

Level 5, 491 Kent Street,  
Sydney NSW 2000

PO Box Q640,  
Queen Victoria Building NSW 1230



Tel: 02 9264 3848  
nswic@nswic.org.au  
www.nswic.org.au

ABN: 49 087 281 746

---

# **SUBMISSION**

## **IPART**

### **REVIEW OF WATER NSW'S RURAL BULK WATER PRICES**

**&**

### **REVIEW OF WATER MANAGEMENT PRICES FROM 2021**

April 2021



## Contents

NSW Irrigators' Council.....	3
NSW Irrigation Farming.....	3
NSW Irrigators' Council's Guiding Principles .....	4
Introduction.....	5
Overview .....	6
Key Findings.....	6
Key Recommendations .....	7
PART 1: AFFORDABILITY .....	8
PART 2: COST-SHARES & IMPACTOR PAYS .....	10
Cost-Share Ratios .....	10
Percentage of flow extracted & represented on entitlements .....	10
Impactor Pays .....	16
Case study: Difficulties identifying the 'impactor' of dams .....	16
Climate Change as Impactor .....	17
Introduction .....	17
Impacts of 'high consumptive use' compared to climate change.....	19
PART 3: PRIORITY ISSUES .....	22
Metering.....	22
Overview.....	22
Cost efficiencies .....	23
Telemetry.....	24
Affordability & Consequent Responses .....	24
Government-owned meters.....	26
Compliance.....	27
Tariff Structures .....	28
Fish Passageways .....	28
Floodplain Harvesting.....	29
Consultation .....	29
Conclusion .....	29



## 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 Draft Reports for the IPART 2021 Pricing Determination.

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”<sup>1</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>2</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.

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.

---

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

<sup>2</sup> <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

Water management in NSW has undergone a significant transformation in recent years. Whilst this has undoubtedly lifted water management to meet growing public interest requirements and shifting societal expectations and demands, the cost consequences are falling on a small number of people. This submission provides the positions from that small number of people bearing the large proportion of costs on behalf of the general public whom have driven this transformation in water management.

The impacts on water users resulting from these draft decisions involve both:

- An increase in total costs;
- An increase in the share of costs to be recovered from water users.

Water users continue to strongly contend the cost-share ratios, and the impactor-pays principle to which they are based. This leaves water users paying a disproportionate share of the costs, including for public interest items. NSWIC is of the strong view that the heightened public interest in water management is driving the need for new gold-standard reforms. This public interest, including by people external to the system, must be reflected in cost-recovery to deliver these gold-standards.

The irrigation sector has faced a significant reduction from reforms designed explicitly to reduce the extractive share of water, in addition to extreme droughts which further dwindle extractive water opportunities. This means there is a small share of people to carry the cost burden of an entire revolution of the state's water management, and simultaneously, those same people face unprecedentedly low levels of the reliability of water access from entitlements.

NSWIC is of the position that we have reached a tipping point, in which the nature and scale of water management systems, has transcended the needs and scale of extractive water usage. Over the past 20 years, there has been a trend of decreasing extractive usage and users (from both reforms and climate change), and simultaneously, a trend of increasing demands and expectations on water management. This tipping point must be recognised.

It must be noted that irrigators (particularly general security) are the last in line for water, and the first to be cut off during dry periods, which often leaves irrigators with zero or low water allocations. This is because under NSW legislation, the hierarchy of water access prioritises human and environmental needs. With a changing climate, particularly as well documented over the past 20 years, this has resulted in unprecedented low levels of entitlement reliability for productive users.

This submission address key issues jointly between the WaterNSW Rural Bulk Water review, and the Water Administration Ministerial Corporation (WAMC) review. This submission provides state-wide positions, and NSWIC refers to our Member Organisations<sup>3</sup> in each valley for valley-level matters.

This submission is in addition to the points raised through:

- NSWIC Supplementary Submission (Metering Reforms) – January 2021
- NSWIC Submission (Issues Papers) – October 2020
- NSWIC Submission (Length of Determination Period) – August 2020

---

<sup>3</sup> <https://www.nswic.org.au/members/>



## Overview

### Key Findings

- Whilst the bill impacts in IPART’s draft decisions are less than what was proposed to IPART, they remain significant, and water users are highly concerned about **affordability**.
- NSWIC do not support the **cost-share ratios** adopted in the draft decisions, which are based on the cost-shares set by IPART’s 2019 review.
  - Water on an entitlement (and thus subject to charges) represents only a very small portion of total water usage, and thus the cost-burden will fall on a small portion of the total water usage.
  - Water extracted represents only a very small portion of total water usage, and thus the cost-share ratios are not congruent nor reflective of the relative size of the impactor<sup>4</sup> in the context of total water usage.
- The ‘**impactor-pays**’ principle is not suitable to water resource management because of the multiple, diverse, non-tangible, and dynamic cost drivers. The pricing principle for water resources must reflect public interest, and the significance of water more broadly.
- The costs associated with **climate change** are incurred in the absence of high extractive use, as demonstrated by the reality that there is not, and cannot be, high extractive use during these climatic extremes of drought. The priorities of water management during these periods are on domestic purposes, town water services and environmental needs.
- The past 20 years has marked a new chapter of water availability for NSW, with dramatic reductions in inflows, with numerous years having zero or close to zero inflows. This, in turn, has meant low or no water availability for the bulk of consumptive users for many years out of the past two decades. Low inflows has been the primary driver of reduced water availability, and irrigators allocations against their entitlements have significantly reduced in reliability. Thus, the impacts of climate change cannot be considered to be smaller than the impacts of high consumptive use, owing to the trends of water availability over the past 2 decades, compared to consumptive use.
- NSWIC agree with IPART’s draft decision that at this stage, with insufficient information, proposed **metering costs** cannot be passed into regulated prices until they can be demonstrated as efficient. There would be significant adverse impacts on water users if inefficient costs for metering are passed through to water users over the determination period.
- NSWIC do have significant concerns regarding the uncertainty of how metering costs will be funded, and see Government funding as the only feasible way forward at this point in time.
- NSWIC strongly disagree with the draft outcomes regarding **telemetry**, and recommend transitional arrangements are developed until economies of scale can be achieved (which will be covered in more detail in our supplementary submission).
- NSWIC support IPART’s decision for the NSW Government to pay for higher **compliance** costs.
- NSWIC agree with IPART’s draft decision to exempt **floodplain harvesting** licences from Water NSW rural infrastructure charges.
- NSWIC note that further consultation with water users is required on **tariff structures** in some valleys.

---

<sup>4</sup> Assuming the ‘impactor’ to be extractive users.



## Key Recommendations

- i. IPART should re-investigate affordability of the bill impacts, including with analysis of the trends of water entitlement charges (and other costs) against actual usage of water on an entitlement, to determine how charges/costs per megalitre of actual water take are increasing over time.
- ii. IPART should review the outcomes of the 2019 cost-share review, with an intent of developing new cost-sharing ratios to be reflective and proportionate to the relative proportions of total water usage (and total extractions). This is justified by increasingly available climatic data on inflows, and more accessible data on usage and extractions.
- iii. IPART should reconsider the decision regarding climate change as the impactor, by:
  - o Reviewing trends in water availability over the past 20 years, compared to consumptive water use over the past 20 years, to determine the relative impacts of each driver.
  - o Taking into consideration both direct and indirect cost-drivers resulting from climate change, including social pressures and demands arising from sensitivity to water security.
- iv. The costs for the initialisation of the new non-urban water metering framework should be borne by Government, as the only feasible pathway forward at this time.
- v. Transitional arrangements for telemetry costs should be developed until economies of scale can be achieved, to avoid a heavy cost-burden on a small number of users in the interim.

Further recommendations are outlined in this submission.



## PART 1: AFFORDABILITY

---

NSWIC emphasise that the bill increases proposed remain significant for water users.

Whilst NSWIC recognise and appreciate that the severity of the bill increases is generally less than what had been proposed to IPART, the total bill increases remain significant and of concern to water users.

