwon-Darling River

The Barwon-Darling is an episodic, ephemeral, largely-unregulated river which runs very low or very high. The river system experiences extreme variances in flows. Flows at Bourke vary from zero to 500,000 ML/day. Since the Barwon-Darling is an unregulated system (meaning there is no dam at the headwater), farmers rely on natural flows, and their water access is directly related to the climate.

Due to these climatic extremes, irrigation farmers have adapted by building on-farm storages to capture water when it is available and store it for times of drought. This allows irrigation farmers to be responsive to climatic variations by evening out water supply and availability. This also reduces environmental pressures, as irrigation farmers are demanding less water from the river during dry periods, as it has been stored from wet periods.



Current state of the Barwon-Darling River

The Barwon-Darling remains on cease to flow conditions, meaning there are no diversions currently occurring, and there hasn't been for some time.

Barwon-Darling irrigation farmers have not been able to pump water for over 12 months, and irrigation farmers recently waived access rights during the last event where environmental water was put into the system. According to the WSP, water in the system would have triggered access rights, however, farmers acknowledged the ownership of that water to the environment. This shows there can be cooperative arrangements negotiated.

Early Commencement of the review

NRC review of WSPs is a statutory requirement under the *Water Management Act 2000*. Reviews are an integral component to continually improve practices and achieve the best possible outcomes. NSWIC strongly welcomes, and encourages, reviews for this purpose to increase transparency, opportunity for improvement through adaptive management, and to ensure objectives are achieved.

NSWIC note that the early commencement of the Barwon-Darling WSP review was a result of the "recent fish deaths in the Darling River and high public interest in the way that this WSP is operating".¹ Whilst it is critical that reviews are conducted in a timely manner to enable use of the best available information to contribute towards best-practice policy, extreme caution is needed to ensure media hype and, often misinformed, public opinion does not bias the accuracy of information. It is critical that the review remains objective and unprejudiced though due process.

NSWIC highlights that *The Independent Assessment of the 2018-19 Fish Deaths In The Lower Darling* by Professor Vertessy, found:

*"The analysis of extractions, mid-system flows, and tributary inflows into the Barwon–Darling suggests that the majority of impacts from extractions on Menindee inflows, and therefore Menindee Lake volumes, are from tributaries above the Barwon–Darling and not the Barwon–Darling itself."*²

This finding by Professor Vertessy is incongruent to the need to bring forward the review of the Barwon-Darling WSP. NSWIC welcomes the review, but believes this finding is an appropriate reminder of the need for a fact-based, non-prejudicial, and objective review.

NSWIC is also concerned that publication on the NRC website associating the recent fish deaths in the Darling River to the Barwon-Darling WSP may lead to unbalanced or misinformed comment being provided. In light of the findings by Professor Vertessy, and the current lack of water in the Barwon-Darling system (and thus lack of diversions) NSWIC believes this statement on the website is highly inappropriate and misleading.

¹ Natural Resource Commission, 2018-2019 Water sharing plan reviews "Review of the Barwon-Darling Unregulated and Alluvial Water Sources 2012" [Accessed 29 March 2019]. Available at: <https://www.nrc.nsw.gov.au/2018-2019-wsp-reviews>

²] Vertessy, R. (2019) "The Independent Assessment of the 2018-19 Fish Deaths In The Lower Darling – Interim Report" [p26]. Available at: <https://www.mdba.gov.au/sites/default/files/pubs/Independent-assessment-2018-19-fish-deaths-interim-report.PDF>



Key points

Need for improved communications, including of the long-term average annual commitment of water to the environment

Under the WSP, 94% of water is reserved for the environment (see part 4, Clause 17 of the plan). The remaining 6% is made up of diversions for irrigation, town water supplies, stock & domestic use and industrial use. This high level of reserved water for the environment was in place prior to the Basin Plan. Since the beginning of the Basin Plan, the Commonwealth government has acquired 32.6GL of the total 189GL of irrigation entitlement. This is increasing the percentage of water reserved for the environment to about 95%.

Extract from Barwon-Darling Unregulated Water Sharing Plan:

Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2012

Current version for 1 January 2015 to date (accessed 24 July 2017 at 12:41) Part 4 Clause 17

17 Establishment and maintenance of planned environmental water

(b) it is the long-term average annual commitment of water as planned environmental water in:

(i) the Barwon-Darling Unregulated River Water Source that results from the application of the long-term average annual extraction limit and compliance rules as specified in Division 1 of Part 6 of this Plan and the available water determination rules as specified in Division 2 of Part 6 of this Plan,

*Note: At the commencement of this Plan the **long-term average annual commitment of water to the environment** in the Barwon-Darling Unregulated River Water Source has been estimated to be 2,607 gigalitres per year made using the Barwon-Darling IQQM with system file LT92_30.sqq. This equates to approximately **94%** of the long-term average annual flow in this water source.*

The extent of diversions in the Barwon-Darling, according to published MDBA figures, is just 0.5% of all flows in the Basin, and less than 2% of total Basin diversions. For context, when the Menindee Lakes are full, they evaporate more than twice the Barwon-Darling cap in 12 months.

