



NSW IRRIGATORS' COUNCIL

Level 6, 139 Macquarie Street

SYDNEY NSW 2000

ACN: 002 650 204

ABN: 49 087 281 746

Tel: 02 9251 8466

Fax: 02 9251 8477

info@nswirrigators.org.au

www.nswirrigators.org.au

NSW Irrigators' Council

Submission to the

Productivity Commission's

Inquiry into

Rural Water Use and the

Role of Market Mechanisms

July 2006

Member Organisations: Bega Cooperative Limited, Border Rivers Food & Fibre, Coleambally Irrigation Co-operative Ltd, Cotton Australia, Gwydir Valley Irrigators' Association Inc., Hunter Valley Water Users' Association, Lachlan Valley Water, Macquarie River Food & Fibre, Murray Irrigation Limited, Mungindi-Menindee Advisory Council; Murray Valley Groundwater Users Association, Murray Valley Water Diverters' Association, Murrumbidgee Groundwater Pumpers' Association, Murrumbidgee Horticultural Council Inc., Murrumbidgee Irrigation Ltd, Murrumbidgee Private Irrigators' Inc., Namoi Water, NSW Farmers' Dairy Committee, NSW Farmers' Association, Ricegrowers' Association of Australia, Southern Riverina Irrigators, South Western Water Users', Wine Grapes Marketing Board, Richmond Wilson Combined Water Users Association.

NEW SOUTH WALES IRRIGATORS' COUNCIL

NSW Irrigators' Council (NSWIC) represents more than 11,500 irrigation farmers across NSW. These irrigators are on regulated, unregulated and groundwater systems. Its members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries.

[Attachment 1](#) records the membership details of the NSW Irrigators' Council.

In responding to the issues raised in the Inquiry's terms of reference and the Productivity Commission's Discussion Draft, NSWIC is representing the views of its members. However, each member reserves the right to make independent submissions on issues that directly relate to their areas of operation, or expertise, or on any other issues they may deem relevant.

MARKET MECHANISMS

NSWIC supports, in-principle, the notion that market mechanisms, or market based instruments, may have a role in the future management of the nation's water resources.

Of concern to NSWIC is to ensure firstly, the quantification of the underlying issue to be resolved, then the development, scope and intent of each mechanism developed in response, together with clear identification of the range of alternative options available to address the underlying issue.

NSWIC does not support the compulsory application of any mechanism or, the application of a penalty regime if uptake is less than forecast. The uptake of any mechanisms introduced must be based on the merits of the product on offer when compared to alternative options, including options to retain the status quo.

Measurement, monitoring, review and evaluation of both the underlying issue and any mechanism adopted are critical to ensure that it is both effective and its ongoing use is warranted.

RESPONSE TO ISSUES RAISED IN THE DISCUSSION DRAFT

1. Improving Existing Entitlement and Allocation Regimes

Separation of Land & Water

NSWIC supports the separation of land and water and the unbundling of water entitlements from works approvals. Indeed, NSW is well advanced in this process and the accompanying introduction of water sharing plans.

NSWIC fully supports carryover provisions and continuous accounting, on a valley-by-valley basis and both intra and inter-state trade in water on both a temporary and permanent basis. The trade of groundwater entitlements must endure some constraints to reflect the specific characteristics of individual aquifers.

In NSW, the separation process for regulated river systems is largely completed and the introduction of macro water sharing plans over the course of the next 12-18 months for unregulated systems will satisfy most of NSW's obligations with regard to the separation of land and water.

Groundwater sharing plans for the 6 major aquifers are in the final stages of a major reform program, which, when completed, will satisfy NWI obligations with respect to the over-allocation of the resource and the introduction of water sharing plans. This will enable trade to occur in most regions.

One of the residual issues of the separation process has been the inequitable re-alignment of NSW Local Government rating policies. NSW Councils/Shires have commenced the adoption of a range of responses to the decline in their rates revenue which has seen the introduction of some rating policies that are targeting works approvals as a proxy for irrigation entitlements in a manner that is both inequitable and discriminatory.

To date, the Narromine and Wakool Councils have introduced policies that have adopted a wide interpretation of irrigated land, to the financial detriment of individual landholders. Such policies will inevitably lead to water investment and trading decisions being made for reasons not associated with the optimal use of water by region or commodity.