In summary:

- Regulated charges for bulk water supplied by WaterNSW vary widely by valley, but would increase on 1 July 2021 by **25% on average** (before inflation – and held constant for the 4 years).
- Over the next 4 years, WAMC charges would decline by up to 16% in 5 water sources, increase by up to 10% in 14 water sources and increase by more than 10% in 8 water sources (before inflation).

NSWIC welcome the decision to cap the increase in WAMC charges at 2.5% per year (totalling 10% over the 4 years). This is recognised to be half of what was proposed (5% per year, totally 20% over the 4 years), and thus a positive outcome. NSWIC recognise that this is designed to transition prices towards full cost-recovery, to achieve a balance between setting prices that recover WAMC's efficient costs and mitigating price impacts on water users. However, it must also be recognised that a 10% increase over 4 years is nonetheless still a very significant increase.

NSWIC disagree with the analysis by IPART on the affordability and reasonableness of draft prices, and submit that the findings of that analysis are erroneous. Total water charges are considered part of the costs that must be managed within an irrigation business. NSWIC does not consider the Gross Value of Irrigated Agricultural Production (GVIAP), nor the market values for allocations and entitlements traded on the water market, to be relevant nor appropriate measures of capacity to pay / affordability. Regarding GVIAP, the Australian Bureau of Statistics indicates:

*“GVIAP is not a measure of productivity, so extreme care must be taken if attempting to use GVIAP to compare different commodities. Rather, it is a more effective tool for measuring changes over time or comparing regional differences in agricultural production.”*

Regarding market values for water, NSWIC contends that (to the contrary suggested by IPART), the trend of the increasing price of water is actually an indicator of the *unaffordability* of the bill increases, not the affordability. As the ACCC found in their Final Report into Murray-Darling Basin Water Markets, the increasing demand for water in the Basin, combined with long-term decline in supply, has resulted in increases in water prices. This is another cost increase which irrigation businesses are also having to contend with, which is impacting on the profitability and viability of many irrigation businesses.

NSWIC maintain the position in our first submission that the irrigation sector in NSW has faced very low or zero water allocations for an extensive period in recent times (i.e. 3 consecutive years in many valleys) through the worst drought on record, in which farm businesses faced very poor incomes. This is in addition to significant other reforms which are impacting on both water access, and directly on business costs to irrigators (such as metering reforms). This means irrigators in NSW are highly concerned by the affordability of bill increases.

As an irrigator raised at the IPART public hearing:





*“The last time I had access to water was 2016. The last time before that was in 2000. So I’ve had two opportunities in 20 years to access water, and I’ve had bills over that period of time of \$120,000. It’s just obscene.”<sup>5</sup>*

NSWIC encourage IPART’s affordability analysis to include (amongst other components) actual water availability to irrigators, particularly over the last 20 years. For example, NSW Murray General Security licence holder’s reliability has reduced from an average of 81% before the Millennium Drought to now around 48%. Similarly, in the Namoi valley in the northern Basin, General Security reliability has declined from 77% to around 39%. This will be detailed further later in this submission.

Evidently, the costs of operating an irrigation farming business are sky-rocketing, whilst actual water access is plummeting. Whilst NSWIC recognise that the costs for government water management are also evidently increasing, the trend of continued high levels of cost-recovery from users is not financially sustainable. NSWIC has very real concerns that these cumulative impacts are threatening the viability of many irrigation businesses, particularly smaller producers.

*Key findings:*

Whilst the bill impacts in IPART’s draft decisions are less than what was proposed to IPART, they remain significant, and water users are concerned about affordability.

*Key Recommendation:*

IPART’s investigations into affordability should analyse the trends of water entitlement charges (and other costs) against actual usage of water on an entitlement, to determine how charges/costs per megalitre of actual water take are increasing over time.

---

<sup>5</sup> IPART Public Hearing (March 2021), Transcript here: <https://www.ipart.nsw.gov.au/files/sharedassets/website/shared-files/pricing-reviews-water-services-rural-water-review-of-water-management-prices-from-2021/legislative-requirements-review-of-water-management-prices-from-2021/transcript-review-of-wamc%E2%80%99s-prices-session-b.pdf>



## PART 2: COST-SHARES & IMPACTOR PAYS

---

### Cost-Share Ratios

NSWIC do not support the cost-share ratios adopted in the draft decisions, which are based on the cost shares set by IPART's 2019 review.

This has resulted in an outcome (WAMC) where 78.4% of the total notional revenue requirement (\$218.3million) is being allocated to water users, compared with 72.3% in the 2016 review.

NSWIC argues that significant changes have occurred in this time to water management in NSW (i.e. particularly over the last 3 years), as well as new data availability/accessibility, which calls into question the outcomes of the 2019 review. These changes and key considerations are outlined below.

#### Percentage of flow extracted & represented on entitlements

NSWIC wish to raise that only a small portion of total water usage is:

- (a) on an entitlement and thus subject to entitlement charges; and/or
- (b) extracted from the water source.

This section analyses the extent to which (a) and (b) apply in a representative selection of 3 valleys across NSW - Gwydir (northern), Lachlan (central), and Murrumbidgee (southern) – for both the driest and wettest water years of the past decade.<sup>6</sup>

The key finding from this section is that:

- *Water on an entitlement* (and thus subject to charges) represents only a very small portion of total water usage; and,
- *Water extracted* represents only a very small portion of total water usage.

As a result, under the current IPART draft decisions:

- i. The cost-burden falls on a small portion of the total water usage;
- ii. The cost-share ratios are not congruent nor reflective of the relative size of the impactor in the context of total water usage.

These findings and specific recommendations are detailed below.

---

<sup>6</sup> Notably for this analysis:

- Water on an entitlement includes: High Security (environmental), General Security (environmental), High Security (productive), General Security (productive), Supplementary water (productive share), Local Water Utility, Stock & Domestic, Conveyance.
- Water not on an entitlement includes: Planned Environmental Water, Basin Landholder Rights, and all other river operational requirements (storage evaporation, losses, etc).
- Water extracted includes: High Security (productive), General Security (productive), Supplementary water (productive share), Local Water Utility, Domestic & Stock, and Basic Landholder Rights.
- Water not extracted includes: High Security (environmental), General Security (environmental), Supplementary water (environmental) and all other forms of water, such as river operational requirements.



## Gwydir Valley:

Figure 1 shows the total water usage in the Gwydir valley over the previous 10 years, annotated with red lines on the Y axis to indicate water on entitlements (including environmental). Figure 2 shows the breakdown of water usage in the driest year of data availability (2019/20 water year), and for comparison, the wettest year of data availability (2011/12).

Figure 1: Water usage in prior 10 years, Gwydir Valley (WaterInsights, annotated)

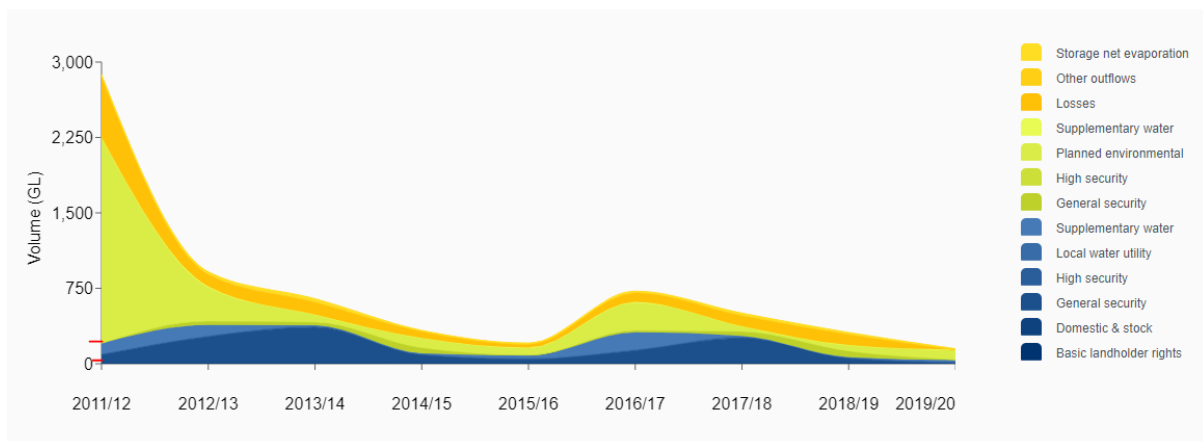


Figure 2: Water Usage in Gwydir Valley 2019/20 and 2011/12 (WaterInsights)

