

WaterNSW Operating Licence Review 2023

IPART Issues Paper

Introduction

The NSW Irrigators' Council (NSWIC) is the peak body representing irrigators and irrigation communities in NSW. NSWIC has member organisations in every NSW Murray-Darling Basin valley, and several coastal valleys, representing more than 12,000 water access licence holders.

This letter provides preliminary input for the WaterNSW Operating Licence Review, in response to the public consultation on the Issues Paper.

NSWIC will be developing a comprehensive and detailed Pricing Report in coming months, which will be provided to IPART in due course, prior to the next consultation stage (indicated by IPART as Q1 of 2024).

This letter responds to key questions in the Issues Paper, in the order presented.

The most significant issues for NSWIC are:

- **Excessively high, and increasing, costs for water users** – due to the reliance on the impactor-pays principle and cost-sharing arrangements that heavily burden water users with the costs of public interest items.
- **Declining level of service** from WaterNSW, and dwindling customer satisfaction.
- **Poor consultation practices with water users.**

Detail

Question 3 and 4 - Should WaterNSW be required to undertake education programs in the community for both the declared and non-declared catchments? Should the Licence specify what the education programs should include? If so, what should it specify?

- Education for the broader community:
 - Water literacy is low across the broader community in NSW, which has led to diminishing public confidence in water management, and the prevalence of misinformation.
 - The WaterNSW 'Water Insights' portal is a positive development to counter misinformation and improve public confidence. It should be continued.
 - Information on how water is managed/shared, current flow and storage levels, drought stages, etc are important.
 - NSWIC would like to see WaterNSW take a more proactive role in responding to misinformation.

- Education of water users:
 - The complexity of NSW’s water management architecture causes confusion.
 - The lack of, and declining, customer service centres in regional communities is problematic, as water users feel they have lost their point of contact to assist with enquiries, and that WaterNSW staff located at a distance lack local knowledge.

Question 14 - Do you agree that planning and responding to flood emergencies is adequately regulated? If not, should we consider requiring WaterNSW to undertake any additional flood planning and emergency response activities?

- WaterNSW, under legislation, is responsible for operating water management works, gauging stations and other monitoring equipment, including during flood emergencies. The data that the BoM and SES rely on to manage an event is only as good as the measured data.
- NSWIC is concerned about the adequacy of the gauging network, particularly along the Darling River.

As a case study: during high-flow/flooding events on the Darling River near Menindee in early 2023, inaccurate flow forecasts led to a problematic flood emergency response. Flow rates around 45 GL per day were forecast but arrived at more than 70 GL per day.

This discrepancy was explained by WaterNSW as water ‘unexpectedly’ branching out from Talyawalka Creek above Menindee Lakes back into the Darling River. This received significant criticism as flood records shows this has occurred before and should have been foreseeable.

An improved gauging network across the system would provide more accurate and reliable data for flood emergencies (and enable more real-time management, which will be essential for newly commencing rules and regulations for connectivity).

- During emergency responses, quick and informed decisions are necessary. Water users are concerned that losses in vital corporate knowledge due to restructures (such as changes in the WaterNSW river operations team) have hindered recent flood emergency responses.

Question 20 - Is there anything further that we should consider when deciding whether WaterNSW should be required to develop and maintain a climate related risk management program consistent with the Guide?

- A key element of a climate-related risk management program must be consideration of how climate change will impact the customer base of WaterNSW, particularly the revenue implications. Specifically:
 - **Declining/volatile revenue-base for WaterNSW** - climate change is already causing more variable inflow patterns, including longer drought periods. These climatic drivers, coupled with policy drivers (such as increased regulation and costs), are putting significant financial pressure on farm businesses. This is leading to a decline in the number of agricultural water users, as well as a lower ability to pay. This then concentrates the costs to be recovered on fewer and fewer water users.
 - **Increasing expenditure pressures** - climate change is driving heightened public interest in water management and this in turn is driving new and higher-standards in water management practices (i.e., the new non-urban water metering reform is widely recognised as a gold standard, and its roll-out is proving costly and burdensome for water users, NRAR and government).

- This simultaneous reduction/volatility in the revenue base, and increasing demands driving more expenditure, presents an increasingly financially unstable model.
- NSWIC has advocated that **if the impactor-pays model continues to operate, it must recognise climate change as a key impactor**, and share costs accordingly. This should lead to increased public funding to meet public interest demands.

Question 30 - Should WaterNSW be required to define and monitor Water Quality Performance targets in consultation with NSW Health and relevant stakeholders?

- This is supported but must be accompanied by an appropriate policy framework to respond to poor water quality.
- For example, there are a number of causes of water quality decline, including invasive species such as European carp. Policy responses must be more nuanced than ‘just adding more water’ from farmers in an attempt to dilute the problem rather than addressing the root causes. Responses need to consider the broader circumstances leading to water quality issues.
- There is increasing emphasis on water quality, as well as water quantity, in water policy. If water regulation means increasing consideration of water quality, there is an expectation that WaterNSW would have the adequate frameworks in place to define, monitor, report on and respond appropriately.

Question 39 - Should the Licence require WaterNSW to engage with its customers, but allow WaterNSW to determine the best way for engagement?

