

# **SUBMISSION**

## **Water Act 2007 (Cth) review**

**August 2026**



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## Executive Summary

The Murray–Darling Basin has undergone substantial reform since the Water Act 2007 (Cth) was enacted. Sustainable Diversion Limits (SDL) are now in place, significant volumes of water have been recovered for the environment, and evidence from recent Basin assessments indicates that environmental outcomes have improved in several important respects. With SDLs now in place and the original water recovery targets largely met, it is now time to give greater effect to the triple-bottom line approach in the Act through integrated management and complementary measures.

The NSW Irrigators' Council (NSWIC) submits that this approach is consistent with the Water Act, which recognises that sustainable management of the Basin's water resources requires environmental objectives to be considered alongside economic and social outcomes. An updated Act should reflect the progress on water recovery and ensure management approaches that improve environmental outcomes without reducing the consumptive pool of water.

Having met the aims of the SDL targets, it is vital that the economic and social components of the Act are elevated. The irrigation industry and many regional communities have paid the price for the Water Act with considerable downturns in many rural and regional communities. NSWIC is confident that the environmental water volumes provide an adequate base on which to meet the Act's ecological objectives and calls for a move towards more integrated management.

NSWIC is wary of changes that will prescribe rigid requirements on state water planning frameworks. Water management in NSW is already well aligned with the principles of the National Water Initiative and Closing the Gap targets as they relate to water quality, water security, climate change and Aboriginal water. Further Commonwealth prescription, and therefore overreach, would not be supported.

The irrigation sector in NSW is at a tipping point after years of cumulative water reform at both the state and Commonwealth levels. This comes despite significant investment by irrigators in research, technology and more efficient water use, making irrigation in Australia among the most productive and sophisticated in the world. ABARES has shown that additional buybacks materially reduce agricultural output. As history shows, these farm-gate impacts also flow through regional economies, affecting the broader businesses and communities that depend on irrigated agriculture. The opportunity now is to build on this record of innovation and efficiency, giving irrigators and regional communities the confidence to keep investing, adapting and growing.

## Recommendations

- Greater acknowledgement of the need for integrated management of water for environmental sustainability outcomes.
- Strengthening the triple-bottom line component of the Water Act to ensure stronger consideration of economic and social outcomes.
- Decisions should be informed by the perspectives of all stakeholders, with no single interest given precedence over others.



- Panel to provide clear definitions for “Free, Prior and Informed Consent (FPIC), self-determination, water rights, unceded custodianship, gendered water decision-making processes” and outline how these would be applied to existing frameworks.
- NSWIC does not support incorporating the principles set out in UNDRIP into the Water Act.
- Include in the Act, the principle that all water entitlements should be treated equally and not enhanced or diminished relative to like entitlements.
- CEWH to actively ensure it minimises impacts on water market.
- Remove WESA from the Water Act.
- Simplify WRP accreditation to ensure the baseline environmental requirements are met but ensure that obligations are not onerous or restrictive.
- Modify the definition of PEW to allow NSW flexibility in its water management.
- No changes to the Water Act to incorporate climate change, as this is already included in state planning frameworks.
- The negative impacts of climate change are shared between all water users, including the environment.
- Maximise environmental outcomes through acknowledgement of the importance of complementary measures.
- Strengthen triple-bottom line approach to ensure economic and social outcomes are considered equally alongside the environment.
- Clearly acknowledge in Water Act, the importance of irrigated agriculture for economic outcomes.
- Current arrangements for water security are adequately handled by state governments; any Commonwealth encroachment risks duplication.
- Current arrangements for water quality are adequately handled by state governments.
- Jurisdictions to track cumulative impacts to water access reliability and provide this information on a public register.
- Recognition of importance of complementary, non-volumetric natural resource management measures in addressing environmental outcomes.
- Sections 28-34 of NWI or Outcome 7A of NWA to be included in the Water Act to strengthen water entitlement system.



## NSW Irrigators' Council Responses

### 1. To what extent have the objects of the Water Act been achieved?

NSWIC submits that the objects of the Water Act have been achieved, with the “re-balancing” undertaken through the Basin Plan now largely complete. A central objective of the Water Act was the implementation of the SDL, which was set at 2750GL (later revised to 2680GL). On current numbers, this 2680GL has already been recovered on aggregate. This encompasses:

- 2,062.2GL (Bridging the Gap surface water target)
- 246.3GL (450GL for enhanced environmental outcomes)
- 250-350GL (Sustainable Diversion Limit Adjustment Mechanism)
- 36.6GL (Bridging the Gap groundwater target)<sup>1</sup>

This gives a current water recovery tally of between 2,558.5GL-2,658.5GL. Given recent announcements by Federal Minister for the Environment and Water, Murray Watt to have recovered 400GL by the end of 2026, this would take the tally to 2712.2GL-2812.2GL.<sup>2</sup> These likely figures both exceed the 2680GL target in the Basin Plan and these volumes may increase further, depending on the eventual decision made on the SDLAM shortfall and the remaining 50GL of the 450GL.

Broadly speaking, the evidence from recent Murray-Darling Basin Authority (MDBA) reviews is that the Basin Plan is working from an ecological perspective. While NSWIC acknowledges that there is more work to be done to meet all environmental objectives, our view is that the current portfolio of environmental water is a sufficient base to meet the objectives of the Act and that the necessary solutions lie outside the realm of further water purchase.<sup>3</sup>

Objects (i) and (ii) of the Water Act spell out the need for sustainable levels of extraction “to protect, restore and provide for the ecological values and ecosystem services of the Murray-Darling Basin (taking into account, in particular, the impact that the taking of water has on watercourses, lakes, wetlands, groundwater and water – dependent ecosystems)”.

While the setting of the SDL was subject to much debate, and although it did not satisfy all parties, it was nonetheless informed by years of scientific modelling and has ultimately served as a basis on which to deliver reform. NSWIC does not support any adjustment to the Act that would seek to raise the SDL. Our view is that progress on environmental water recovery is sufficient to meet the needs of an ecologically sustainable level of take (ESLT).

