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SUBMISSION

Public Availability of Information Relating to Water Ownership and Water Trading

NSW DPIE-Water Public Consultation

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NSW Irrigators' Council

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 *Public Availability of Information Relating to Water Ownership and Water Trading*.

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.



Introduction

NSWIC is of the position that transparency of water ownership and trading information in NSW is vital to the integrity and public confidence of the water management framework in NSW, for both water users and non-water users. Transparency of this information is also a core commitment of NSW to meeting National Water Initiative (NWI) obligations.

Simplified public access to water availability and trade information is sought in general by both water market participants, and non-water market participants.

There is a significant amount of public information available on water ownership and trading. This consultation, for example, explores the multiple platforms in which this information is presented:

- NSW Water Register
- WAL Register
- Environmental Water Register
- WaterInsights Portal
- DPIE Water Information Dashboards:
 - Trade dashboard
 - Accounting Rules Summary dashboard
 - Allocations dashboard
 - Usage dashboard
 - Share component dashboard
 - Annual environmental shares summary dashboard
 - Held Environmental Water (HEW) dashboard
 - Planned Environmental Water (PEW) dashboard
- External sources.

NSWIC note that there are two drivers of demand for changes:

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There is a significant amount of public information available on water ownership and trading, and NSWIC is of the view that a significant component of the demand for greater information availability is driven by: (1) unawareness of what information is already available; (2) accessibility of information across multiple platforms that makes it timely and complex to locate; (3)

Government must find a balance between sufficient publicly available information for transparency, and the protection of privacy and personal/sensitive information.

This submission provides feedback as per the online survey³, addressing Parts 2 to Part 8. Background information is sourced from this survey.

³ https://app.smartsheet.com/b/form/0d68a4e6dcf541e29655bc7ce9046936?_hsmi=2&_hsenc=p2ANqtz-8ZqDCCbXDiArX76bJRhTRjSM2X0w9yf5JQh3DO2SMPrYD7_B62-C7o0uXEW5JZ_CiA-BewgQLbFwmrdoSWLBM23XNb2hclJIVMLYRxYA3XwzfXnPY



Overview

- There is a significant amount of public information available on water ownership and trading, however, people are largely unaware (i) that this information is available, (ii) where to find it, and (iii) how to interpret it owing to the complexities of the water management framework.
- Simplified public access to water availability and trade information is sought in general by water market participants.
- The ACCC investigation into Murray-Darling Basin water markets is also assessing public information availability, and water registers, and NSWIC hope the ACCC will provide expert advice on shortcomings, and recommendations to address them. NSWIC recommend adopting the reform options provided in the ACCC Interim Report regarding public information availability, as per our submission, such as through the development of a single information portal to collate information into a ‘single source of truth’. The NSWIC submission to the ACCC is available on our website.
- NSWIC support the development of a public water trade register that provides timely information on temporary and permanent trade at a valley level (both within valleys and between valleys/zones). However significantly more work is required to clearly identify the problem(s) and therefore the optimal solution.
- The largest problem with information availability in NSW, is misinformation availability, which presently is more readily accessible and left largely uncontested. NSWIC recommend that DPIE-Water must be pro-active and responsive to counter misinformation, alongside having the detailed information available.
- Given the well-documented level of mistrust in water information, NSWIC recommends DPIE investigate the option of establishing an ongoing independent expert panel responsible for information accuracy and verification.
- Any changes to information availability must ensure that privacy protections have due consideration, such as restricting access to sensitive personal information, and not limiting application of relevant privacy legislation.

Submission

ACCC

NSWIC note that the ACCC is currently conducting an inquiry into Murray-Darling Basin water markets, in which the terms of reference⁴ include many components relevant to this consultation, such as:

- *“(4) the availability to the public of information on water market activities and tradeable water right holdings;*
- *(5) the timeliness, accuracy, and completeness of public information released on water market activities and tradeable water right holdings, including true trade price reporting and the types of trade (for example, immediate purchases, forward contracts, leases);*

The ACCC Interim Report⁵ provides a range of findings and proposed reform options. These options include:

- Increase harmonisation across the Basin States’ registers through consistent terminology and data structures.

