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Review of the 2005 – 2008 Operating License for State Water Corporation

Member Organisations: Bega Cooperative Limited, Border Rivers Food & Fibre, Coleambally Irrigation Co-Op 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 Water Diverters' Association, Murrumbidgee Groundwater Preservation 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, Richmond Wilson Combined Water Users Association, Riverina Citrus, Southern Riverina Irrigators, South Western Water Users', West Corrgan Private Irrigation District, Wine Grapes Marketing Board.

OVERVIEW OF STATE WATER'S FUNCTIONS AND AREA OF OPERATIONS

1. How should State Water's Operating Licence be amended to better align its current activities and the statutory powers conferred by the Operating Licence?

NSWIC supports either an alteration to the Operating License or a contractual arrangement to overcome any genuine anomalies.

Conferral of Powers for Regulated Rivers

We note that the following regulated rivers remain under the 1912 Act in respect of State Water:

- Belebula (Carcoar Dam)
- Iron Pot Creek (Toonumbar Dam)
- Peel (Chaffey Dam)
- Brogo/Bega (Brogo Dam)
- Barwon Severn Macintyre (Pindari Dam)

NSWIC supports the conferral of powers sought by State Water under the 2007 Act.

Approved Forms

NSWIC supports the conferral of powers to allow State Water to approve forms under Section 71L of the Act.

Border Rivers

NSWIC supports the formalization of current operational practice by conferral of powers.

We note, however, the potential Commonwealth takeover of the Border Rivers. In light of this, no significant expense should be incurred until the Commonwealth situation is determined.

2. How can the Operating Licence be modified to accommodate any functions that State Water undertakes outside its area of operations?

NSWIC supports and alteration to the Operating Licence pursuant to the State Water submission.

Specifically, we note that the Hunter Valley Water Users Association (a member of NSWIC) supports this proposal.

REGULATORY FRAMEWORK

NSWIC is concerned at the possibility of overlap or regulation given the significant regulatory framework that State Water faces. Of primary concern is the cost implication to State Water and, subsequently, customers of State Water of compliance with an increased regulatory burden.

We strongly agree with the IPART that the Operating Licence should not duplicate other regulatory instruments.

In light of that, we ask that IPART take notice of Commonwealth policy in respect of regulation when considering the State Water Operating Licence. We note that recently implemented regulation is subject to change or alteration subsequent to a change of federal government.

3. How should the Operating Licence be amended to reflect an obligation for decisions made by State Water to have regard to the Commonwealth *Water Act* 2007 and be consistent with the Basin Plan under this Act?

Any obligation on State Water created by Commonwealth legislation or regulation would be sufficiently encompassed in that legislation or regulation.

Pursuant to the aim to not overlap regulatory requirements, NSWIC does not see the need to amend the Operating Licence in this regard.

4. Should the requirement in the Operating Licence for pricing compliance be expanded, for example to include a reference to any other relevant regulator?

NSWIC believes that IPART should continue to be the price regulator for bulk water in NSW. NSWIC made submissions in respect of this matter to all sides of politics prior to the federal election.

Until such time as the Commonwealth Water Act is reintroduced to the Federal Parliament and its future becomes clearer, NSWIC can not support changes to the Operating Licence to involve the ACCC.

As further engagement from Commonwealth authorities becomes a reality, NSWIC submits that the role of the ACCC be defined as determining the rules and principals around which pricing ought be set. This ought not require any alterations to the Operating Licence.

MEMORADA OF UNDERSTANDING

5. Should the Operating Licence include an obligation on State Water to use its best endeavours to negotiate a new MoU with DWE reflecting the allocation of function responsibilities to each agency?

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NSW Irrigators Council supports this obligation absolutely.

This measure has been far too long in being implemented.

We note State Water's concern that an obligation created under an Operating Licence is borne solely by State Water and not DWE. IPART should ensure that the obligation is equally borne by DWE.

The obligation must contain a time frame for completion of the MoU. We submit that the MoU must be negotiated and available for review by Customer Service Committees within 3 months. 1 month ought be allowed for CSC review, subsequent to which the MoU should be executed within 2 weeks.

Failure to meet this timeline should result in IPART drafting a MoU which both the Department and State Water must sign.

The agreement must reflect commercial cost recovery principles for all work done by State Water that is required by DWE.

CUSTOMER PROTECTION AND COMMUNITY ENGAGEMENT

6. How can the Operating Licence requirements in relation to alternative payment plans be revised to facilitate operational improvement while ensuring that those customers that need them have access to alternative payment plans?

NSWIC concurs with the submission of State Water on this point.

Support for payment of fixed charges should come from government, not State Water. Costs associated with supporting alternative payment plans should be borne by government.

7. Is it necessary for State Water to update its complaint and dispute handling schemes in line with the updated Australian Standard for complaint handling?

NSWIC notes the contention of State Water that its process is consistent with the new principles.

IPART should review that consistency as part of this review and, if it determines that it is not consistent, should impose an obligation that the system be updated to full compliance.

8. Are changes required to the Operating Licence so that State Water adequately satisfies the information requirements of the Customer Service Committees (CSCs) and effectively engages the CSCs in consultation?

State Water has failed to meet its obligation under the existing Operating License with respect to providing information to CSC's.

State Water claims that this failure was due to inadequate financial information systems.

Such a failure is unacceptable. If the stated reason for the failure is accurate, IPART must immediately investigate the financial information systems that State Water relies upon to determine if the inadequacy has been addressed.

The obligations to engage with CSC's in the existing license are satisfactory – the practice of State Water in failing to meet those obligations is not. IPART must continue to monitor these obligations and reserve the right to alter the operating license on this basis if the commitments by State Water to improve are not delivered upon in the short term.

WATER DELIVERY OPERATIONS

9. How can the Operating Licence improve performance in coordinating accurate water releases to provide timely delivery of water whilst taking into account physical supply constraints?

IPART should require State Water to investigate and report (within a defined period) on the issue of delivery entitlements, particularly on the Murray, to deal with constraint issues.

Metering of all bulk water taken from the system and accurate measurement at stations along the system, using telemetry to provide real time information, should be incorporated into the operating licence.

10. How can the Operating Licence ensure that metering performance measures are appropriately in line with the National Water Initiative standards?

State Water rightly points out in its submission that it does not hold authority for enforcement with respect to metering. State Water audits Works Approvals that are issued by DWE.

State Water *may* report to DWE any concerns regarding metering. This ought be altered via the operating license to an obligation to report any concerns.

PERFORMANCE INDICATORS

11. In addition to the requirements imposed under the NWI Rural Benchmarking, what performance measures need to be incorporated into the operating licence?

An indicator addressing the level of cost recovery against work undertaken on behalf of DWE ought be imposed by IPART.

12. Should State Water's Operating Licence adopt a risk based auditing framework?

NSWIC notes State Water's submission in support of this measure. We concur.

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