### Findings from Sustainable Rivers Audit and Basin Plan review

On the back of the Basin Plan review and Sustainable Rivers Audit (SRA), MDBA Chair Daryl Quinlivan notes that “there is clear evidence of environmental sites such as wetlands and lakes responding positively to water for the environment”. The document notes that “the

<sup>1</sup> This 36.6GL has been excluded from contributions towards the 2680GL surface water target.

<sup>2</sup> [Major progress made towards Murray-Darling Basin water target, 18 June 2026.](#)

<sup>3</sup> The Commonwealth Environment Water Holder (CEWH) already has around 3,120GL of water, with the number to rise as more water is transferred from the 450 purchases.



condition of the Basin environment is better now than it would be if the Basin Plan were not in place”.<sup>4</sup>

The Sustainable Rivers Audit (SRA) also analysed cultural, environmental, social and economic indicators, with particular focus on ecological outcomes. While the findings are mixed and somewhat dependent on the prevailing climate (with better outcomes linked to wetter periods), it makes clear that a range of measures beyond water recovery are needed to achieve lasting environmental outcomes.<sup>5</sup>

Broadly speaking, the SRA shows that more work needs to be done on delivering water onto floodplains and that native fish are struggling due in large part to the prevalence of invasive species (primarily European carp). Connectivity and waterbird breeding in general scored well.

The recent Basin Plan Review Discussion Paper and SDL assessments showed similar findings. In 92% of indicators across all SDL units, adding additional environmental water was modelled as having no impact to improving environmental outcomes. The Basin Plan review Discussion Paper mirrored the findings from the SRA, with deliverability of water, invasive species, riparian management, water quality and infrastructure (fish screens, cold-water pollution) being identified as crucial to improve environmental outcomes.<sup>6</sup> Most of these ecological issues can therefore only be properly addressed by looking beyond the narrow way that sustainability was framed in the original Act.

### **Integrated management of the Basin water resources**

Section 20 of the Water Act explicitly states that “the purpose of the Basin Plan is to provide for the *integrated* management of the Basin water resources in a way that promotes the objects of the Act”.<sup>7</sup> Recent assessments from the MDBA have shown that, while progress has been made on water recovery, management and infrastructure barriers are impeding the use of this water to maximise environmental outcomes. While the “re-balancing” element of the Basin Plan has been achieved, the integration of catchment management solutions is lacking.

The 2025 Basin Plan evaluation acknowledges this, stating “when the Basin Plan commenced it was assumed that water for the environment to key sites would be sufficient to maintain ecological health across the Basin. We have learnt it is more complex and challenging than this”.<sup>8</sup> The MDBA Early Insights Paper also notes “the Water Act limits the Basin Plan to matters relevant to the regulation of water resources. It does not extend to the regulation of land use or planning.”<sup>9</sup>

The Water Act acknowledges that Basin resources should be managed in an integrated manner, yet the primary Objects are focused solely on re-allocating volumes of water to the

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<sup>4</sup> [MDBA | Sustainable Rivers Audit](#).

<sup>5</sup> Ibid.

<sup>6</sup> [MDBA | 2026 Murray-Darling Basin Plan Review](#).

<sup>7</sup> Water Act 2007 (Cth).

<sup>8</sup> [MDBA | 2025 Basin Plan Evaluation](#).

<sup>9</sup> [MDBA | Early Insights Paper](#).



environment. NSWIC believes that a wider view of sustainability is needed in the Water Act – one that encompasses integrated approaches to managing and improving environmental outcomes. The entire SDL modelling was in fact premised on the importance of achieving these other management goals, most notably in constraints relaxation.<sup>10</sup>

The Water Act must also optimise economic, environmental and social outcomes. This suggests that a stronger emphasis on integrated catchment management or complementary measures is well aligned with the purpose of the Act, as these approaches maximise both environmental and economic outcomes. These integrated approaches avoid the negative economic impacts of water recovery while still improving environmental outcomes.

This optimisation is necessary, as additional environmental water is showing diminishing returns in most SDL units. NSWIC outlined this in its submission to the Basin Plan, noting the previously cited statistic that 92% of environmental indicators saw little modelled improvement from additional environmental water, under MDBA modelling.<sup>11</sup>

Amending the Act to include consideration of other environmental degradation drivers would bring it more in line with current thinking on water management. It is becoming increasingly clear that many of the solutions to environmental preservation lie beyond the simple “re-balancing” that has taken place since 2004. Volumes are but one component of ecosystem health and it is important that this be acknowledged in legislation.

### **Balancing the environment with the triple bottom line**

The Water Act is not a document that states “sustainability” should be obtained at all costs, but simply that it should ensure protection for “key” environmental assets, functions and outcomes and prevent overallocation (noting that these terms are not defined). Given the considerable progress on these goals, NSWIC believes that the economic component of the Water Act should be strengthened.

This means including a stronger focus on the “triple bottom line” approach that was central to the drafting of the Water Act. Although balancing environmental and economic outcomes is central to the Act, NSWIC was disappointed that this issue seems to have taken a back seat in the recent Basin Plan review (with no section on agriculture and socioeconomic impacts in the most recent Discussion Paper).

The MDBA has been emphasising the need for a productive and working Basin and NSWIC believes that constant water reform is not lending itself to certainty, productivity or long-term investment. A productive Basin is only possible once water recovery stops and gains from the existing environmental water portfolio are maximised. This is issue discussed further in question eight.

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<sup>10</sup> [MDBA | Hydrologic modelling of the relaxation of operational constraints in the southern connected system: Methods and results.](#)

<sup>11</sup> [NSWIC | Basin Plan review.](#)



### Recommendations:

- Greater acknowledgement of the need for integrated management of water for environmental sustainability outcomes.
- Strengthening the triple-bottom line component of the Water Act to ensure stronger consideration of economic and social outcomes.

## 2. What are the opportunities for the Water Act to improve the delivery of First Nations economic, environmental, social, spiritual and Cultural outcomes?

