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SUBMISSION

WaterNSW Rural Bulk Water Prices Length of Determination from 1 July 2021

August 2020



Introduction

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 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 more than 12,000 irrigation farmers in NSW, a wealth of knowledge is available. Participatory decision making and extensive consultation 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 offers the expertise from our network of irrigation farmers and organisations to ensure water management is practical, community-minded, sustainable and follows participatory process.

NSWIC welcomes this opportunity to provide a submission on the Draft Report for the *WaterNSW Rural Bulk Water Prices - Length of Determination from 1 July 2021*.

NSWIC sees this as a valuable opportunity to provide expertise from our membership to inform the Inquiry. 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.

NSW Irrigation Farming

Irrigation farmers in Australia are recognised as world leaders in water efficiency. For example, according to the Australian Government Department of Agriculture, Water and the Environment:

“Australian cotton growers are now recognised as the most water-use efficient in the world and three times more efficient than the global average”¹

“The Australian rice industry leads the world in water use efficiency. From paddock to plate, Australian grown rice uses 50% less water than the global average.”²

Our water management legislation prioritises all other users before agriculture (critical human needs, stock and domestic, and the environment), meaning our industry only has water access when all other needs are satisfied. Our industry supports and respects this order of prioritisation. Many common crops we produce are annual/seasonal crops that can be grown in wet years, and not grown in dry periods, in tune with Australia's variable climate.

Irrigation farming in Australia is also subject to strict regulations to ensure sustainable and responsible water use. This includes all extractions being capped at a sustainable level, a hierarchy of water access priorities, and strict measurement requirements.

¹ <https://www.agriculture.gov.au/ag-farm-food/crops/cotton>

² <https://www.agriculture.gov.au/ag-farm-food/crops/rice>



NSW Irrigators' Council's Guiding Principles

Integrity	Leadership	Evidence	Collaboration
Environmental health and sustainable resource access is integral to a successful irrigation industry.	Irrigation farmers in NSW and Australia are world leaders in water-efficient production with high ethical and environmental standards.	Evidence-based policy is essential. Research must be on-going, and include review mechanisms, to ensure the best-available data can inform best-practice policy through adaptive processes.	Irrigation farmers are stewards of tremendous knowledge in water management, and extensive consultation is needed to utilise this knowledge.
Water property rights (including accessibility, reliability and their fundamental characteristics) must be protected regardless of ownership.	Developing leadership will strengthen the sector and ensure competitiveness globally.	Innovation is fostered through research and development.	Government and industry must work together to ensure communication is informative, timely, and accessible.
Certainty and stability is fundamental for all water users.	Industry has zero tolerance for water theft.	Decision-making must ensure no negative unmitigated third-party impacts, including understanding cumulative and socio-economic impacts.	Irrigation farmers respect the prioritisation of water in the allocation framework.
All water (agricultural, environmental, cultural and industrial) must be measured, and used efficiently and effectively.			Collaboration with indigenous nations improves water management.



Overview

NSWIC does not support the proposal for a 1-year determination period.

NSWIC prefers that the determination period adheres to the established 4-year due process.

Key points for consideration are:

- The request for the shorter determination period did not come from water users, but rather, from WaterNSW.
- NSWIC is highly concerned that WaterNSW has made this proposal simply because it is under-prepared for a full determination.
- The WaterNSW Rural Bulk Water Pricing Determinations follow a regular established process which provides predictability and certainty to water users. NSWIC does not feel there is sufficient justification to deviate from this due process.
- There is no reason why WaterNSW should not be able to forecast its future efficient costs with certainty. NSWIC does not accept that WaterNSW would be in a materially better position in 12 months time, compared to now.
- Water users prefer the certainty, predictability and transparency of adhering to the 4-year due process.
- Consultation on this proposal has been inadequate – water users were ‘informed’ rather than ‘consulted’ and were not provided with detailed information on the reasons, pros/cons, and impacts of the proposal to facilitate water users reaching an informed position.
- There are outstanding concerns with the proposed Customer Jury process – the 4-year period allows time to properly resolve these concerns and develop improved methods of consultation.
- Determinations require significant resources from water user representative organisations which have limited resourcing.

NSWIC fully respects the intent of WaterNSW to support water users during what has been an incredibly difficult period of drought and major water reforms. However, the WaterNSW proposal does not reflect the views of water users, and whether this proposal would in fact serve the interests of water users is highly uncertain.

Whilst our preference is to adhere to the standard 4-year determination period, we note a number of matters that require consultation with water users to reach resolution, before they get locked in. NSWIC calls on IPART to lead consultation on these matters (e.g. fee structures, mechanisms to deal with variability, risk transfer product, etc) as part of the Issues Paper consultation period.

More broadly, NSWIC has significant concerns about WaterNSW’s consultation approaches, as outlined in this submission.

NSWIC thanks IPART for its engagement, particularly the meeting in early August with NSWIC to discuss these matters. NSWIC is also thankful for the highly informative Fact Sheet, which has been a valuable resource during this consultation.

Recommendations:

- (1) IPART reject the proposal for a 1-year determination period.
- (2) IPART lead consultation with water users on key matters (e.g. fee structures, mechanisms to deal with variability, risk transfer product, etc) as part of the Issues Paper consultation period.