Unbundling Delivery Capacity

NSWIC seeks to further explore the guarded comments made in Preliminary Finding 2.2:

“Unbundling water entitlements into tradable water share and delivery share components may be beneficial in areas where there is substantial congestion of water delivery.”

In NSW case, the primary objective in considering unbundling, as discussed, would relate to overcoming congestion in the Barmah Choke. However, this issue is only discussed in a superficial manner and discussion has not fully explored other market options such as encouraging development above the Choke.

The issues of cost, effectiveness and the complexities of the development and introduction of an unbundling scheme would need extensive modeling, industry consultation and market testing before NSWIC would support further consideration of this concept.

NSWIC’s Irrigation Corporation members are best placed to comment on the relevance of this approach to addressing issues of stranded assets and exit fees. Initial discussions with these groups would suggest that such an approach would have limited application and the benefits, if any, and impacts would vary from Corporation to Corporation, as their operating circumstances and corporate structure are all different.

NSWIC again supports the view as stated in the Discussion Draft that:

“Overall, it appears the use of congestion management tools is best determined at the irrigation district level.”

Accounting for groundwater, Surface Water and Return Flows

NSWIC strongly supports the comment that: *“links between surface water and groundwater systems in Australia are poorly integrated into resource management.”*

As the development of the Achieving Sustainable Groundwater Entitlements (ASGE) program in NSW has revealed, hydrometric data on these aquifers is, at best, poorly recorded and understood. The performance of each aquifer and any relationship with surrounding rivers systems cannot be guaranteed and in most instances is not quantified at all.

If the ASGE program is to be a long-term success and, if it is to be held as a model for addressing any future over allocation of resource issues, then immediate steps must be taken to better understand the performance of each aquifer and the relationships within and across adjoining aquifers and river systems and establish reliable monitoring and benchmarking systems.

Groundwater metering systems are poorly managed and there is a need to ensure that improvements in the area of information, accounting systems and policy frameworks are immediately undertaken.

Detailed studies are required to conclusively determine the extent by which aquifers and river systems are inter-related. The contentious nature of this issue is such that community and industry consultation must feature strongly in any proposed studies. Independent peer review processes must also be established to ensure widespread confidence in outcomes and recommendation. The imperative is to identify and establish, conclusively, all relationships and introduce this data into the relevant water sharing regimes.

Claims made in the Discussion Draft such as:

“Most Australia rivers are inextricably connected to surrounding groundwater aquifers that supply much of their base flow;” and

“Groundwater and surface water are often connected and interchangeable resources”;

must be subjected to system-by-system review to ensure that a ‘one size fits all’ approach is not adopted to the detriment of quality resource management.

Water Accounting

The maxim that; ‘if you can’t measure it you can’t manage it’ must underpin consideration of water resource management in Australia.

Consistency and compatibility are important to ensure that the ‘national’ water account is a useful aggregation of all relevant extractive, environmental use and inflow records for accountability, resource management and policy development purposes. Consideration of the importance of water accounts must start with an acceptance that our existing metering, measurement and monitoring systems do not, in most instances, meet the exacting standards that must be applied to contemporary water resource management.

At the moment, current metering systems create the potential for real third party impact associated with trade to occur. The question to be answered is: does 1 ML = 1 ML?

Consider:

If a NSWIC member whose extractions are metered was to sell 1,000 ML to an irrigator in the lower sections of SA where they don't even have meters, or if another NSWIC member was to sell 1,000 ML of flumegate measured water to someone in VIC who has a dethridge wheel that is under measuring by 20% (they are really taking 1,200 ML), who bears the third party risk?

Technologies exist that enable all extractions to be metered, inflows to be accurately recorded, system-wide losses to be accounted for and, a total water balance to be computed, in real-time. NSWIC believes that this is the minimum standard that should be immediately adopted.

NSWIC supports the metering of all extractions. This is to ensure accountability, compliance against the privileges of the property right or environmental obligation that is attached to individual licensed entitlements or allocation.

Until a commitment is made to introduce leading-edge metering and monitoring technologies to inflows and extractions, any ‘national’ accounts derived from existing systems will be flawed and incapable of underpinning the accountability of licensed entitlements, water sharing plans and National Water Initiative obligations with any certainty, or the level of robustness required to provide market confidence in the outcomes delivered.