### Opportunities to improve outcomes for Aboriginal peoples

NSWIC is unsure about the specific opportunities for the Water Act to improve the delivery of Aboriginal economic, environmental, social, spiritual and Cultural outcomes. We acknowledge that there is work to be done in achieving the targets set under Closing the Gap but are uncertain whether significant changes to the Water Act are the best avenue for realising aspirations of Aboriginal people. NSWIC is also unclear on how these opportunities interact with existing state-level measures and warns against duplicating state regulatory or policy frameworks.

### Existing provisions and areas for improvement

NSWIC notes that there are already a number of provisions in the Water Act that take into account Aboriginal interests, namely:

- **Section 3, Objects 3 (fa):** aims to ensure that the use and management of Basin water resources takes into account spiritual, cultural, environmental, social and economic matters relevant to Indigenous people, including in relation to their knowledge, values, uses, traditions and customs.
- **Section 20:** Purpose of the Basin Plan requires the use and management of Basin water resources that takes into account spiritual, cultural, environmental, social and economic matters relevant to Indigenous people.
- **Section 50:** Review of Basin Plan-general requires reviews to assess how well the Plan is working to advance Aboriginal objectives.
- **Section 85E:** Authority must prepare annual information on consideration of Indigenous matters requires the MDBA to prepare annual information on how environmental watering planning has considered and involved Aboriginal people.
- **Section 85F:** Secretary to prepare annual reports about activities relating to Indigenous people requires Federal water secretary to prepare annual report that shows how management of Basin water resources takes into account spiritual, cultural, environmental, social and economic matters relevant to Indigenous people.
- **Section 177 and 178:** Authority's membership creates a standing Indigenous Authority member on the MDBA.
- **Section 202:** Basin Community Committee (BCC) requires at least two Aboriginal representatives on the BCC.



NSWIC believes that these provide a strong foundation for incorporating Aboriginal priorities into water management. Further, the recent inclusion of Object 3(fa) into the Water Act addressed the Act's previous omission of Aboriginal interests. A key question is whether Aboriginal outcomes could be improved with changes to the Water Act or whether it is a question of better program delivery and design, additional funding, or otherwise.

NSWIC also notes that page 23 of the Discussion Paper outlines a number of programs and initiatives that are working to improve Aboriginal outcomes in water.<sup>12</sup> These are working towards increasing Aboriginal ownership of water and input into decision-making. It is not stated in the Discussion Paper whether there are specific issues with these programs or whether the Water Act is the best avenue to rectify any issues that might exist.

### **Aboriginal involvement in water management**

NSWIC's fundamental position is that all stakeholders should be meaningfully engaged in decision making and contribute to water management. We support processes that ensure all voices are heard. NSWIC supports decisions being made openly and collaboratively with all stakeholders at the same table. Accordingly, Aboriginal decision-making should occur through existing institutions and processes to ensure collaboration with other stakeholders.

Processes that work in parallel to and separate from other groups do not lend themselves to consensus or consistency. NSWIC considers that decisions should be informed by the perspectives of all stakeholders, with no single interest afforded precedence over others, and instead emphasises cooperation and shared decision-making between all parties. Fundamentally, the views of all stakeholders in water governance should be considered on their merits.<sup>13</sup>

### **State responsibility for delivery of programs**

State governments are responsible for much of the actual delivery of these opportunities. While the Water Act outlines guiding principles, each state typically set targets and oversees the implementation of the agreements set out in the Act. NSW recently released its Aboriginal Water Strategy that is built on four key pillars of:

1. Increasing ownership and access to water.
2. Strengthening role of Aboriginal peoples in water management.
3. Respecting, recognising and embedding Aboriginal knowledge in water planning.
4. Recognising and supporting the importance of healthy water systems to Aboriginal wellbeing.<sup>14</sup>

Aboriginal interests are also in the Objects of the *NSW Water Management Act 2000*:

(c) to recognise and foster the significant social and economic benefits to the State that result from the sustainable and efficient use of water, including—

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<sup>12</sup> [Commonwealth DCCEE | Independent Review of the Water Act 2007, Discussion Paper](#).

<sup>13</sup> [NSWIC | Aboriginal Water Policy](#).

<sup>14</sup> [NSW Aboriginal Water Strategy](#).



- (iv) benefits to the Aboriginal people in relation to their spiritual, social, customary and economic use of land and water<sup>15</sup>

NSWIC acknowledges that existing arrangements for water management in NSW may not fully reflect or deliver on the aspirations of Aboriginal people but that the legal foundations in Commonwealth and State law are already a sufficient basis for improving outcomes.

### **Clarity of terms in the Discussion Paper**

NSWIC asks for greater clarity on the following key terms set out in the Discussion Paper:

- Free, Prior and Informed Consent (FPIC).
- Self-determination.
- Water rights.
- Unceded custodianship.
- Gendered water decision-making processes.

As part of this, it is important to know what implementing these terms would involve, how they differ from prevailing approaches, and what they would mean in practical terms.

It is important that other stakeholders understand how outcomes from the use of these terms would materially differ from current arrangements, and how this would impact the current water management framework (including whether “consent” implies a veto power). NSWIC cannot provide specific commentary on these issues, as there is little clarity on how they would interact with the existing management frameworks. However, our main principles on Aboriginal water have been outlined in this submission (and a separate submission to the Healthy Rivers, Stronger Voices consultation).

### **Recommendations:**

- Decisions should be informed by the perspectives of all stakeholders, with no single interest given precedence over others.
- Panel to provide clear definitions for “Free, Prior and Informed Consent (FPIC), self-determination, water rights, unceded custodianship, gendered water decision-making processes” and outline how these would be applied to existing frameworks.

## **3. What are the opportunities for the Water Act to promote the principles set out in UNDRIP?**

### **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**

NSWIC would like to highlight that UNDRIP is not a treaty or a legally binding document (unlike the conventions outlined in the Water Act). We do not support including UNDRIP in the Water Act given that the Act was developed and enacted primarily to address environmental concerns and with state powers referred on that basis. The Act already contains provisions relating to Aboriginal outcomes, which in our view are a sufficient basis for improving outcomes.