Water year 2019/20: 149 GL	Water year 2011/12: 2,873 GL
Storage net evaporation: 8.6 GL	Storage net evaporation: 8.2 GL
Other outflows: 1.6 GL	Other outflows: 14 GL
Losses: 0.32 GL	Losses: 600 GL
Supplementary water: 3.7 GL	Supplementary water: 0 GL
Planned environmental: 93 GL	Planned environmental: 2,044 GL
High security: 1 GL	High security: 0 GL
General security: 6 GL	General security: 1.8 GL
Supplementary water: 16 GL	Supplementary water: 107 GL
Local water utility: 2.4 GL	Local water utility: 1.7 GL
High security: 9.6 GL	High security: 5.7 GL
General security: 0.38 GL	General security: 84 GL
Domestic & stock: 0.79 GL	Domestic & stock: 0.48 GL
Basic landholder rights: 6 GL	Basic landholder rights: 6 GL

In the driest year of 2019/20, of the total 149GL of water usage, entitlements (including environmental) to which charges apply account for just 20.17GL, or just **13.54% of the total usage**. The amount of water extracted (i.e. excluding environmental, but including BLR) is 35.17GL, which is just 23% of the total water usage. This is not including losses and evaporation.

In the wettest year of data availability (2011/12) which had total water usage of 2873GL, usage by entitlements was 93.68GL, representing just **3.26% of total water usage**. The most significant water usage in this water year (2011/12) was Planned Environmental Water with 2044GL, or 71% of total water usage, and losses to run the river of 600GL or 20.88% of total

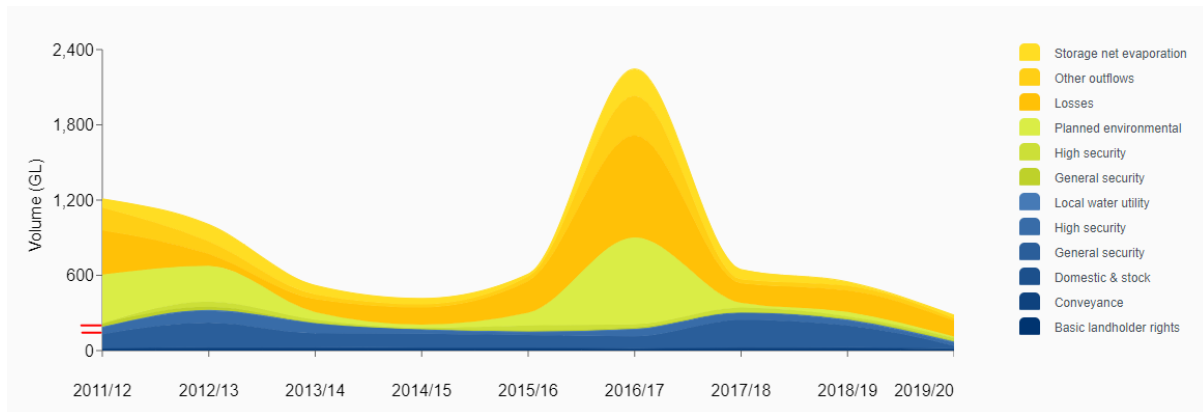


water usage. The amount of water extracted (excluding environmental entitlements, but including BLR) was just 204.88GL or 7.1%.

### Lachlan Valley:

Other valleys produce very similar results. Figure 3 below shows total water usage in the Lachlan Valley over the previous 10 years, with the proportion of water on entitlements (and thus subject to these charges) marked by the red lines on the Y axis. Figure 4 shows a breakdown of total water usage in the Lachlan Valley for the driest year of data availability (2019/20), and the wettest year of data availability (2016/17).

*Figure 3: Water usage in prior 10 years, Lachlan Valley (WaterInsights, annotated)*



*Figure 4: Water Usage in Lachlan Valley 2019/20 and 2016/17 (WaterInsights)*

Water year 2019/20: 283 GL	Water year 2016/17: 2,245 GL
Storage net evaporation: 26 GL	Storage net evaporation: 210 GL
Other outflows: 18 GL	Other outflows: 317 GL
Losses: 127 GL	Losses: 815 GL
Planned environmental: 9.9 GL	Planned environmental: 693 GL
High security: 23 GL	High security: 25 GL
General security: 8.4 GL	General security: 11 GL
Local water utility: 7.6 GL	Local water utility: 6.3 GL
High security: 24 GL	High security: 54 GL
General security: 24 GL	General security: 95 GL
Domestic & stock: 4.7 GL	Domestic & stock: 4.9 GL
Conveyance: 6.9 GL	Conveyance: 9.3 GL
Basic landholder rights: 4.2 GL	Basic landholder rights: 4.2 GL



In the driest year, where total usage was 283GL, just 98.6GL was on entitlements (including environmental and local water utility) and thus subject to entitlement charges, representing just **34.8% of the total water usage**.

In the wettest year, where total usage was 2245GL, just 205.5GL was on entitlements (including environmental and local water utility) and thus subject to entitlement charges, representing just **9.15% of the total water usage**.

In terms of water extraction (i.e. excluding environmental, but including BLR and S&D), in 2019/20 there was 64.5GL extracted representing 22.8% of total water usage, and in 2017/17 there was 164.4GL extracted representing 7.3% of total water usage.

It is important to note the high volume of losses which result from running the river. During drought periods when the river channel is drier, losses for water delivery are also typically higher. During these very dry periods, the running of the river is primarily to service critical human needs (i.e. BLR, S&D and local water utilities) as well as critical environmental needs (i.e. Planned Environmental Water). Of these users – not many are subject to entitlement charges, or at best represent a very small proportion – particularly when losses to deliver that water are factored in. NSWIC emphasise that during those critically dry periods, irrigation water entitlements (particularly General Security) are significantly reduced, even as low as 0%.

#### Murrumbidgee Valley:

Notably, the Murrumbidgee is a more complex case owing to the various entitlement types, however, findings remain similar. Figure 5 below shows water usage in the Murrumbidgee Valley over the previous 10 years, with the proportion of water on entitlements (and thus subject to charges) marked by the red lines on the Y axis.

Figure 5: *Water usage in prior 10 years, Murrumbidgee Valley (WaterInsights, annotated)*

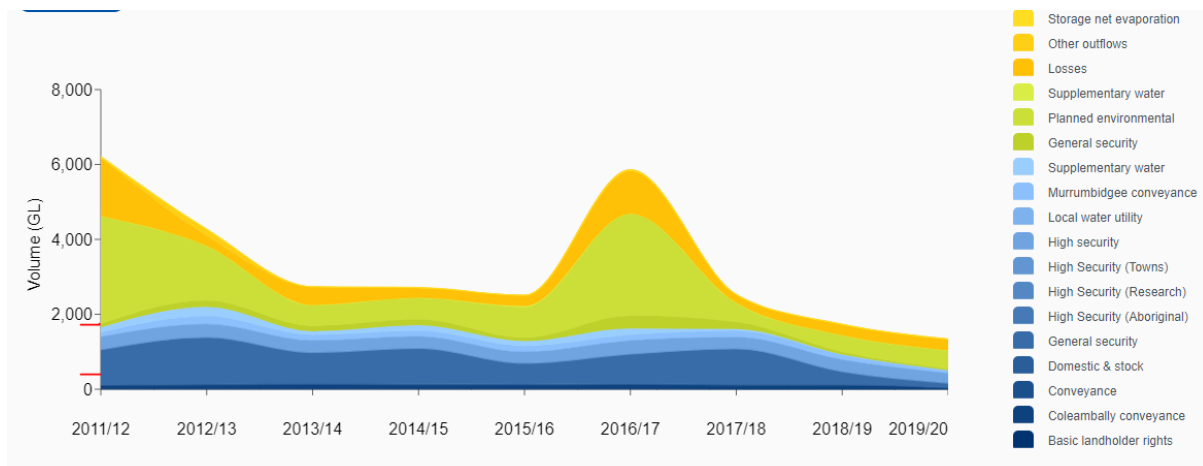




Figure 6: *Water Usage in Murrumbidgee Valley 2019/20 and 2011/12 (WaterInsights)*