⁴ <https://www.accc.gov.au/focus-areas/inquiries-ongoing/murray-darling-basin-water-markets-inquiry/terms-of-reference>

⁵ <https://www.accc.gov.au/focus-areas/inquiries-ongoing/murray-darling-basin-water-markets-inquiry/interim-report>



- Each Basin State should be given a clear legislative mandate to keep a register to record all entitlement trades and all allocation trades.
- Each Basin State water register should be given a clear legislative mandate to provide information services based on registry data, and clear publication requirements should be specified (although detailed requirements should be specified in delegated legislation such that they can be changed from time to time as needed).
- A comprehensive and open digital protocol to enhance interoperability between Basin State approval authorities and registers, IIOs and exchanges, with the ability to securely transmit data, seamlessly interface between private exchanges, IIOs, trade approval authorities and registers, execute instructions, and automate collection, cleaning and publishing of water market information.
- An ASX-like approach of a single clearinghouse for administering trading (but connecting via interoperability protocols to trading platforms as overlays and different Basin State registers underneath).
- A single common register in which all water accounting for both trade and delivery (use) would be accounted for in the same, single system.

NSWIC support all of the above proposed reform options. The NSWIC submission on the Interim Report provides detailed commentary on all reform options, which we encourage DPIE-Water to refer to as part of this consultation.

Key recommendations made by NSWIC in regards to the Market Transparency section of the ACCC Interim Report include:

- ACCC to recommend the development of a **single information portal** to collate information into a 'single source of truth' for water availability and trades, or at minimum, consistency across state platforms
- ACCC to recommend **automation of trade processing** to allow for real-time data availability and price discovery. Standardisation of forms, harmonisation of terminology, structures and registers, are necessary steps to developing automated systems.
- ACCC to recommend each Basin State has a clear legislative mandate to develop a **public water trade register** that could provide timely information on temporary and permanent trade, at a valley or zone level.
- ACCC to pursue investigating the **ASX-like approach of a single clearinghouse** for administering trading as a medium-long term reform option, noting further investigation is required, including full disclosure of the potential costs associated with this option.
- ACCC to not recommend a single exchange platform, given it would lead to the creation of a monopoly, high transaction costs, remove flexibility for peer-to-peer trade, and have only one price for water in each market.

NSWIC refer to our submission on the ACCC Interim Report for more specific analysis.

Part 2 - NSW Water Register

Background:

The NSW Water Register provides free information about water licences, water use and works approvals, trade, licence dealings (e.g. subdivision or consolidation of a licence), environmental water holdings, and other matters related to water entitlement in NSW.

The NSW Water Register is a legislated instrument that is maintained and operated by WaterNSW.

It is accessible here - <https://waterregister.watarnsw.com.au/water-register-frame>



Privacy Protections

NSWIC note that at present, the information provided is limited to meet the requirements of section 57 of the *Privacy and Personal Information Act 1998*. This is critically important that registers remain subject to the relevant privacy legislation, in order to protect personal or sensitive information of those subject to it. NSWIC is aware of some recent interest in making registers searchable by a person's name – which we cannot support due to the significant privacy violation that would entail, and potential for vexatious behaviours, including exploitation of vulnerable market participants. Given the highly contested, and often toxic, context of water management, NSWIC would be concerned by the potential for direct targeting of certain members of the irrigation community, and this opportunity for personal attacks is unnecessary, unconstructive and could be highly damaging. NSWIC also note that most irrigation licences in NSW are held by small to medium businesses, and many are also held by senior citizens. Given water is a scarce resource, and highly sought after in many areas, there is risk that these vulnerable members could be exploited. This is because it would allow a direct path for interested buyers to contact those with holdings, potentially by-passing formal requirements, proper processes and protections. Further, NSWIC see no value or just cause that would warrant the risks of creating a search function by a person's name.

Part 3 - The WAL Register

Background:

The Water Access Licences System (WAL) Register provides additional detailed information not available on the NSW Water Register, specifically the name of the licence holder.

To search the WAL Register the relevant WAL number is required, with each search incurring a fee of approximately \$15.

The WAL Register is a legislated instrument that is maintained and operated by NSW Land Registry Services.

It is accessible here - <https://www.nswlrs.com.au/Public-Register/WAL-Register>

NSWIC note that there is a view that the WAL register should be free to use. We understand that the \$15 cost is aligned with a user-pays principle, and the need to cover the costs of maintaining the register. A free register would be an improvement for transparency, however, alternative cost-recovery approaches would need to be considered.

Part 4 - The Environmental Water Register

Background:

The Environmental Water Register provides detailed information about environmental water holders and their trades. It is supported by a range of tools to help understand environmental licences and shares in each water source.

This is administered by DPIE Water and it is accessible here - <https://www.industry.nsw.gov.au/environmental-water-register>

Part 5 - WaterInsights Portal

Background:

The WaterInsights Portal consolidates all NSW water information into a single, user-friendly platform. It provides real-time data on storage levels, allocations announcements, and water usage rules along with 30 years of historical data.