<sup>15</sup> [NSW Water Management Act, 2000](#).



As the Discussion Paper notes “the Australian Government gives practical effect to the UNDRIP principles through the National Agreement on Closing the Gap as well as through Commonwealth policies and programs which are designed to advance reconciliation in a tangible way, by prioritising Aboriginal and Torres Strait Islander partnerships, self-determination, respect and working with state, territory and local governments.”

In our view the key question is where and how these programs are falling short and how they could be changed to improve outcomes. It is not clear to NSWIC that changes to the Water Act are the best avenue to address any perceived shortcomings.

### **Principles of UNDRIP**

NSWIC is unsure the specific UNDRIP principles sought to be promoted, and our response to this section will vary depending on the specific principles and how they might be applied. Based on the separate Aboriginal discussion paper, the key issues identified were that Aboriginal people wanted the Water Act to:

- Recognise rights and self-determination.
- Respect Free, Prior and Informed Consent in decisions affecting water and Country.
- Acknowledge Cultural, social, spiritual, economic and environmental values.
- Acknowledge the deep connections between land, water, sky and wellbeing

Without specific examples of how these would change the current operating environment in NSW, it is difficult to comment on how these could be applied effectively. In the absence of any specificity to respond to, NSWIC outlines its high-level principles for Aboriginal water and highlights any potential issues with the above points.

### **Aboriginal water ownership**

One important consideration regarding Aboriginal water ownership is that the ability to issue water licences rests with NSW. NSW already has its own Aboriginal water strategy that allows for access to 10ML special purpose access licences (SPAL) for cultural use and recently allocated 27GL of surrendered licences to Aboriginal groups. This is further to the Commonwealth-led, Aboriginal Water Entitlements Program (AWEP).

NSWIC’s key principles guiding any proposed changes to Aboriginal water ownership are:

- Any water recovered for Aboriginal people for economic, social and/or cultural purposes should not have a negative impact on any other licence holders.
- Water entitlements for economic purposes should be purchased from the existing consumptive pool.
- There must be no new entitlements or forms of access created via rules changes.
- All water licences must retain their original associated rights, obligations and rules and be subject to the same measurement and enforcement requirements.

### **Closing the Gap Target 15c**

We would also like to note that the Closing the Gap Target (Target 15c), does not have any formal Commonwealth standing. While most jurisdictions agreed in principle to “increase Aboriginal and Torres Strait Islander organisations’ access to, ownership of, and



management of water inland from the coastal zone”,<sup>16</sup> Queensland abstained from the inland water target, meaning it has not been ratified.<sup>17</sup>

According to Commonwealth-DCCEEW, “the Joint Council on Closing the Gap decided not to progress with a national target”.<sup>18</sup> The only two current Commonwealth targets are:

- “15a: By 2030, a 15 per cent increase in Australia’s landmass subject to Aboriginal and Torres Strait Islander people’s legal rights or interests.”
- “15b: By 2030, a 15 per cent increase in areas covered by Aboriginal and Torres Strait Islander people’s legal rights or interests in the sea.”<sup>19</sup>

Given that there is no binding Commonwealth target, NSWIC does not support its future consideration in the Water Act review.

### **Aboriginal water management**

As noted above, NSWIC believes that Aboriginal outcomes should be developed and delivered within existing management frameworks and in partnership with all stakeholders and that the views of all stakeholders in water governance should be considered on their merits. This means that we do not support processes that give any one group precedence over another.

The “Strong Voices, Healthy Waters” Discussion Paper notes that “First Nations peoples have consistently expressed a desire to work with governments as active partners in water governance, rather than solely as consultees or stakeholders.” Although this is an understandable aspiration, NSWIC would not support an approach whereby some stakeholders are considered active partners, and others are simply consultees.

NSWIC also notes that Aboriginal people “provide input to CEWH planning through working directly with the CEWH and state and local government partner agencies” and that Aboriginal people “also contribute First Nations knowledge and science to the CEWH’s MDB wide science and monitoring program.”<sup>20</sup> This suggests that the Water Act is not preventing progress on increasing involvement by Aboriginal people, as this is already taking place.

### **Recommendations:**

- NSWIC does not support incorporating the principles set out in UNDRIP into the Water Act.

<sup>16</sup> [Fourteenth meeting of the Joint Council on Closing the Gap.](#)

<sup>17</sup> See Water Ministerial Council December 2025 Communique.

<sup>18</sup> [Commonwealth-DCCEEW | First Nations Water Policy.](#)

<sup>19</sup> [Closing the Gap Targets and Outcomes.](#)

<sup>20</sup> [Commonwealth DCCEEW | Independent Review of the Water Act 2007, Discussion Paper.](#)



#### **4. Are the institutional and governance arrangements under the Water Act effective in ensuring accountable, efficient and transparent decision-making? If not, how can they be improved?**

##### **Ensure consistency between all licensed water**

NSWIC believes that a guiding principle of the water reform process has been that all licensed water should maintain the same characteristics, regardless of use or ownership. This is stated in the Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin, as “Basin States agree that the characteristics of licensed entitlements held for environmental use will not be enhanced or diminished relative to like entitlements held and used for other purposes”.<sup>21</sup>

The CEWH also states that “entitlements retain their original characteristics and are governed by the same rules that apply to other holders of equivalent water entitlements within the catchment or aquifer.”<sup>22</sup> The irrigation industry has seen these as vital clauses, as they ensure a level playing field for all water users and protect against third-party impacts (as enhancing the reliability of one water entitlement will necessarily impact less reliable forms of water access).

NSWIC supports elevating this principle to the Act as it is a vital component of ensuring stability for irrigated agriculture. Maintaining the integrity of water entitlements is crucial to guard against rules-based changes that can effectively undercut the reliability of water access for all licence holders. While further buybacks are not supported, buybacks at least ensure that remaining water entitlements are not impacted. Including this in the Act would reinforce rules that already exist in other agreements.