- NSWIC strongly supports the licence requiring WaterNSW to engage with its customers.
 - Water users have raised numerous concerns with WaterNSW customer service and consultation processes. Examples include feeling consultation is ‘for information’ and not ‘two-way’; overly time-consuming and burdensome; and, lacking access to important information.
- NSWIC does not support allowing WaterNSW to determine its engagement strategy.
 - Water users have heavily criticised recent engagement models put forward by WaterNSW, including the Kitchen Conversations and Customer Jury models.
 - NSWIC recommends a framework to guide the engagement requirements of WaterNSW. Minimum standards should be implemented to guide who and how consultation is conducted, including:
 - For consultation to focus primarily on direct customers of WaterNSW – there are concerns that consultation is now too broad, going beyond the immediate customer base to include people who are not directly affected, who do not pay the bills, and who lack the technical water literacy to meaningfully contribute.
 - Consideration must be given to when consultation is held, for example, not during peak irrigation periods (Nov-March) which excludes a large sector of the customer base; and be mindful of the time commitment required.
 - A minimum standard for water literacy (such as through an induction scheme) for those engaging in consultation, to acknowledge the relatively technical nature of the subject matter and to ensure the required skillset in the subject matter (e.g., water pricing, licencing).
 - Reporting requirements for issues raised to be addressed and responded to.

Question 40 - Is there any value in continuing to require WaterNSW to utilise CAGs to engage with different customer groups?

- NSWIC supports the continuation of Customer Advisory Groups (CAGs). The CAGs do what neither of WaterNSW's proposed Customer Juries or Kitchen Table Conversations do: they engage people with the relevant skillsets and experience to contribute meaningfully and constructively as representatives of their communities.
- However, the CAGs could be much more effective with the following actions:
 - **Merge the CAG and the ROSSCo** – there are concerns that the creation of the ROSSCo has led to fragmentation and made the CAGs too high-level and generic.
 - **Demonstrate valuable use of time** – many people are reluctant to participate in CAGs because they are not considered a worthwhile use of time. Participants want to feel heard to make the engagement worthwhile. CAGs should not be a one-way street with WaterNSW merely passing on information, but an opportunity for customer representatives to shape decisions.
 - **Feedback loop** – a feedback loop should address how each matter is dealt with or progressed.
 - **Level of detail** – sufficient detail must be provided so that CAG members have all the specific information required, and to avoid being too high-level to be effective.

Question 41 - Do you agree that WaterNSW is responsible for collecting, managing, and sharing data and information of water resource data on behalf of the NSW Government? If so, does this obligation extend beyond the data and information it uses for its own purposes.

- NSWIC supports that WaterNSW is responsible for collecting, managing, and sharing data and information of water resource data on behalf of the NSW Government.
- NSWIC is of the view that this obligation does extend beyond the data and information WaterNSW uses for its own purposes, particularly as other agencies such as NRAR and DPE-Water need this information to carry out their functions, as well as water users to meet licence conditions.
- NSWIC notes concerns that WaterNSW has not adequately maintained the customer database/water register. This has led to NRAR having challenges contacting water users and determining rates of compliance. WaterNSW has responded that the responsibility is on water users to update their contact details and information. NSWIC disagrees and is of the view WaterNSW must have an obligation on its licence to ensure this database is maintained and fit for purpose.

Question 44 - Does the Roles and Responsibilities agreement require WaterNSW to provide sufficient access to information for other agencies (such as DPE and NRAR) to undertake their functions/statutory obligations?

- NSWIC agrees with IPART that *“the intent of the R&R Agreement is to require WaterNSW to not only collect, manage and provide access to data it collects for its own purposes, but extend this obligation to collect, manage and provide access to all water resource data on behalf of the NSW government”*.
- NSWIC suggests that further clarification be made regarding the information and data required by DPE and NRAR to undertake their responsibilities. The details of what information and data is required by NRAR and DPE Water should be determined by NRAR and DPE Water.

Question 65 - Do you have any other issues or concerns you would like to raise relating to WaterNSW's Licence?

- NSWIC strongly opposes the impactor-pays principle, as it unfairly burdens water users for the provision of public interest goods and services. Further, this impactor-pays principle is based on a counterfactual of no-development, which is not a reasonable baseline scenario for a developed state.
- NSWIC urges consideration of the user-pays principle, consistent with the National Water Initiative.
- NSWIC strongly disagrees with the cost-share ratios, as costs are heavily recovered from water users for public interest items. This puts a high cost-burden on water users but has also resulted in important projects (such as fish passageways) not progressing due to prohibitively expensive cost recovery.
- The outcomes of recent Pricing Determinations have resulted in significant cost increases for water users. This has been attributed to 'improvements in water management'. Water users are concerned that despite the increasing costs, water management and service levels are declining.

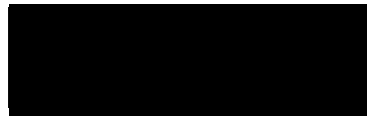
NSWIC looks forward to providing a comprehensive report to IPART on these and other matters in coming months.

Please do not hesitate to contact our team if you wish to discuss these matters further.

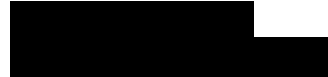
Yours sincerely,



Jim Cush
NSWIC Chair



Claire Miller, CEO



Key resources:

[Issues Paper - WaterNSW operating licence review 2022-2024 - August 2023](#)

[Water-NSW-Response-to-WaterNSW-Operating-Licence-Review-2022-2024.PDF](#)