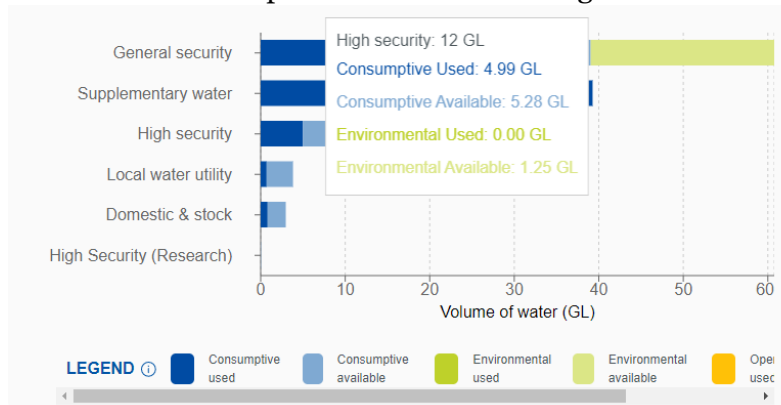
It is also being developed to include trade data. Improved functionality and new information products are being progressively introduced which will incorporate cyclic feedback from ongoing stakeholder consultation.

The Portal is administered by WaterNSW and it is accessible here - <https://www.waternsw.com.au/waterinsights/water-insights>

NSWIC is of the view that the recently created Water Insights Portal is a useful visual tool to bring together information across various valleys, and this has positively improved information accessibility.

NSWIC provides the following recommendations for how it could be improved:

- WaterInsights is not particularly mobile friendly, which is likely the most common form of access-device by water users.
- The channel capacity should be added for multiple points along rivers and creeks, as this indicates the maximum limit on the volume of water that can be efficiently delivered through that system. WaterInsights lists some river constraints, but not all.
- The figures for ‘Water Usage’ which positively includes environmental water, should represent both held and planned environmental water. At present, with only held environmental water shown, it would appear to those unaware of the existence of planned environmental water that irrigators use substantially more water than the environment, which is not an accurate representation. The later figures provided demonstrate this distinction, however, for the avoidance of any doubt, it is strongly advised that clarification is provided in this first diagram.



- Conveyance water volumes should also be included.
- Floodplain harvesting (FPH) should be included – this should include adding on-farm storage volumes (state-wide), as well as the volume of floodplain harvesting licences (when applicable) and the relevant rules, as is currently available for other licence categories. When flood events occur, the volume of floodplain harvesting take should be included, as well as the total volume of floodwater.
- Headwater storage data could include the percentage of the catchment captured by the storage and also the percentage of total valley flow.

Part 6 - DPIE Water Information Dashboards

Background:

DPIE Water publishes nine Water Information Dashboards that provide market participants with an easy way to understand the information that is contained in the NSW Water Register.



Users can view data by water source, licence category and trade types and can gain an understanding of trends in usage, trade and prices. Information is updated weekly.

The dashboards below mentioned are accessible here - <https://www.dpie.nsw.gov.au/trade-dashboard>

- *Trade dashboard*
- *Accounting Rules Summary dashboard*
- *Allocations dashboard*
- *Usage dashboard*
- *Share component dashboard*
- *Annual environmental shares summary dashboard*
- *Held Environmental Water (HEW) dashboard*
- *Planned Environmental Water (PEW) dashboard*

NSWIC is of the view that these dashboards provide useful information and are important to bring greater transparency. As general comments:

- NSWIC understands that these dashboards are updated weekly. Preferably, DPIE-Water should strive for real-time information availability, which is aligned with the recommendations of the ACCC Interim Report. Real time information availability should be made increasingly feasible with the rollout of telemetry.
- Extreme caution must be undertaken to ensure these dashboards are accurate and errors are avoided, as this data stands as the point of truth. NSWIC is aware of an issue in 2020 when new data volumes were added onto previous data volumes, rather than substituting for it, which led to a doubling of the figures. This error significantly undermined confidence in the data, which was deeply unfortunate given a high level of public interest in the event. NSWIC recommend these dashboards are subject to utmost accuracy, verification and review procedures to ensure errors are avoided.
- In any instance when figures represent entitlement volumes, there must be clarification of the volume of water that is not subject to an entitlement. At present, the usage dashboard for instance which shows volumes for each licence category, could be interpreted as representing the full water balance in that system. The remaining water that is not subject to a licence – e.g. planned environmental water – should also be shown to give the full picture. This could also be shown by indicating the percentage of water in that system is part of a licence category, and thus the percentage that is not subject to a licence category (and thus not applicable as part of the diagram).

Annual environmental shares summary

NSWIC has major concerns about the representation of this data. The information on this dashboard is only Held Environmental Water (HEW), and does not include Planned Environmental Water (PEW), which in many instances is the largest form of environmental water in a valley. This is a significant omission, which leads to environmental water shares being totally underrepresented, and makes the heading “Annual environmental shares summary” highly misleading.