##### **Commonwealth Environmental Water Holder (CEWH)**

NSWIC notes that the CEWH has expressed as a desire to change trading rules to allow for more flexibility. NSWIC is comfortable with CEWH being able to manage its portfolio to enable more trade, which is already common practice for state environmental water holders. This approach is preferable to permanent water recovery, which reduces the consumptive pool every year regardless of climate conditions. By contrast, temporary trading allows environmental outcomes to be met when and where they are needed, without permanently shrinking the water available to the irrigation sector. CEWH trades also generate revenue that can fund non-flow measures needed to optimise the outcomes from environmental water.

Improving CEWH trade flexibility must be done in such a way that does not distort the water market. Under existing arrangements, the CEWH may inadvertently affect the water market as a buyer or a seller. For example, when selling entitlements, the incentive is for the CEWH to advertise larger volumes (as this avoids getting approvals for numerous smaller sales) but this can flood the market. Conversely, when purchasing water, sellers may inflate the price, knowing that the CEWH is the one interested in buying. An approach that allows for smaller

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<sup>21</sup> [Intergovernmental Agreement on Implementing Water Reform in the Murray-Darling Basin, June 2013.](#)

<sup>22</sup> [Commonwealth Environmental Water Trading Framework December 2025.](#)



sales with less onerous requirements could ensure that value-for-money can be achieved and environmental water can be moved to its highest value use with relative ease.

### **Water for the Environment Special Account (WESA)**

NSWIC submits that WESA could be removed from the Water Act as its use has been exhausted with the 450GL buybacks likely to be complete by the end of the review. WESA was a tool that was used to deliver the SDL via water purchase, but it is no longer relevant, with this task likely to be completed by the end of the review. The Act envisaged WESA as an account for a time-bound 450 GL purchase program but once this program's objectives have been met, retaining purchasing capacity under WESA is no longer necessary.

#### **Recommendations:**

- Include in the Act, the principle that all water entitlements should be treated equally and not enhanced or diminished relative to like entitlements.
- CEWH to actively ensure it minimises impacts on water market.
- Remove WESA from the Water Act.

## **5. Is the role and administration of WRPs clear and fit for purpose?**

### **Water resource plans**

NSWIC has previously expressed that WRP are overly prescriptive and unnecessarily complex. While we support the overarching principle of WRP (to ensure that states stay within the SDL), our experience has been that these have not worked efficiently. Where possible, we would support an approach that ensures the baseline needs of WRP are met but beyond that, allows states flexibility to manage water resources as they see fit.

The fact that there are still several WRPs that have not been completed suggests that the accreditation process is too onerous. NSW notes that “the key outstanding issues primarily relate to the Part 14 of the Murray-Darling Basin Plan, which requires us to undertake culturally appropriate consultation with Aboriginal communities.”<sup>23</sup> These issues are still unresolved.

### **Planned environmental water in NSW**

One clear example of overreach is the definition of planned environmental water (PEW) in the Basin Plan. Under the Basin Plan, identifying PEW (in the Commonwealth sense) is meant to establish a baseline of water that is already committed to environmental purposes, so that the Plan does not take backwards steps in environmental condition. That objective is reasonable and not disputed.

The problem is that NSW and the Commonwealth use the same term – PEW – to mean different things. In NSW, PEW has for many years referred to all water above extraction limits. This is the largest share of the water resource and is used for many purposes: environmental flows, recreation, cultural uses, transmission losses, and more.

<sup>23</sup> [Basin Plan \(2012\)](#).



The Commonwealth later adopted the term PEW for a different purpose. In Commonwealth law, PEW means water that is committed or preserved specifically for environmental purposes and cannot, to that extent, be taken or used for any other purpose.

The Basin Plan requires WRPs to identify PEW (in the Commonwealth sense). For Basin states in which PEW is a new term (for example, Victoria), this has been relatively straightforward. Victoria has explicitly stated that PEW is a new concept and, in some regions, that “no PEW exists”.

In NSW, however, rather than going through a similar process to identify PEW (Commonwealth) for Basin Plan purposes, the MDBA appears to have conflated the two meanings. Instead of identifying which flows meet the Commonwealth definition, the MDBA has effectively treated all water above extraction limits (NSW PEW) as PEW for Basin Plan purposes (Commonwealth PEW).

This creates a real risk that all water above extraction limits in NSW could be locked into Basin Plan provisions and requirements (such as “no net reduction” and the effectiveness test) well beyond what the Basin Plan intended and what States agreed to when they signed up to the Plan.

A core principle of the Basin Plan is that all Basin States should be subject to consistent and equal standards and processes in its implementation. The current approach to PEW in NSW WRPs risks breaching that principle, creating additional, unintended obligations for NSW and its water users without a clear environmental benefit.

#### **Recommendations:**

- Simplify WRP accreditation to ensure the baseline environmental requirements are met but ensure that obligations are not onerous or restrictive.
- Modify the definition of PEW to allow NSW flexibility in its water management.

## **6. What are the opportunities for the Water Act to optimise the use of environmental water to achieve additional environmental outcomes, especially in the face of a changing climate?**

### **Annual water determinations and climate change**

NSWIC's view is that the current water management frameworks are already quite capable of adapting to changes in climate through the annual water determination (AWD) process. Water allocations in NSW respond to reduced inflows and ensure that high-priority water needs are met before water is allocated to general security (GS) licences. Inflow assumptions use conservative projections to ensure that town water security is maintained (noting that NSW is currently conducting a review of these assumptions).

### **Managing uncertainty and avoiding prescriptive measures**

While the long-term trend for most indicators in the Basin is a drying one, there is an acknowledgement that there will likely be increased variability. This increased variability



underscores the need to avoid climate change measures that are too prescriptive. In dealing with uncertainty, NSWIC supports an approach that is responsive and does not lock states into forward planning based on futures that are uncertain.