A further benefit of a modern, technologically advanced metering and monitoring system, is its support for greater flexibility and timeliness of allocation announcements. Production decisions in times of low water allocations and, at other critical times of the production cycle and, water trading decisions are all dependent on the availability of accurate, timely allocation data. When considering metering and monitoring options, not enough attention is being given to ensuring that entitlement holders have the tools available to support their decision making processes. This is and will continue to impact on water use and investment decision making and lead to less than optimal outcomes being achieved.

The option to include groundwater in an expanded MDBC Cap should not be further considered until: “*..further research regarding the sustainable yield of particular groundwater sources and greater understanding of their connectivity with surface water sources.*” is undertaken and established.

Accounting for Return Flows

NSWIC supports the continued access to and use of water access entitlements being defined in gross terms. Licensed entitlements and, therefore, property rights are defined in gross, or farm-gate terms. Individual licence holders must have the right to consume 100% of this entitlement with no expectation that return flows must be available to supplement rivers and aquifers, environmental flows or other third party interests.

If production techniques, infrastructure investments or land use practices result in maximum water-use efficiency being achieved, then this must be respected as an optimal outcome.

If an individual’s water-use practices and on-farm investments result in water savings being achieved, then those savings must remain available for expanded production, or application to the trading market as determined by each individual entitlement holder.

Any change to this policy would be deemed by NSWIC to be a policy change, which under the risk assignment principles of the NWI, as outlined at paragraph 50, would constitute a fully compensable decision by government.

NSW water sharing plans allow for 5 year and then 10 year reviews of their performance. This is the appropriate mechanism to determine if the optimal balances between environmental outcomes and extractive uses have been achieved.

Risk Assignment Framework

NSWIC supports the risk assignment framework as outlined in paragraphs 46-51 of the NWI Intergovernmental Agreement (IGA).

These risk sharing protocols were well argued and the subject of detailed discussion during the negotiation of the NWI. NSWIC sees no reason for introducing any changes to these conditions.

When combined with the conditions of the agreed and gazetted water sharing plans, NSW licensed entitlement holders have a well developed, transparent and understandable risk profile that underpins their investment and production decision making processes. Importantly, financial institutions also gain confidence from these NWI risk assignment principles.

Issues associated with the provision of indefeasibility of title have been well discussed with the NSW Government. While NSWIC would have preferred to have seen this issue resolved during the 2004 amendments of the *Water Management Act 2000*, it remains an outstanding issue. The Minister at the time undertook to amend the *Act* upon the completion of the ‘cleansing’ of titles and their transfer to the Water Register. NSWIC will, in time, judge the Government on its fulfillment of this obligation.

With regard to the structure and operation of the NSW Water Register, NSWIC supports any alignment with the lessons learnt from other markets. Indications from individuals who have used the NSW system suggest that it is user friendly, efficient and functional. If further improvements or refinements are required, the overriding objective is to not waste resources reinventing a process that can be suitably adapted from another environment. In this regard the CHES registration process is a model that may provide valuable guidance.

As licensed entitlement holders are required to foot the bill for the construction and operation of this Register, it is paramount that it be robust, reliable, user friendly, secure, accessible via secure Internet access and affordable.

Reducing Constraints on Water Trade

NSWIC supports the introduction of water trade for all systems were it is physically possible to complete the trade.

Most systems have some form of trading rules that can be justified due to physical or hydrological constraints, water availability, timing of releases and trade rules that have been implemented to ensure equity and reliability of supply, or, as is the case with NSW Irrigation Corporations, exit fees which are a legitimate market response to protect business and community assets in the face of the requirements for the removal of barriers to trade as outlined in the NWI.

NSWIC supports rules being reviewed for relevance and agrees that there must be transparency and accountability for all trading rules.

NSWIC supports the purchase of water from willing sellers by environmental managers, investors, and any other market participant, except State Water Corporation as the river operator, as long as all market activity is fully informed by accurate, timely market information, the rules of trade apply equally to all participants and that all water traded, irrespective of who is the ultimate purchaser always retains its original characteristics. This last issue is encapsulated in the ‘tagged’ trade concept that is supported by NSWIC.

Currently, there is no commitment to ensuring that the market is informed through the timely provision of sales data. NSWIC calls for the immediate introduction of a market reporting service that requires the compulsory notification of all sales data within 24 hours of contracts being exchanged. This data must include: price, volume, location, class of entitlement and any other conditions that apply to the sale. This is the minimum requirement for a fully informed marketplace.