Background

WaterNSW Rural Bulk Water Price Determinations are typically for a 4-year determination period. WaterNSW has instead proposed a 1-year determination period, on the basis of: needing to consult more closely with water users about water supply needs before setting prices for a longer-term period; that its pricing proposal would mitigate drought and COVID-19 impacts; and, allowing incorporation of Broken Hill pipeline services.

Prices for inland rivers in NSW are determined using a different approach to that for coastal valleys. Inland valleys follow the Commonwealth Government's *Water Charge (Infrastructure) Rules 2010* (WCIR), whereas coastal valleys follow the *NSW Independent Pricing and Regulatory Tribunal Act 1992* (the IPART Act).

These current arrangements are transitional, and the ACCC will shortly determine whether the WCIR will continue to apply. This decision will be prior to the next determination (regardless of whether in 1 or 4 years). The outcomes could be either:

- If WCIR discontinues – IPART will set prices under the IPART Act instead of the WCIR (like coastal valleys), giving IPART greater discretion in price setting.
- If WCIR continues – the ACCC will be responsible for setting prices using WCIR at the next review.

Under a 1-year determination period, there would be two steps:

1. IPART would set prices for 1 July 2021 – 30 June 2022 under WCIR.
2. IPART (or potentially the ACCC) would set new prices for 1 July 2022 onwards, based on a further review.

Submission

Consultation

The request for a 1-year determination period did not come from water users.

Water users were informed in October 2019 that WaterNSW intended to apply to IPART to defer the 4-year determination for 1 year, and then in February 2020 water users were informed that WaterNSW were proposing a 2-year deferral.

Subsequently, it became known that under the WCIR, pricing determinations could not be deferred. Thus, there is a view that the 2021/22 submission by WaterNSW is essentially a deferral in the form/guise of a determination.

It has been reported to NSWIC that during the CAGs water users mostly did not question the idea of a deferral, as it was justified by WaterNSW on the basis of supporting water users during drought, and thus intended as a favour for customers. Information on the specific details of benefits and impacts, to facilitate weighing up the pros and cons, was not provided. The discussion was more 'for information' rather than 'for input/consultation'.

Whilst a 1-year determination would allow more time to consult on the next full determination, NSWIC is of the position that it would be very unlikely for any substantial/material changes to arise from further consultation through standard means, that have not already been raised.

More broadly, NSWIC have significant concerns that the consultation methods of WaterNSW are inadequate. These include:

- CAGs are not effective and require an overhaul.
- The proposed Customer Jury process has outstanding issues which are yet to be resolved (detailed below).



- The number and structure of consultative groups is overly complex and duplicative – e.g. CAGS, ROSSCos, Customer Jury.

Water users' significant concerns about the proposed Customer Jury process include: ensuring the composition of the Jury reflects the customer base; ensuring the Jury is appropriately informed to make informed decisions; the overlap/delineation between the Customer Jury/CAG/ROSSCos; and, the time commitment of those in the jury being unreasonable. A 4-year determination period would allow more time to work through these concerns and develop improved methods of consultation prior to the subsequent determination.

Established Process

The WaterNSW Rural Bulk Water Pricing Determinations follow a regular established process which provides predictability and certainty for water users. NSWIC does not feel there is sufficient justification to deviate from this process.

NSWIC is highly concerned that WaterNSW has made this proposal simply because it is under-prepared for a full determination. This is not acceptable – particularly given the timeframes and requirements are well-known in advance.

NSWIC respects that WaterNSW is considering the impacts of the difficult times, with extreme drought, bushfires, floods and COVID-19 all taking a toll on irrigation farmers. However, on the matter of COVID-19, this has only arisen in the past 7 months, and preparations for the determination should have been well underway. It also cannot be assumed that conditions will be better in 12 months' time. On the matter of drought, whilst this has of course been an incredibly difficult time for water users, we do not feel a 1-year determination period would aid this sufficiently to justify changing the determination length.

Ultimately, providing certainty and following due process is the preferred outcome for water users.

Forecasting Future Efficient Costs

NSWIC notes that IPART is specifically seeking stakeholder views as to whether WaterNSW would be in a materially better position to forecast its future efficient costs for 4-plus years in June 2021 (for a potential submission to a 2021-22 price review) than now.

NSWIC is of the position that WaterNSW would not be in a materially better position in 12 months' time, compared to now. Given this is a set process, with known timeframes, WaterNSW should have been prepared. It also cannot be assumed that conditions will have improved in 12 months' time.

WACC

NSWIC notes that IPART indicates that the Weighted Average Cost of Capital (WACC) in 2021 is likely to be significantly lower under the WCIR, then under the IPART Act, which may flow through to lower prices. Thus, if a 1-year determination is made, any lower prices resulting from a lower WACC, would only be in place for 1 year rather than 4 years. However, NSWIC is aware that this must be considered in the context of IPART having greater discretion under the IPART Act.

Resourcing

Pricing determinations are a resource-intensive process for water user representative organisations, whose resources are limited. Going through the determination process twice in a short period is not ideal, particularly given the possibility the outcomes may not improve.

Conclusion

NSWIC thanks IPART for seeking the views of water users on the length of the determination period, and for providing helpful information to guide this process. Ultimately, NSWIC has



come to the position that established arrangements should continue, and a 1-year determination period should not be permitted.

Please do not hesitate to be in contact if you have any questions, or would like any further information.

Kind regards,

NSW Irrigators' Council.