Water year 2019/20: 1,342 GL	Water year 2011/12: 6,217 GL
Storage net evaporation: 8.2 GL	Storage net evaporation: 38 GL
Other outflows: 0 GL	Other outflows: 0 GL
Losses: 297 GL	Losses: 1,561 GL
Supplementary water: 1.6 GL	Supplementary water: 0 GL
Planned environmental: 495 GL	Planned environmental: 2,875 GL
General security: 35 GL	General security: 91 GL
Supplementary water: 10 GL	Supplementary water: 140 GL
Murrumbidgee conveyance: 60 GL	Murrumbidgee conveyance: 102 GL
Local water utility: 8.5 GL	Local water utility: 7.6 GL
High security: 251 GL	High security: 332 GL
High Security (Towns): 20 GL	High Security (Towns): 20 GL
High Security (Research): 0.3 GL	High Security (Research): 0.3 GL
High Security (Aboriginal): 0 GL	High Security (Aboriginal): 0.36 GL
General security: 107 GL	General security: 931 GL
Domestic & stock: 24 GL	Domestic & stock: 24 GL
Conveyance: 0 GL	Conveyance: 1.7 GL
Coleambally conveyance: 24 GL	Coleambally conveyance: 89 GL
Basic landholder rights: 1.7 GL	Basic landholder rights: 4.6 GL

Figure 6 shows a breakdown of total water usage in the Murrumbidgee Valley for the driest year of data availability (2019/20), and the wettest year of data availability (2011/12).

In the driest year (2019/20), where total usage was 1342GL, non-entitlement based forms of water usage are again a very significant form of water use. For example, Planned Environmental Water (495GL) represents 37% of total usage, and losses (297GL) represent an additional 22%.

In the wettest year (2011/12), where total usage was 6217GL, Planned Environmental Water (2875GL) represents 46% of total usage, and losses (1561GL) represents an additional 25%.



## **Findings**

In summary, this section finds that:

- Water on an entitlement (and thus subject to charges) represents only a very small portion of total water usage.
- Water extracted represents only a very small portion of total water usage.

These relative shares of the total water usage for both (a) water on an entitlement, and (b) water extracted, are then compared to the proposed cost-share ratios. The proposed cost shares have water users who represent between approximately 3.26 - 34.8% of the total water usage (varying depending on wet/dry year) paying cost shares to the extent of 80% or 100% - this is clearly disproportionate. NSWIC is of the position that this justifies reconsideration of the cost share ratios from the 2019 review, and the legitimacy of the application of the impactor pays principle.

Key Finding:

The conclusion drawn from this analysis is that:

- i. The cost-burden falls on a small portion of the total water usage;
- ii. The cost-share ratios are not congruent nor reflective of the relative size of the impactor<sup>7</sup> in the context of total water usage.

Key recommendations:

NSWIC recommend IPART review cost-shares within the context of total water usage:

- vi. Pricing regimes must seek a more equitable and proportionate distribution of cost recovery to be reflective of relative proportions of total water usage;
- vii. Cost-share ratios must be re-assessed to reflect the relative significance of those subject to entitlement charges.

---

<sup>7</sup> Assuming the 'impactor' to be extractive users.





## Impactor Pays

NSWIC is of the position that the ‘impactor-pays’ principle is not suitable for water resources. This is because the ‘impactor’ in the context of water management:

- Is not clearly identifiable, as the impactor is not singular and is often diverse;
- Must incorporate broad public interest across multiple users;
- Involves drivers that can be external to the system, such as societal demands, values and expectations that drive higher gold-standards;
- Must incorporate non-tangible impactors such as climatic drivers;
- Changes over time.

### Case study: Difficulties identifying the ‘impactor’ of dams

NSWIC note that during the Public Hearing (March 2021), it was often mentioned that the ‘impactor’ leads back to ‘because the dam exists’. NSWIC is of the position that the secondary question must then be asked as to ‘why does the dam exist?’. Further, this must be assessed on the basis of why the dam exists in today’s world for the period of the determination, rather than historically.

Whilst dams may have historically been established in regional NSW to allow for the development of irrigated agriculture, dams are now multi-purpose catering for a variety of stakeholders and objectives, and are essential to the fabric of regional NSW (external to irrigation) and meeting social values of flowing rivers.

The role of dams in contemporary times includes:

- To control/regulate river flows to meet environmental objectives, such as by storing and releasing Planned Environmental Water;
- To provide consistent flow where possible for access under basic landholders rights / stock & domestic users;
- To mitigate flood risk for towns, landholders, businesses and the landscape by holding flood capacity;
- To provide recreational benefit both at the dam site, and along river stretches with regulated flows, and the tourism facilities that rely on this;
- To provide consistent flow to meet societal expectations and values of what river should look like;
- To store and release water held by entitlements.

NSWIC seek clarity that when the ‘impactor’ is referred to as ‘the existence of the dam’, that the multiple other purposes for dams to exist are considered, in addition to just the storing and release of water on entitlements.

Key Finding:

The ‘impactor-pays’ principle is not suitable to water resource management because of the multiple, diverse, non-tangible, and dynamic cost drivers. The pricing principle for water resources must reflect public interest, and the significance of water more broadly.





## Climate Change as Impactor

### Introduction

Assuming the ‘impactor-pays’ principle is to continue, NSWIC raised a number of points in our first submission regarding climate change requiring consideration as the ‘impactor’. Specifically:

*“If an ‘impactor pays’ principle continues - NSWIC believe that now the largest ‘impactor’ on waterways is climate change, and many of the services and new infrastructure is a result of preparing towns and river systems to be resilient to a drying climate. Compared to previous determinations, the impacts of climate change on waterways is more clearly evidenced, experienced and thus broadly accepted. It would be almost impossible, however, to develop a funding model based around this ‘impactor’ (unless from general revenue), and thus a reconsideration of the impactor-pays principle is required.”<sup>8</sup>*

NSWIC thank IPART for considering this concern, but respectfully, fully disagree with IPART’s draft decision:

*“We consider costs associated with climate change would not be incurred in the absence of high extractive use. Therefore, licence holders are the impactor.”<sup>9</sup>*

The reason for our disagreement is because in these drought situations, there is not high extractive use. Under the *NSW Water Management Act 2000*, entitlement holders are the first to be switched off through reduced or zero allocations (as per Available Water Determinations<sup>10</sup>), to ensure there are supplies for higher priority users (such as critical human needs, the environment, and stock and domestic supplies). The focus of water management during these times is for river operations to meet these purposes, not to service (the vast majority of) water entitlements holders. This is conveyed in the draft State Water Strategy<sup>11</sup>:

Priority	Extreme events	Normal circumstances
Highest	<ul style="list-style-type: none"> <li>• Critical human water needs</li> </ul>	<ul style="list-style-type: none"> <li>• Needs of the environment</li> </ul>
High ↓ Low	<ul style="list-style-type: none"> <li>• Needs of the environment</li> </ul>	<ul style="list-style-type: none"> <li>• Basic landholder rights</li> </ul>
	<ul style="list-style-type: none"> <li>• Stock</li> <li>• High security licences</li> <li>• Commercial and industrial activities authorised by local water utility</li> <li>• Water for electricity generation on a major utility licence</li> <li>• Conveyance in supplying water for any priority 3 take</li> </ul>	<ul style="list-style-type: none"> <li>• Local water utility access licences</li> <li>• Major utility access licences</li> <li>• Stock and domestic access licences</li> </ul>
	<ul style="list-style-type: none"> <li>• General security licences</li> </ul>	<ul style="list-style-type: none"> <li>• Regulated river (high security) access licences</li> </ul>
	<ul style="list-style-type: none"> <li>• Supplementary licences</li> </ul>	<ul style="list-style-type: none"> <li>• All other forms of access licences</li> <li>• Supplementary access licences</li> </ul>

<sup>8</sup> NSWIC Submission to IPART – October 2020 [P 20].