This dashboard must be updated to include all forms of environmental water – both HEW and PEW – and thus the total ‘Enviro %’ must be updated accordingly.

As an example of the confusion this creates, information on the dashboard for the Barwon-Darling shows only 15% is for the environment (HEW). Conversely, the *Water Sharing Plan for the Barwon-Darling Unregulated and Alluvial Water Sources 2012* notes under “17 Establishment and maintenance of planned environmental water”:



*“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.**”*

This is a significant difference, and confusion such as this leads to misinformation, misunderstandings, and ultimately distrust in figures.

NSWIC is also of the view that grouping all ‘non-environmental’ water use into a single category is highly misleading, and not useful. NSWIC is concerned that people will assume this water is simply that component used by irrigators. Rather, all remaining ‘non-environmental’ water includes a diverse range of uses, such as water for river operations (conveyance, losses, etc), town water supplies, reserves, and others. As above, if this dashboard is to only focus on entitlements, this must be shown in the context of water not subject to entitlements.

Planned Environmental Water Dashboard

The Planned Environmental Water dashboard should also show the total volume of PEW for each valley each water year. At present, the dashboard has the data disaggregated into various accounts and balances for each valley. Whilst that information is also useful, there should be a simple overview of each valley also.

[Part 7 - Bringing all this information together](#)

Background:

The NSW Government recognises that there are multiple information sources available across NSW and the Murray-Darling Basin, which can make it difficult and time consuming for water users to find what they need to know to make informed decisions.

There is evidently a lot of public information available, however:

- Public information is spread across multiple platforms (and managed by multiple agencies), making it difficult and time consuming to find/access;
- People are generally not aware of what information is available, where to find it, and how to use the registers/dashboards;
- The complexity of water management leads to difficulties in people interpreting and understanding the information provided, and drawing correct conclusions from it;
- The prevalence of misinformation on social media is more accessible (and simpler to understand) than official information.
- A lack of harmonisation of terminology and measures across jurisdictions and areas adds to complexity. NSW must work with other states, particularly Basin states, to develop comparable terminology and metrics where possible.

NSWIC recommend adopting the reform options provided in the ACCC Interim Report regarding public information availability, such as through the development of a single information portal to collate information into a ‘single source of truth’.

Government will also need to be active in promoting the availability of information, as a perception that the information is not available leads to a perception of poor transparency, despite the information often being available. The NSW Government should be active and responsive in the media (including social media) to contest false claims and provide factual data, linking to sources such as these.



Part 8 - External sources of information

Background:

In addition to these sources of information, market participants can access water registers in other Australian jurisdictions, as well as registers held by NSW resource industries that may be relevant to understanding water market behaviour more broadly.

A table explaining each of these information sources is available in Appendix C of the Transparency Measures Consultation Paper prepared for the 2018 Water Reform Action Plan (<http://industry.nsw.gov.au/water-trades>).

Of note, is the Register of Foreign Ownership of Water Entitlements, which is managed by the Australian Taxation Office (ATO) and requires foreign persons to register their interests in registerable water entitlements and contractual water rights.

While management of foreign ownership is outside the jurisdiction of the NSW Government, we will compile and submit your feedback to the Commonwealth Government.

The Register of Foreign Ownership of Water Entitlements, managed by the Australian Taxation Office, is not widely known to exist. Given the significant public interest in foreign ownership of water, the availability of the data on this register should be widely published. Inclusion of this register in a ‘single source of truth’ so it is easy to find would be of great value.

Under the *Foreign Acquisitions and Takeovers Act 1975*, a ‘foreign person’ is defined, which includes individuals and entities with foreign ownership of 20 per cent or more. This means that there may be a significant portion of Australian equity in the same water entitlement. For this reason, it is important that the Register continues to capture the share of Australian investors’ equity in a water entitlement.

A limitation of the register is that the BOM Water Markets Dashboard does not capture water rights that are issued outside State Water Planning frameworks. In 2019, the volume of foreign held water entitlements attributed in the Water Register to water rights that are outside the State Water Planning frameworks was 17GLs. As the report itself states, “as the 17 GL is included in the tables in the Water Report 2019, the level of foreign ownership is marginally overstated”⁶. Overcoming this limitation would be beneficial to gauge a more accurate figure.

Conclusion

NSWIC and our members are available at your convenience, if you have any questions or would like any further information.

Kind regards,

NSW Irrigators’ Council.

⁶ <https://firb.gov.au/sites/firb.gov.au/files/2020-05/2019-rfo-water-entitlements.pdf>