For example, while there may be longer periods of drought, periods of heavy rain and floods may increase (particularly in the northern Basin). State governments currently break management down into zones corresponding to water sources (typically valleys) with rules made for the unique characteristics of these areas. In the northern Basin, this is most evident in the widespread use of on-farm storage and account management rules that allow users to “cash in” during wet periods.

NSWIC therefore does not think that rigid rules coming from the Commonwealth Government on how to manage a changing climate will enable the best outcomes. A system that ensures adaptability and rules that work well within local contexts is likely to respond better to more erratic weather patterns. The current frameworks have shown themselves to be adaptive to a changing climate and NSWIC would not support changes to the Water Act in an attempt to pre-empt any future changes to the climate.

This is consistent with the approach taken by the MDBA, which stated “given the wide range of plausible climate futures, the Authority is not proposing changes to the SDLs in response to climate change in 2050 through this review.”<sup>24</sup> It notes that the 10-year review cycle allows it to re-visit benchmarks and adapt over progressive reviews. NSWIC is confident that the existing frameworks are capable of dealing with short-term changes in climate. While climate change projections give long-term trends, they do little to predict short term fluctuations.

NSWIC acknowledges that some stakeholders claim the Basin Plan and SDL do not adequately reflect climate change, and that environmental water assumptions may need to be revisited. While NSWIC accepts that a warmer and drier future will place additional stress on Basin ecosystems, we maintain that the current framework, which uses the AWD process, localised management rules and the 10-year review cycle provides a more appropriate and flexible response than prescriptive Commonwealth climate rules or immediate changes to the Water Act.

### **Original environmental aims of the Water Act and prioritising outcomes**

Consideration may need to be given to prioritising environmental watering objectives, noting that some of the assumptions built into the original Water Act may be less feasible under a drier and warmer climate. While unfortunate, a process of prioritisation may need to take place to ensure watering of key environmental sites but de-prioritises less vital ones. Under updated assumptions for inflows, ensuring the best possible outcomes with less water is vital. If baseline inflow assumptions change, so too do the environmental objectives.

A drying climate simply means less water to go around, and all water users, including the environment, will need to absorb some reduction in allocations over time. The existing licensing framework in NSW is specifically designed to share this burden fairly; as inflows

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<sup>24</sup> [MDBA | 2026 Murray–Darling Basin Plan Review Discussion Paper](#).



decline, all licensed entitlements are reduced through the AWD process so that no single group is unfairly insulated from the impacts of a drier system.

Some stakeholders have argued that the Water Act does not properly consider climate change and that we must keep the original environmental objectives unchanged despite lower projected inflows. In a drier future, the only way to meet those original environmental objectives would effectively be to reduce the water available to other users (as one would assume that, in this scenario, the environmental share of water would need to remain constant).

In this context, any attempt to maintain the original environmental objectives would simply mean that irrigators would bear the full brunt of reduced inflows. This would be inequitable and inconsistent with the Water Act's triple-bottom line approach and the intent of water reform – that environmental and consumptive water be managed within the same frameworks (subject to the same limitations). An Act that seeks to find balance must ensure that the impacts of climate change are shared between all water users, including the environment.

#### **Maximising outcomes through integrated management**

As noted in question 1, optimising environmental water can only be done with a more holistic approach, that encompasses all forms of ecological degradation and ensures coordination between land and water management. To maximise environmental outcomes, particular attention needs to be paid to complementary measures that improve ecosystem health, without the need for additional water recovery. This is consistent with the triple-bottom line intent of the Water Act as it ensures both ecological and economic gains (by improving the environment without taking water out of productive use).

#### **Recommendations:**

- No changes to the Water Act to incorporate climate change, as this is already included in state planning frameworks.
- The negative impacts of climate change are shared between all water users, including the environment.
- Maximise environmental outcomes through acknowledgement of the importance of complementary measures.

## **7. What are the opportunities for the Water Act to support social and economic outcomes, including for First Nations?**

#### **Strengthening the triple-bottom line approach**

NSWIC supports strengthening the economic and social component of the triple-bottom line approach that underpinned the Water Act. While the Basin Plan has recovered considerable amounts of water for use by environmental water holders, it has come at the expense of the irrigation industry and Basin communities.



Despite the claims that the value of irrigated agriculture has continued to grow across the Basin, this glosses over numerous issues. For one, by consistently analysing impacts at a Basin-level, negative outcomes for specific areas are ignored.<sup>25</sup> Secondly, diminished profitability is glossed over. As Ricardo noted in a recent report for water pricing in NSW, “GVP (gross value of production) is a useful indicator of sector size and regional economic contribution; however, it is not a reliable measure of farm profitability or financial resilience.”<sup>26</sup> Finally, high level figures mask the impacts to certain industries, with the vulnerability of staples like dairy and rice not acknowledged.<sup>27</sup>

### Context for irrigation in NSW

The irrigation sector in NSW is under strain from years of water reform at a state and federal level. The economic impacts from ongoing buybacks have been well documented, most recently by Australia Bureau of Agricultural and Resource Economics and Science (ABARES) and Ricardo. The 2024 ABARES report showed that 225GL of buybacks in the southern Basin will decrease agricultural output by \$111 million per year. NSWIC would expect impacts nearly double that under the possible full 450GL scenario (based on the linear relationship between water recovery and output noted by ABARES).<sup>28</sup> These impacts are at the farm-gate and do not include the multiplier effect to up and downstream industries, as was seen in the latest decision from SunRice to cut 78 jobs in the Riverina.<sup>29</sup>

Ricardo’s 2025 report on water buybacks on the dairy industry showed that water purchase could have large impacts on the industry’s viability. Under the worst-case scenario, where the SDLAM shortfall is made up through additional water purchase, dairy production in the southern Basin falls by 11.4%. This was modelled as a \$544.96 million in lost revenue from dairy products more broadly (model assumes multiplier of processed products as \$2.02 per litre).<sup>30</sup>

Users in NSW are also dealing with numerous reforms at a state level, including:

- Minimum inflows review.
- Northern Basin Connectivity.
- Sustainable long-term annual average extraction limit (LTAAEL).
- Floodplain management plans.
- Snowy Water Inquiry Outcomes Implementation Deed (SWIOID).
- Water sharing plan remakes.