<sup>9</sup> IPART Draft Reports.

<sup>10</sup> <https://www.industry.nsw.gov.au/water/allocations-availability/allocations/determinations>

<sup>11</sup> Draft NSW Water Strategy [P 33]. Available at:

[https://www.industry.nsw.gov.au/\\_data/assets/pdf\\_file/0010/351883/draft-nsw-water-strategy.pdf](https://www.industry.nsw.gov.au/_data/assets/pdf_file/0010/351883/draft-nsw-water-strategy.pdf)



This is also clearly outlined under legislation, as per the *NSW Water Management Act 2000*:

**60 Rules of distribution applicable to making of available water determinations**

(3) While an order under section 49A is in force, the following rules of distribution apply to the making of an available water determination—

(a) **first priority** is to be given to—

(i) the taking of water for **domestic purposes** by persons exercising **basic landholder rights**, and

(ii) the taking of water for domestic purposes or **essential town services** authorised by an access licence,

(b) **second priority** is to be given to the needs of the **environment**,

(c) **third priority** is to be given to—

(i) the taking of water for **stock purposes** by persons exercising **basic landholder rights**, and

(ii) in the case of regulated rivers, the taking of water for purposes (other than domestic purposes) authorised by a regulated river (**high security**) access licence, and

(iii) the taking of water for the purposes of supply of commercial and industrial activities authorised by a major utility access licence or **local water utility** access licence, subject to the water made available being in accordance with any drought management strategy established by the Minister for that purpose, and

(iv) the taking of water for the purposes of **electricity generation** authorised by a major utility access licence, and

(v) the taking of water for purposes authorised by a domestic and stock access licence or by persons exercising any other water rights in relation to stock, and

(vi) the taking of water for purposes authorised by a **conveyance** access licence in connection with the supply of water for any other purpose or need referred to in this paragraph,

(d) **fourth priority** is to be given to the taking of water for purposes authorised by **any other category or subcategory of access licence**.

It is this fourth and last priority that the bulk of irrigation comes under, with the exception of high security licences which are only 1 order of priority higher. This legislative priority clearly demonstrates that during these times, the ‘impactor’ driving water management efforts is the first priority (domestic purposes and town services), shortly followed by the needs of the environment (i.e. Planned Environmental Water) as the second priority. In these drought situations, the later items further down the priority list (the bulk of extractive users) do not receive water, or their water access is significantly impaired.

In drought situations – which are set to become more frequent and more severe with climate change – these scenarios of no or impaired water access for the bulk of extractive users is forecast to become more common, with the changing orientation of water management towards these higher priority items.

Given the system of water management in NSW that bases water access on water availability and the priority framework, which effectively switches off the bulk of entitlement holders during drought, NSWIC is of the firm position that the costs associated with climate change are not incurred as a result of extractive use.

As shown in the above figures of total water use, there has not been high extractive use (particularly over the previous determination period), however, there has been significant costs incurred for climate-driven water reforms over this period.

NSWIC agree with the scenario presented by IPART that:



*“If costs associated with climate change would still need to be incurred in the absence of high extractive use then licence holders would not be the impactor of these costs”<sup>12</sup>*

However, this is not see reflected in IPART’s draft decisions, given this is the situation occurring in that the costs associated with climate change are still incurred in the absence of high extractive use.

**Finding:**

The costs associated with climate change are incurred in the absence of high extractive use, as demonstrated by the reality that there is not, and cannot be, high extractive use during these climatic extremes of drought.

The priorities of water management during these periods are domestic purposes, town water services and environmental needs.

Impacts of ‘high consumptive use’ compared to climate change

NSWIC encourage IPART to review trends in water availability over the past 20 years, compared to consumptive water use over the past 20 years, to determine the relative impacts of each driver.

In the past 20 years there has been dramatic reductions in inflows and total water supply. This has involved, consecutively, the two worst droughts on record for most of NSW (i.e. the recent drought centred around 2019 and the Millennium drought). This ultimately marks a new chapter in water availability for NSW.

The Interim Inspector- General of Water Compliance recently highlighted:

*“The most telling finding is the **dramatic reduction in inflows** that has been experienced in the River Murray system over the last two decades or so. This remains the **primary driver of reduced water availability**, and there is little anyone can do to influence when and how much it rains.”<sup>13</sup>*

*“Median inflows into the Menindee Lakes have **reduced by about 80% in the last 20 years** relative to the recorded period prior. Eight of the 13 driest years on record occurred in this period, most yielding **zero or close to zero inflows**. Although years of low inflows to the Menindee Lakes are common in the historical record, the dry years in the past two decades have been much more severe.”<sup>14</sup>*

Further examples are provided in the below footnotes.<sup>15</sup>

This stark change in water availability in NSW is captured by the Bureau of Meteorology Drought Reports<sup>16</sup>, as shown in Figure 8, which shows large sections of NSW with a rainfall percentile ranking of the lowest on record.

<sup>12</sup> IPART Draft Report – WaterNSW Rural Bulk Water [P 88].

<sup>13</sup> Interim Inspector-General of Water Compliance, “Impact of Lower Inflows on State Shares under the Murray-Darling Basin Agreement” (2020). Here: [https://www.igwc.gov.au/sites/default/files/2020-09/iig\\_final\\_report.pdf](https://www.igwc.gov.au/sites/default/files/2020-09/iig_final_report.pdf) [p iii].

<sup>14</sup> Ibid [p 12].

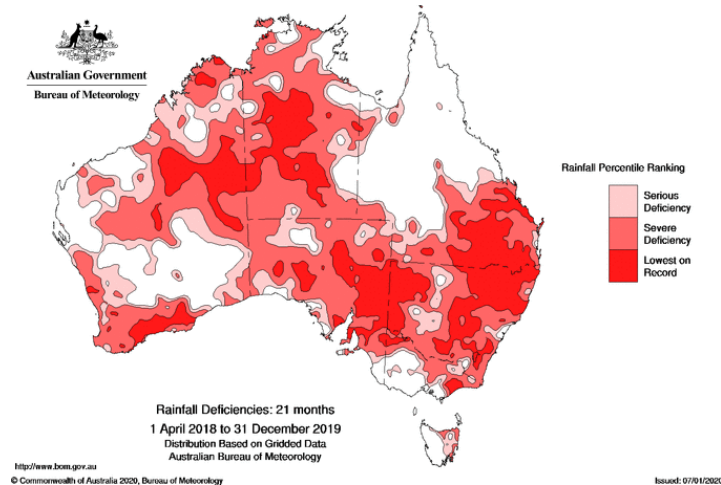
<sup>15</sup> Also further documented by the Interim Insecptor-General of Water Compliance as:

- *Figure 4 Total River Murray system inflows, 1895 to 2020 illustrates that **more than half of the driest 10% of years** in the historical record have occurred in the **past two decades**. The pattern of such dry years occurring back-to-back is also not observable to the same extent at any other time prior to 2000. [p 7].*
- *Inflows upstream of Albury provide the most substantial contribution to total water availability. Median inflows upstream of Albury have decreased by about one third in the past 20 years compared with the preceding century, **while half of the driest years on record have occurred in the past 25 years**. [P 9].*
- *Median inflows in the NSW tributaries have **reduced by almost two-thirds** over the **past 20 years** compared with the preceding century. [p 10].*

<sup>16</sup> <http://www.bom.gov.au/climate/drought/archive/20200107.archive.shtml>



Figure 8: Deficiencies since April 2018 (Bureau of Meteorology)<sup>17</sup>



As captured in the Bureau of Meteorology Special Climate Statement:

*“For periods beginning in calendar years, rainfall for the two years 2018–2019, and the three years 2017–2019, has been the lowest on record for the Murray–Darling Basin and for the state of New South Wales.”<sup>18</sup>*

NSWIC thus have significant concerns regarding the statement by IPART that:

*“if climate change was an impactor, its impact was substantially smaller than the impacts of high consumptive water use.”*

This new chapter of water availability, as experienced and well-documented over the past 20 years is not only significantly impacting on water reliability against water entitlements, but is simultaneously driving policy reforms. This is owing to a heightened sensitivity to, and interest in, water security; but also to ensure high priority users (like towns and the environment) can be serviced throughout these periods.