In addition to these requirements NSWIC also calls for the immediate introduction of a licensing regime for all water brokers. This regime must include Trust Account facilities and full accountability for all trades and transaction relating to the sale or lease of permanent, temporary and supplementary entitlements and allocations.

NSWIC does not support calls for the removal of exit fees, as introduced by NSW Irrigation Corporations. Each Corporation will be providing a detailed response to this issue, but it must be stated, very strongly, that the suggestion that exit fees be replaced by an ad hoc structural adjustment process is not supported by NSWIC.

NSWIC believes that an open minded approach must be adopted for the future development of new water products and derivatives such as forward contracts and futures and options contracts.

The issue of transaction costs has already arisen during consideration of State Water's submissions to the 2006 IPART bulk water price review. In this instance, it appears that no innovation has been applied to the establishment of transfer processes, with the end result being a price regime out of balance with the service being offered. NSWIC is of the view that this service must be fully contestable to ensure that the most competitive and efficient system is available to the market.

Social Constraints

The issue of social constraints on trade has not been fully explored, but it must be recognised that the social and economic fabric of many NSW communities has developed as a direct consequence of the investment in and the conduct of irrigated agriculture.

Blind faith that moving to an open market will not lead to some undesirable outcomes will certainly ensure that signals are missed if there are communities in decline as a consequence of reduced availability of water and irrigated agricultural activity. It is incumbent on governments to ensure that a crucial component of the monitoring of water trade must include an ongoing assessment of the social and economic circumstances that may arise if trade is concentrated out of specific region.

It must be remembered, that irrigated agriculture's benefit to regional NSW is far wider than that seen on individual farm enterprises. A recognised economic multiplier benefit to the community of 5-6 times clearly indicates that there is a wide range of non-farm support industries dependent on the productive use of water resources. If, for whatever reason, market activity is concentrated in one region, the flow-on impacts on the wider community must be monitored and supporting policy intervention quickly identified and introduced if required.

Water Utilities

With the NWI focus on full cost recovery and IPART's acceptance of State Water's claim for both full cost recovery and the immediate adoption of upper bound pricing, NSWIC is very critical of the lack of accountability of NSW government water utilities and the lack of exposure of the business operations to full, open contestability.

There has been no concomitant adoption of performance indicators, enforceable service level agreements or other accountability functions that will provide confidence to entitlement holders that value for money and full accountability will be delivered in return for the charges applied for bulk water delivery.

This is a clear indication that governments and independent regulatory authorities are intent on extracting maximum revenue from entitlement holders with little or no attention to quality of service or accountability and no demonstrated commitment to introducing the discipline of competitive forces on service delivery.

Higher Value Markets

NSWIC fully supports the comment that:

“In terms of encouraging water to move to high value uses, it is best to let farmers make decisions through efficient markets based on the specific conditions they face rather than for governments to try to pick ‘winning’ products or industries.”

NSWIC believes that all market participants, farmers included, must be free to exercise their own assessments of the worth of all competing market options and take full responsibility for the success or failure of their decisions to engage in any water market or irrigated agriculture activity. As the current circumstances confronting the wine grape industry attests, yesterday’s high value commodity can very quickly come under market pressure for all manner of reasons and become today’s below par investment.

Externalities Industry’s Response

NSWIC supports the introduction of water sharing plans as an accountable, transparent process to address environmental externalities on a system-by-system basis. In addition to the environmental obligations contained in each plan, other land and water management programs have also been introduced by many NSW Irrigation Corporations to address specific environmental issues within their region.

These include activities such as their role in implementing community and government developed and agreed Land and Water Management Plans that promote the achievement of long term sustainability, water use efficiency, net recharge management and biodiversity enhancement.

Individuals have also established on-farm environmental programs and system-wide commitments such as the voluntary levy imposed in the Yanco Creek for remedial work are further examples that the irrigation community both understands and is committed to environmental responsibility and the introductions of programs that make a real difference.

Commodity groups such as rice and cotton have also established programs to further develop industry and system-wide programs to improve production and land and water use practices. In each instance, these are practical examples of industry accepting its obligation to engage in positive responses to environmental challenges.

These initiatives deal with practical solutions and when combined with advances in on-farm technologies and other water-use efficiency programs generate a widespread positive commitment to and adoption of environmental management options.

In addressing the issue of environmental externalities, governments are encouraged to consider the commitment made by industry and work to build on and enhance this positive environmental contribution.