Furthermore, NSW only hands out the cap volume to irrigators and CEWH each year, so even with carryover, irrigation farmers on the Barwon-Darling can never reach their long term 93/94 cap levels. With another 32.6GL reduction from the 189GL cap since cap was established, and an imperfect trading system, it is not possible for Barwon Darling irrigation farmers to exceed cap.

The extremely high reservation of water to the environment in the Barwon-Darling (94%) has been respected by irrigation farmers in the area, who provide significant economic and social benefits to local communities using less than 6% of flows in the Barwon-Darling system. Irrigation farmers in this area recognise the importance of maintaining a healthy river, maintaining native flora and fauna, and ensuring connectivity of the river systems.

This, however, is incongruent to media commentary of recent times, which wrongly accuses irrigation farmers in this area for a lack of flows in the Southern system, even when clearly irrigation farmers in the Barwon-Darling are also without water. Consequently, it is the



position of NSWIC, that greater publication of information is needed to inform the public of water management practices, including the operation of WSPs, particularly the Barwon-Darling. Further, the Minister and Department must publicly back and support WSPs in order to foster public confidence in the management of the system. This would be aided by ensuring data (like the aforementioned) is made more transparent, accessible and available to the general public.

Impacts of Water Recovery

With the introduction of Sustainable Diversion Limits (SDL) for the Murray-Darling Basin Plan, the Barwon Darling SDL was set at the average annual long-term cap of 189GL (previously 523GL) less another 6GL local reduction under the Basin Plan. So far, the SDL reduction has been 32.6GL – more than 5 times the original reduction target. This has inhibited opportunities for farmers who have lost most of their water in the cap exercise to buy back to previous active levels. Furthermore, this over-reach in buybacks has restricted water trade.

Common misperceptions regarding pump size

There are many allegations that more water is being taken in the Barwon-Darling than has been previously. This is not the case. Many of these allegations originate from new legislation based on changes to pump size. This does not change the amount of water these pumps can extract.

It is understood that gazettal of the WSP effectively “turned on” the provisions of the *Water Management Act 2000* and turned off the provisions of the old Water Act. This meant that extractions would be regulated by volume and thresholds only, not also by pump size or irrigated area – as had been previously been the case. It effectively brings Barwon-Darling entitlements into the same volumetric licence regime that exist in other regions.

Under the new *Water Management Act 2000* – as is consistent with the National Water Initiative – “A” class licence holders could utilise any size pump that is legally installed, to access their water and draw their entitlement. However, they are still restricted by the same annual volumes as under the previous Act and the same thresholds. It is understood that the changes were not due to changes to the WSP, but due to the change from one Act to a new Act, consistent with NWI principles.

The size or capacity of the pump does not change the overall amount a licence holder is licenced to pump. Pump size does not allow more water to be taken. The only difference is, is that some of this “A” Class water is being taken at a different time.

In the making of the WSP, the rules concerning A Class access to water were not changed at all from the rules previously established by the *Barwon-Darling Environmental Flows Rules*. The same pumping threshold levels were included along with the same volumetric limits.

Loss of the “notwithstanding provision”

NSWIC notes that under the current WSP, B class irrigation farmers lost the opportunity to use the “notwithstanding” provisions previously attached to their licences, whereby access could be granted in a tight crop situation if rain has fallen and flows are already in the system.



Background

- Water sharing plans are statutory instruments that set out rules for how water is shared across a range of water users.
- The Barwon-Darling water sharing plan is due to expire in July 2022. However, it will be updated as part of the Water Resource Plan process required under the Murray-Darling Basin Plan.

Conclusion

NSWIC welcomes the NRC review to ensure objectives of the WSP are being met. We wish to highlight that the WSP is not a drought-proofing mechanism, and will not, and cannot, work to prevent drought (as this was never the intention – no plan can make it rain). The current severe drought significantly hinders the ability of the WSP to achieve its objectives.

NSWIC have concerns about the attribution of the Barwon-Darling WSP to recent fish deaths, as supported by evidence by Professor Vertessy in the Independent Review into the fish deaths, and as irrigation farmers in the Barwon-Darling continue to go without water themselves. NSWIC is saddened by the devastating fish deaths, but believes a blame game towards irrigation farmers who also have no water is inappropriate, insensitive and damaging.

NSWIC looks forward to viewing the draft report when it is made available for consultation mid year, at the same time as the public exhibition of the draft water resource plan.

NSWIC welcomes further discussions with NRC on any of the above issues.

Kind regards,

NSW Irrigators' Council.