Regarding the impacts on entitlement reliability (as indicated in Part 1):

- NSW Murray General Security licence holders were allocated, on average, 81% of their licence volume before the Millennium Drought. Their licence reliability is now around 48%.
- In the Namoi valley in the northern Basin, General Security reliability has similarly declined from 77% to around 39%.

In addition, this new chapter of water availability and lived experience of water insecurity has shifted social values and expectations in regards to water management. This has driven public expectations for ‘gold-standard’ water management in response, driving a tide of reforms.

It is within this context of the two worst droughts on record – the recent drought (centred around 2019) and the Millennium drought – that the reform agenda was set. Water scarcity caused changing social values and expectations of water management. This drove a tide of water reforms, ranging from the Murray-Darling Basin Plan at the Commonwealth level, to the development of Water Sharing Plans at the state level, and the most recent tranche of reforms in NSW driven from 2017 onwards.

<sup>17</sup> <http://www.bom.gov.au/climate/drought/archive/20200107.archive.shtml>

<sup>18</sup> <http://www.bom.gov.au/climate/current/statements/scs70.pdf> [P 4].



NSWIC thus encourage IPART to adopt a broader lens of the climate change driven costs to include both:

- Direct costs to respond to, and plan for, extreme drought and floods (which are forecast to be more frequent and more severe), including analysis of the types of users being served (i.e. towns and the environment);
- Indirect costs that result from climate change and increased prospects of water insecurity leading to heightened sensitivity and increased demands for high standards of water management (such as exceptionally high metering standards).

NSWIC note that in the second Public Hearing (March 2021), IPART stated that it *did* consider climate change to be an impactor in the long term, but that we have not yet hit a ‘tipping point’ to which it requires factoring in. NSWIC contend that we have certainly reached this tipping point, as the evidence presented in this submission indicates.

*Key Finding:*

The past 20 years has marked a new chapter of water availability for NSW, with dramatic reductions in inflows, with numerous years having zero or close to zero inflows. This, in turn, has meant low or no water availability for the bulk of consumptive users for many years out of the past 2 decades.

Low inflows has been the primary driver of reduced water availability, and irrigators actual water access against their entitlements has significantly reduced, fundamentally shifting the nature and extent of extractive water use.

Thus, the impacts of climate change cannot be considered to be smaller than the impacts of high consumptive use, given during climatic extremes of drought there simply is not, and cannot be (under law), high extractive use. This is evidenced in water use data over the previous 20 years.

*Key recommendation:*

IPART to reconsider the decision regarding climate change as the impactor, by:

- Reviewing trends in water availability over the past 20 years, compared to consumptive water use over the past 20 years, to determine the relative impacts of each driver.
- Taking into consideration both direct and indirect cost-drivers resulting from climate change, including social pressures and demands arising from sensitivity to water security.
- Re-assessing what the ‘impactor’ of C21 water management now is, based on recent data availability which supports this step change.





## PART 3: PRIORITY ISSUES

---

*NSWIC thank IPART for granting an extension for stakeholders to provide supplementary submissions on Metering and Tariff structures. This is greatly appreciated by stakeholders impacted by flooding during the consultation period, as well as the significant volume of public consultations simultaneously occurring. The preliminary positions of NSWIC on Metering and Tariff Structures are provided below, with further detail to be provided in a supplementary submission (which may supersede the below).*

### Metering

#### Overview

NSWIC has significant concerns with WaterNSW's proposal in which water users pay the full cost of implementing the new non-urban water metering reforms, which would lead to significant bill increases for customers. NSWIC do not consider this to be affordable for water users, and is strongly concerned by the adverse impact (particularly on smaller users) if this proposal eventuates.

NSWIC supports the new non-urban water metering framework, noting this framework is the highest standard in not just Australia, but globally.

NSWIC wish to clarify that the NSW non-urban water metering framework is a state-wide framework, with metering requirements and standards applied consistently across the state.<sup>19</sup> The only geographical variation is the roll-out dates to ensure compliance, which requires inland northern regions to be compliant by 1 December 2021, inland southern regions by 1 December 2022, and coastal regions by 2023. By the completion of this rollout, the entire state of NSW will be subject to the same new metering standards.

NSWIC appreciate the draft decision that since WaterNSW's proposed costs for metering reform are still at a preliminary stage, they cannot be factored into regulated prices at this stage, until efficiency can be demonstrated. Specifically:

*“Based on the information provided, our preliminary position is that, at this stage, we do not yet have sufficient information to set prices to include the proposed metering costs in regulated prices over the upcoming determination period. We have concerns about whether Water NSW's proposed costs are efficient and we consider more work is needed to ensure Water NSW's implementation of these reforms is both effective and efficient.”<sup>20</sup>*

There would be significant adverse impacts on water users if inefficient costs are passed through to water users over the determination period. NSWIC is of the firm position that water users should only be paying for costs which can be demonstrated to be efficient.

NSWIC agree that:

*“We consider Water NSW should bear the risks and costs associated with the implementation of this policy until it has demonstrated that its proposed costs are efficient so they can be included in regulated prices.”<sup>21</sup>*

---

<sup>19</sup> <https://www.industry.nsw.gov.au/water/metering>

<sup>20</sup> IPART Draft Report - WaterNSW Rural Bulk Water [P 11].

<sup>21</sup> IPART Draft Report - WaterNSW Rural Bulk Water [P 12].



However, NSWIC do have significant concerns regarding the uncertainty of how metering costs will be funded. These concerns are particularly significant given:

- Metering reform costs are expected to be one of the most significant cost components;
- NSWIC do not want to see pricing issues pose any impact on the implementation of the metering reforms, nor the roll out dates.

NSWIC would not support any retrospective catch-up charge which would seek to incorporate these costs at a later time. This is due to:

- Avoiding due process lacks transparency and predictability, and would thus lead to a loss of confidence by water users;
- The costs would not be forecast/predicted by water users if these costs are dealt with externally / separately / subsequently to this determination;
- These costs are anticipated to be the most significant component of increased costs, and extracting this cost component would give a false impression of the significance and extent of the total price increase to be imposed on users in this determination.

**NSWIC thus recommend that the costs for the initialisation of administering the metering reform are borne by Government**, and see this as the only feasible pathway forward at this time. This is because:

- This was the understanding and expectation of water users, who now feel shocked by the proposition that metering reform initialisation costs will be recovered from users;
- The costs of initialisation of the metering reform were not included within public consultation from agencies, as confirmed by DPIE-Water at the IPART Public Hearing in March 2021;
- Water users with privately-owned meters (or opting out of government-owned) are already required to outlay significant expenditure to upgrade meter and telemetry equipment to be compliant with new standards, which should be considered their contribution to upgrading the states metering framework;
- The high metering standards – the highest in not just Australia, but globally – are not to service irrigators, but to build public confidence in water management. Many components are also to serve NRAR to aid their investigation and prosecution roles.
- It is critical that there is no impact on the implementation of the metering reforms, nor the roll out dates, as a result of cost recovery issues. NSWIC see government funding as the only feasible way forward at this stage.

*Key Finding:*

There would be significant adverse impacts on water users if inefficient costs are passed through to water users over the determination period.

*Key Recommendation:*

The costs for the initialisation of the new non-urban water metering framework should be borne by Government, as the only feasible pathway forward at this time.