NSWIC does not support the introduction of a tax regime to offset environmental externalities. Funds removed from an enterprise by way of taxation simply reduce the opportunity for further adoption of, or investment, in programs and technology to address on-farm environmental issues.

Benchmarking of environmental conditions within each system is urgently required to ensure that industry and community have an accurate understanding of the effectiveness of environmental programs, the application of funds and environmental water and the condition of environmental asset.

From entitlement holders' perspective, the establishment of benchmarks is critical as assessment of the performance of water sharing plans at the end of their life and prior to roll-over exposes them to potential further loss of entitlement. Accountable benchmarks are required to ensure that the risk assignment provisions of the NWI are properly enforced.

Environmental Managers

NSWIC supports the environmental manager's role proposed for NSW CMAs. The use of CMAs will ensure that local management is focused on the delivery of environmental water allocations to addressing environmental issues of most concern to local communities.

Of concern to NSWIC is the establishment of robust, accountable management guidelines for the use of all environmental entitlements. The measurement and monitoring of local environmental conditions is also crucial to accountability and future application of environmental allocations.

CMAs role as a buyer and trader in the water market is also supported, as long as open and transparent accountability protocols are established. All environmental water, irrespective of the source and management regime it is controlled under, must pay the relevant delivery and water resource management charges applicable to its source or point of extraction.

NSWIC is aware of competing Government programs in the purchase and management of environmental water. It is a concern to NSWIC that no integrated management strategy has been developed to ensure that maximum benefit is achieved from all available resources and that all environmental water managers are required to work in a cooperative manner.

Socio-Economic Studies

NSWIC supports the conduct of socio-economic analysis of the performance of water sharing plans. NSWIC has been working with DNR to undertake a socio-economic study of the 31 gazetted regulated river water sharing plans in NSW.

One important aspect of socio-economic analysis must be to monitor and report on whether environmental water is providing the intended social, environmental and economic benefits desired by the community. If it is accepted that environmental water is a community funded asset, then the environmental water manager must be held accountable for the performance of all environmental water programs and the performance of management regimes against benchmarks and community agreed environmental targets.

Investment in Off-Farm Infrastructure

During the development of the Living Murray agreement, NSWIC supported the hierarchy developed for the acquisition of the "up to 500 GL" required to meet the Living Murray target.

This hierarchy included: in-river infrastructure improvements, river management efficiencies, on-farm water-use efficiency and purchase from willing sellers. NSWIC still supports this agreed hierarchy. To date, despite calls from some governments for the immediate purchase of water from willing sellers, little evidence has been provided to demonstrate that governments and their agencies have explored all possible solutions with regard to in-river infrastructure improvements and river management efficiencies.

NSWIC has an open mind to the proposal recently, released by the Commonwealth, outlining the establishment of an on-farm water tender. To date, no details have been released on this proposal for discussion or consultation.

Volumetric Tax on Water Use by Irrigators

NSWIC supports the statement in the Discussion Draft that states:

“Given scientific uncertainty regarding the interaction between irrigation water use and river flows – combined with the presence of several other potential causes of altered river flows (such as drought and growth of forestry plantations) – a tax on irrigation water use may be an inefficient instrument for achieving river flow objectives.

NSWIC does not support the introduction of a volumetric tax on water used by irrigators.

ATTACHMENT 1 – NSW IRRIGATORS’ COUNCIL MEMBERSHIP

Bega Cooperative Society Limited
Border Rivers Food and Fibre
Coleambally Irrigation Co-operative Limited
Cotton Australia
Gwydir Valley Irrigators Association Inc.
Hunter Valley Water Users Association
Lachlan Valley Water
Macquarie River Food and Fibre
Mungindi Menindee Advisory Council
Murray Irrigation Ltd
Murray Valley Water Diverters Advisory Association
Murray Valley Groundwater Users’ Association
Murrumbidgee Groundwater Pumpers’ Association
Murrumbidgee Horticulture Council Inc.
Murrumbidgee Irrigation Ltd
Murrumbidgee Private Irrigators’ Inc.
Namoi Water
NSW Farmers’ Association Dairy Section
NSW Farmers’ Association
Ricegrowers’ Association of Australia
Richmond Wilson Combined Water Users Association
Southern Riverina Irrigators
South Western Water Users
Wine Grapes Marketing Board