NSWIC has documented in a recent submission to a NSW Parliamentary Inquiry that many of these programs have already, or in the future, may further reduce access to water for general security users.<sup>31</sup> We also documented past instances of rules-based changes that

<sup>25</sup> [NSWIC | Job impacts from water recovery for the environment in the southern Murray-Darling Basin.](#)

<sup>26</sup> [Ricardo | Impacts of potential WaterNSW price increases on representative irrigation farms in regional NSW.](#)

<sup>27</sup> [ABARES | The impacts of further water recovery in the southern Murray-Darling Basin.](#)

<sup>28</sup> Ibid.

<sup>29</sup> [ABC News | SunRice cuts 78 jobs across the Riverina region due to drought and water buybacks.](#)

<sup>30</sup> [Ricardo | Impact of water recovery on the SMDB dairy industry: Potential impacts for dairy farms, processors and suppliers.](#)

<sup>31</sup> [NSWIC | Impacts of the Water Amendment \(Restoring our Rivers\) Act 2023 on NSW regional communities.](#)



have already lowered water use in NSW in our Basin Plan review submission.<sup>32</sup> These come on top of major issues with the water pricing model in NSW, which the Independent Pricing and Regulatory Tribunal (IPART) conceded would see irrigators exit the industry.<sup>33</sup> The reform coming from both state and federal governments is causing significant uncertainty for the irrigation industry.

### **Aboriginal outcomes are improved by strengthening regional industry**

Aboriginal outcomes are closely linked to irrigation, as irrigation underpins the economy of many areas with high Aboriginal populations. Irrigation produces on and off-farm employment, supports local businesses and ensures investment in regional communities. A weak or declining irrigation sector means fewer opportunities and less investment, which does not create the conditions for economic mobility for Aboriginal people. The future of irrigation and regional communities with high Aboriginal populations is therefore inextricably linked. Declining opportunities in rural Australia mean declining outcomes for Aboriginal people.

#### **Recommendations:**

- Strengthen triple-bottom line approach to ensure economic and social outcomes are considered equally alongside the environment.
- Clearly acknowledge in Water Act, the importance of irrigated agriculture for economic outcomes.

## **8. To what extent are arrangements under the Water Act appropriate to ensure resilient communities and provide water security?**

### **Water security in the Act**

NSWIC believes that the current arrangements are capable of ensuring critical human water needs. As in question six, NSWIC does not support major changes to the Act as fundamentally, states should be able to manage water security according to the specific needs and issues of each catchment. Town drinking water is already the highest priority water use in NSW and despite incredibly severe drought in 2017-2019, no towns ran out of drinking water. NSW is doing its own work into minimum inflows assumptions already, on the back of its Regional Water Strategies, that outline town water security options and priorities.<sup>34,35</sup>

Section 86A of the Water Act states “that critical human water needs are the highest priority water use for communities who are dependent on Basin water resources” and that “critical human water needs are the needs for a minimum amount of water, that can only reasonably be provided from Basin water resources, required to meet: (a) core human consumption

<sup>32</sup> [NSWIC | Basin Plan review.](#)

<sup>33</sup> [IPART | Prices for WaterNSW regional and rural bulk water from 1 July 2026, Final Report.](#)

<sup>34</sup> [NSW-DCCEEW | Minimum Inflows Project.](#)

<sup>35</sup> [NSW-DCCEEW | Regional water strategies program.](#)



requirements in urban and rural areas; and (b) those non-human consumption requirements that a failure to meet would cause prohibitively high social, economic or national security costs.<sup>36</sup>

NSWIC would not support prescriptive measures on water security being included in the Water Act and wishes to avoid duplicative regulations. Each valley has its own unique circumstances and considerations, and these are already met via water sharing plans (WSP). Altering arrangements in the Water Act could simply cause unnecessary inconsistency or disagreement between the state and federal frameworks.

#### **Recommendations:**

- Current arrangements for water security are adequately handled by state governments; any Commonwealth encroachment risks duplication.

## **9. To what extent are arrangements under the Water Act appropriate to address current and future challenges in relation to water quality?**

### **Water quality in the Act**

NSWIC believes that the existing arrangements are adequate to address current and future water quality issues. Section 25 outlines that water quality and salinity objectives should be identified and then targets developed. We do not support major changes to the Act that would prescribe narrow definitions for water quality but think that this responsibility should remain in the hands of states.

Section 25 already provides an appropriate high-level framework by requiring a Basin-wide water quality and salinity management plan with clear objectives and targets. The priority now is effective implementation, monitoring and adaptive management at state and catchment scale, rather than new prescriptive definitions in the Act. States are better placed to respond to local water quality issues, such as algal blooms, turbidity events and localised salinity hotspots, through regional plans and operational responses.

### **Salinity targets may need re-assessing**

One area that may need to be re-assessed is salinity targets. While salinity was an issue in the years of water reform leading up to the Basin Plan, the use of salt interception schemes has been able to reduce salinity to acceptable levels. Some of the previous assumptions about salinity management and flushing flows may need to be examined.

#### **Recommendations:**

- Current arrangements for water quality are adequately handled by state governments.

<sup>36</sup> Water Act 2007 (Cth).



## 10. To what extent is water information management under the Water Act appropriate to inform current and future decision making, especially in the face of a changing climate?

### Publication of data on water use

NSWIC would support a more comprehensive and public facing assessment of Basin-wide water resources. While the Bureau of Meteorology (BOM) is tasked with the Basin-wide water reporting, NSWIC typically sources its information from local water registers – namely WaterNSW Water Insights and the NSW Water Register. Our view is that it would be useful to have a comprehensive register of water take and inflows from an authoritative source.