Cost efficiencies

NSWIC reiterate the issues raised in the NSWIC Supplementary Submission (25 January 2021) regarding the updated WaterNSW Pricing Proposal inclusive of metering reform costs. This submission is affixed as **Appendix 1**.



Key points include:

- WaterNSW has long had metering roles and responsibilities, and any new roles and responsibilities imposed by the new metering reforms must be compared to this counterfactual to determine a reasonable magnitude of price changes. There should only be additional cost increases where there is a net increase in services – and strictly not to retrospectively address expenditure exceeding planned levels.
- The irrigation industry strongly contends that reforms were driven in large part by government failure to properly deliver its compliance responsibilities. Industry has long paid for compliance activities that the Government evidently and indisputably under-delivered until recent times. NSWIC is of the strong position that water users should not have to face cost increases that result from services previously paid for, but not delivered, or delivered poorly<sup>22</sup>.

NSWIC is also of the view that the issues raised by the Cardno report are significant and concerning. For example:

- *Cardno considers WaterNSW's assumptions and cost estimates are likely to be overstated;*
- *Cardno notes Water NSW has not completed any cost benefit analysis of potential alternative approaches or options for delivering its field activities.*<sup>23</sup>

This does not instil confidence in water users.

#### Telemetry

NSWIC strongly disagree with the pricing outcomes regarding telemetry. NSWIC note that telemetry is not a legislative requirement, nor is it included in the national standards. In our view, the reason for telemetry is to service NRAR, by providing a simple means and secure connection for NRAR to collect evidence in the event of a prosecution case. NSWIC note that with a small amount of users on telemetry in the initial period, the large cost-burden of start-up costs, will fall on a very small number of users. NSWIC recommend a phase-in system is adopted to avoid a small group of initial users facing the large start-up costs, until a point of economies of scale can be achieved.

Further information will be provided in NSWIC's Supplementary Submission.

#### Affordability & Consequent Responses

This section is in response to the question posed by IPART.

- *Do you consider the indicative scheme proposed costs are affordable and what are the impact of proposed bill increases on licence holders?*

NSWIC do not consider the proposed costs as affordable, and is deeply concerned by the adverse impacts this would have, particularly on smaller users.

As the IPART Draft Report outlines, the percentage increase in customer bills as a result of metering is very significant. For state-owned meters, metering reforms will lead to a 157.7% increase in the Murray, and 62.9% on the South Coast.<sup>24</sup> For private-owned meters, the percentage increase on customer bills from metering will include increases of 69.6% for the Murray, 54.2% for the Murrumbidgee, 43.1% for the Macquarie and 40.2% for the Border.<sup>25</sup>

<sup>22</sup> NSWIC Submission" Review of WaterNSW Rural Bulk Water Prices from 1 July 2021 & Review of Water Management (WAMC) Prices from 1 July 2021 (October 2020). Available here: <https://www.nswic.org.au/wordpress/wp-content/uploads/2020/10/2020-10-20-NSWIC-Submission-Review-of-NSW-Rural-Bulk-Water-Prices-WAMC-.pdf>

<sup>23</sup> IPART Draft Report - WaterNSW Rural Bulk Water [P 172-3].

<sup>24</sup> IPART Draft Report - WaterNSW Rural Bulk Water [P 165].

<sup>25</sup> IPART Draft Report - WaterNSW Rural Bulk Water [P 166].





This is very significant, and for privately-owned meters is in addition to the customers costs of installing, upgrading and maintain their own meter.

NSWIC also wish to highlight that the price increases under the IPART determination are part of broader financial challenges for irrigation farmers, being driven by the cumulative impacts of water reforms, as well as changing climate. This is outlined in Section 1.

- *Will Water NSW's proposal result in a consolidation of entitlements and fewer licence holders?*

NSWIC would not be surprised if trends of consolidation of entitlements occur, as a (devastating) result of the cumulative impacts of water reforms (and climate change) driving farmers out of business (see Part 1). The recent Independent Assessment into Social and Economic Conditions in the Basin identified this, as:

*“Farm consolidation and commercialisation – The shift towards larger and commercial farming is well documented in the Basin.”<sup>26</sup>*

*“As a Basin we also then face the prospect of a more risky irrigation sector in future—one where there is less diversity of farm systems...”*

ABARES also notes this shift:

*“These factors have driven a trend in recent decades towards fewer, but larger farm businesses.”<sup>27</sup>*

NSWIC note that the cumulative impacts from water reform are leading to often unintended but perverse impacts. Every policy (and pricing) decision must be cognisant to the cumulative contribution towards these perverse impacts on these communities.

Further, one of the objectives of the new non-urban water metering framework is to ensure that:

*“undue costs on smaller water users are minimised”<sup>28</sup>*

This is evidently at odds with the finding by IPART that:

*“Small volume licence holders who are required to pay the costs proposed by Water NSW will face higher percentage increases in their total bills than those with larger entitlements. The fixed per-meter charges in Water NSW's proposal means the average cost per megalitre of holding and using water will be higher for smaller licence holders.”*

Thus, under the proposed arrangements, the above objective would not be met.

- *Will the metering proposal lead to water users downsizing their meters?*

NSWIC note that the metering policy requires all meters of 100mm or greater to comply with the new metering standards and requirements, and as such face the proposed charges and other associated costs.

Given WaterNSW notes that the most common size of meters for water users on regulated and unregulated rivers is between 100mm and 149mm, IPART's question is whether water users would downsize to <100mm to avoid the costs imposed by the new framework.

<sup>26</sup> Independent Assessment into Social and Economic Conditions in the Basin (2020), here: [https://www.mdba.gov.au/sites/default/files/pubs/seftons-report-september-2020\\_0.pdf](https://www.mdba.gov.au/sites/default/files/pubs/seftons-report-september-2020_0.pdf) [P 50].

<sup>27</sup> See: <https://www.agriculture.gov.au/abares/research-topics/surveys/disaggregating-farm-size>

<sup>28</sup> NSW Non-Urban Water Metering Policy, here: [https://www.industry.nsw.gov.au/data/assets/pdf\\_file/0017/312335/nsw-non-urban-water-metering-policy.pdf](https://www.industry.nsw.gov.au/data/assets/pdf_file/0017/312335/nsw-non-urban-water-metering-policy.pdf) [P 1].



Whilst this may potentially occur (noting strict requirements), NSWIC is not aware of any research into this likely behavioural response.

However, NSWIC note that given the recent pace of water reforms, there would likely be a hesitation by some water users to go to this effort and incur the additional costs of downsizing their meter, out of hesitation of possible future policy change to include <100mm within this policy too.

The behavioural response would likely vary between valleys, type of system (reg or unreg), entitlement type, purpose for the water use, and many other factors. For example, in a highly volatile system with limited access opportunities, downsizing may have significant impacts on the total water that could be accessed.

Further investigations would be required to determine or predict a likely behavioural response.

#### Government-owned meters

NSWIC do not consider it appropriate nor acceptable for water users to be put in a position to take on a meter that is either not currently compliant, or unable to be made compliant by the roll-out date. However, NSWIC also do not consider the exorbitant prices for water users who will continue to have a Government-owned meter to be appropriate or reasonable. Whilst the issue is framed that these users have the option to opt-out, the reality is that these water users are ‘stuck between a rock and a hard place’, with either option imposing significant costs.

The history of this reform provides necessary context. Many of these impacted water users were highly reluctant for the transition to government-ownership of meters in the first place. Water users were of the expectation that the government-owned meters (which were only relatively recently installed) were state-of-the-art and would be able to meet the standard for a number of years into the future. Water users participated based on the understanding that the new Government-owned meters, installed in replacement of their own existing meters, was a long-term measure.

Additionally, there are concerns that the costs of transitioning from the government-owned meter to a compliant meter would be higher than transitioning from the previous meters these users had in place to a compliant meter.

In response to the specific questions posed by IPART, NSWIC do consider it likely that a number of water users in the government-owned meter scheme would opt out (i.e. those who would have a lower cost with a privately-owned meter than the average MSC). This would be to avoid the significant ongoing charges for the government-owned meter scheme, as well as to have greater autonomy and flexibility to manage a privately owned system independently. However, as noted above, this would still impose significant costs to the users. Depending on the extent of uptake, this may have impacts on the average cost for WaterNSW to administer the government-owned scheme, and thus the MSC (i.e. if those opting out are typically lower-cost customers).

IPART state that:

*“the ability to opt out suggests that customers have a choice about who provides their meter and support services. If this service is contestable, there may be an economic case to not set a maximum charge if customers have a choice of who can provide the metering service.”*

NSWIC disagree and contend whether this is a legitimate choice between meter and support services, as:

- This is a means to seek a correction from a previous Government policy blunder;
- The regulatory framework is so strict and prescriptive that it would be difficult to establish a case that customers have a choice of who can provide the service.



In setting a regulated maximum price for metering, key considerations to ensure efficient outcomes, include (but are not limited to) factors such as: workload, time requirements, frequency, remoteness, accessibility.

## Compliance

NSWIC support IPART's decision for the NSW Government to pay for higher compliance costs, and agree with IPART that "these costs are required in the short term to address historical compliance issues". NSWIC notes that NRAR proposed costs of \$63million for the 4 year determination period, which is 178.8% higher than the 2016 allowance, which reflects the step change in resourcing to address the issues raised in the Matthews Inquiry. NSWIC also note that IPART have accepted Cardno's recommended efficiency adjustments which have reduced compliance costs by \$38.9million (or 62%), on the basis that "in the short term NRAR's costs would be higher to address historical compliance issues and lack of universal metering" and "given that NRAR is currently operating under an intensive phase of compliance and enforcement".<sup>29</sup> NSWIC welcomes IPART's approach:

*"This approach ensures users only pay the efficient costs of compliance. Our approach would also safeguard NRAR from being underfunded if our recommendation is accepted by the NSW Government to provide additional funding to recover the higher costs of compliance."*<sup>30</sup>

The significant reforms to compliance in NSW came about following the 4 Corners program 'Pumped', the subsequent Matthews Inquiry, and Water Reform Action Plan which led to the establishment of the Natural Resources Access Regulator (NRAR). This significant reform was based on the premise that there was widespread non-compliance with water laws.

However, to the contrary, since the establishment of NRAR there has only been 12 prosecutions in NSW for water offences (according to the NRAR Public Register<sup>31</sup>). This is a very low rate of offences. Further, in many statements, we are told that the majority of water users do the right thing and comply with water laws.

This is reinforced by public statements by NRAR such as:

*"The **vast majority of water users comply with the law**. The NRAR has the full backing of the NSW Government to stamp out the **small minority of rogue operators** who are bringing down the name of all those who are doing the right thing."*<sup>32</sup>

*"In our experience, most **water users want to do the right thing**. We will continue to work with those who may need our assistance to get into compliance. It's only a **small minority of water users that commit acts of wilful non-compliance** and they remain the focus of our enforcement efforts."*<sup>33</sup>

NSWIC welcome the work of NRAR as part of our zero-tolerance to water theft, however, questions must be asked as to whether this response was proportionate to the extent of the situation.

It is clear that that the operation of NRAR is primarily driven by a need to change the public perception and public confidence in water management which was scarred by revelations

<sup>29</sup> IPART Draft Report – WAMC [P 30].

<sup>30</sup> IPART Draft Report – WAMC [P 30].

<sup>31</sup> NRAR Public Register: <https://www.industry.nsw.gov.au/natural-resources-access-regulator/reports-data/nrar-public-register>

<sup>32</sup> Grant Barnes, Op Ed, The Land (2018): <https://www.theland.com.au/story/5812540/water-compliance-just-getting-started/>

<sup>33</sup> <https://www.industry.nsw.gov.au/natural-resources-access-regulator/about-nrar/nrar-news/nrars-position-on-enforcing-water-laws-remains-clear-after-disallowance>



about a very small minority of individuals. The extent to which the operation of NRAR is to foster public confidence in Government water management must also be assessed.

NSWIC also note that water compliance is a grey area of jurisdiction between the States and Commonwealth, which creates uncertainty of roles and responsibilities, varying standards and possible duplication. In recent times there has been significant interest in water compliance at the Commonwealth level, such as through the establishment of the Interim Inspector-General of Water Compliance<sup>34</sup>, and the Basin Compliance Compact. NSWIC would not be opposed to Commonwealth funding for water compliance activities (i.e. to fund NRAR) and would hope this may lead to other states eventually adopting the same high compliance standards as NSW.

### Tariff Structures

NSWIC note that each valley has distinct preferences on the most suitable tariff structures for each valley, and refer to our Member Organisations in each valley to express their preferences.

Importantly, water users in each valley should have adequate information available to make informed decisions about the most suitable tariff structures for their circumstances.

In future pricing determinations, this is likely going to be a significant issue, and WaterNSW must establish a consultation process, to provide data that allows informed decision-making of this technical item.

### Fish Passageways

NSWIC strongly support fish passageways as important for our river environment and aquatic species. However, the irrigation sector has long struggled with the expensive costs.

NSWIC strongly support the comments of DPI-Fisheries at the IPART Public Hearing, and recommend that IPART work with DPI-Fisheries to understand the issues and develop a way forward.

As background, the Dam Safety Upgrade (DSU) fishways were originally agreed to in 2009, with a 50:50 cost-share arrangement. This fishway program was put on hold in 2014 largely due to irrigators concerns over increasing costs. Since this time, NSWIC understands that DPI-Fisheries and WaterNSW have been investigating cost-efficiencies, and completed the Strategic Fishway Implementation Program in 2020, presumably with cost-savings.

The issue was well-articulated by Matthew Gordos from DPI-Fisheries at the Public Hearing:

*“...the difficulty is that those cost savings won't be realised by the irrigators who are the ones that raised the concerns and the reason the program was put on hold in 2014. This is because the cost share has moved from a 50/50 cost share arrangement in 2009-2014 to one that's now an 80/20 cost share arrangement. So the irrigators won't realise any of those cost savings, which is why the program was put on hold 7 years ago.”*

The DSUs themselves were 100% government-funded, and these fishways are a direct result of those DSUs, as an environmental requirement of the DSU. NSWIC do not consider it appropriate to consider the cost of the environmental requirement of the DSU under different costing arrangements to the DSU itself.

---

<sup>34</sup> <https://www.igwc.gov.au/>



NSWIC do not support the cost-share for fishways increasing to 80%, nor for cost-share changes to be applied retrospectively to these projects.

*Key recommendation:*

IPART to liaise with DPI-Fisheries to identify issues surrounding fishways and determine suitable pathway forward.

### Floodplain Harvesting

NSWIC agree with IPART's draft decision to exempt floodplain harvesting licences from Water NSW rural infrastructure charges.

The agreement of NSWIC is on the basis that this infrastructure is privately owned and operated, on private land, and does not require WaterNSW to store or deliver water. Additionally, a key reason these water users were encouraged to develop large on-farm storages was to overcome deficiencies in the states bulk water delivery service (i.e. the lack of public infrastructure in the northern Basin, and the need to do bulk water deliveries which requires holding water on-farm to ensure efficiency of delivery).

### Consultation

NSWIC agree with IPART's statement:

*"We found that Water NSW needs to improve the quality of its customer engagement and consultation."*

Water users across the state have raised significant concerns regarding public consultation by WaterNSW on pricing. NSWIC recommend that WaterNSW need to develop new and improved ways of customer engagement, that involve reaching a broad and diverse range of customers, providing genuine opportunity to design solutions, designing consultation that is engaging, efficient and not overly time-intensive, and providing adequate feedback loops on issues raised. This should be premised on enabling water users to easily provide feedback.

## **Conclusion**

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

NSWIC thank the IPART staff for their positive engagement throughout this process, particularly with the NSWIC Pricing Committee.

NSWIC reiterate our support of the submissions provided by our Member Organisations.<sup>35</sup>

Kind regards,

NSW Irrigators' Council.

---

<sup>35</sup> <https://www.nswic.org.au/members/>