For example, NSWIC has noticed that access to high-level diversions data is very difficult to find. NSWIC publishes its own pie chart showing Basin-wide diversions, although these numbers have to be inferred from Table 1 of the 2012 Basin Plan (that displays Basin inflows and diversions).<sup>37</sup> BOM provides useful data in its National Water Account webpage, but this is not widely publicised by other agencies.<sup>38</sup> It can also be difficult to infer diversions data from the numbers provided by BOM. Having a trusted source provide clear Basin wide indicators could help with improving understanding in the general public about water management.

### Monitoring impacts to the consumptive pool

NSWIC believes that more transparent tracking of impacts to the consumptive pool of water access would improve water information management and help inform decision making for licence holders. Changes to water sharing arrangements and rules often have third-party impacts to users, if not carefully managed. This can lead to reductions in access to the consumptive pool, and section 40 of the National Water Initiative (NWI) notes this:

*40. In the implementation of water plans, the Parties will, consistent with the nature and intensity of resource use:*

*iii) provide regular public reports. The reporting will be designed to help water users and governments to manage risk, and be timed to give early indications of possible changes to the consumptive pool.*

The NSW government will often include the average percentage impact that a rule change might have on a GS irrigator (although not always).<sup>39</sup> There is however no obligation on governments to track the cumulative impact of these changes, despite the cumulative impacts being closely connected to compensation obligations. NSW is obliged to compensate for changes above 3% over the life of the plan (WSP) but has no public register of total impacts, meaning it is difficult for users to record impacts.

<sup>37</sup> [Basin Plan \(2012\)](#).

<sup>38</sup> [Bureau of Meteorology, National Water Account 2024, Murray–Darling Basin: Supporting information, For the water account period 01 July 2023 – 30 June 2024](#).

<sup>39</sup> We note that no percentage figure for reduced access from recent changes to the floodplain harvesting trigger and changes to several unregulated WSP has been provided.



### Recommendations:

- Jurisdictions to track cumulative impacts to water access reliability and provide this information on a public register.

## 11. What are the opportunities for the Water Act to align with the objectives set out in the National Water Agreement?

### The National Water Agreement is not in place

While the Discussion Paper references the National Water Agreement (NWA), it is important to note that the NWA is not a national agreement, as it has not been signed by any state government. At the time of writing, the NWI remains the relevant document to guide the Water Act. Noting this, we have included examples from both the NWI and NWA.

### Integration of land and water management

The current draft of the National Water Agreement (NWA) includes an acknowledgment of complementary measures and is consistent with the integrated approach that is increasingly being advocated for by agencies like the MDBA. This clause states:

*“Where it is necessary to recover water to achieve environmental and other public benefit outcomes, the following principles will be used for determining the most effective and efficient mix of water recovery measures:*

*early consideration of opportunities to integrate complementary, non-volumetric natural resource management measures and partnerships to achieve defined environmental outcomes.”<sup>40</sup>*

This aligns with recent changes to water management, that are increasingly looking at ways to improve environmental outcomes that extend beyond increasing environmental flows. This section acknowledges that integrated approaches to water management are vital to realising environmental outcomes and can often produce better environmental outcomes than adding additional water.

NSWIC believes that the Water Act should likewise be updated to include a clearer acknowledgment of complementary, non-volumetric natural resource management measures. The current Water Act currently has a very narrow definition of sustainability that focuses on volumes and re-balancing, but with little attention paid to integrated management.

### Characteristics of water entitlements

Outcome 7A of the NWA sets out the characteristics of water entitlements, which builds on 28-34 of the NWI. These principles are fundamental to recognising the property right of water and have underpinned water reforms for more than 20 years. NSWIC supports

<sup>40</sup> [Commonwealth DCCEEW | Updated draft National Water Agreement.](#)



strengthening these principles and putting them in legislation, to ensure confidence in the water licencing framework.

While NSWIC does not support further water buybacks, if additional water recovery is required, voluntary market purchases are the preferred mechanism compared with rules-based changes, the creation of new entitlements, or other measures that affect entitlement reliability. Market-based purchases maintain the integrity of the water entitlement framework by respecting the water property right, involving willing sellers and voluntary participation rather than imposing socialised impacts on all parties, and minimising third-party effects. These principles should be introduced into legislation as a way to shore up this framework.

#### **Recommendations:**

- Recognition of importance of complementary, non-volumetric natural resource management measures in addressing environmental outcomes.
- Sections 28-34 of NWI or Outcome 7A of NWA to be included in the Water Act to strengthen water entitlement system.

## **Conclusion**

The Act and the Basin Plan have delivered substantial reform, including the establishment of SDL and the recovery of significant volumes of water for environmental purposes. Recent assessments indicate that this has contributed to improved environmental outcomes in parts of the Basin. However, those assessments also demonstrate that environmental outcomes depend on more than the volume of water recovered.

The next phase of Basin reform should therefore focus on making the best use of the environmental water portfolio that is already in place. The Water Act should encourage integrated management and expressly recognise the role of complementary, non-volumetric measures, including infrastructure, constraints management, riparian rehabilitation, pest control, and improved delivery of environmental water.

The Act's requirement to optimise economic, social and environmental outcomes should be strengthened, and further reductions in the consumptive pool should not be treated as the default response to every environmental challenge. Where additional outcomes can be achieved through better management, coordination or investment, those options should be prioritised.

The Water Act review presents an opportunity to reset the framework for the next phase of Basin management. With significant reform already delivered, the focus should now be on building on the innovation and efficiency of irrigators while continuing to deliver strong environmental outcomes. A framework that provides certainty and recognises irrigation's economic and social contribution will give regional communities the confidence to keep investing, adapting and growing.



## 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 processes.

NSWIC sees this consultation as a valuable opportunity to provide expertise from our membership. 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”<sup>41</sup>*

*“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.”<sup>42</sup>*

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.

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<sup>41</sup> <https://www.agriculture.gov.au/ag-farm-food/crops/cotton>.

<sup>42</sup> <https://www.agriculture.gov.au/ag-farm-food/crops/rice>.



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.