



# National Irrigators' Council

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## Submission to the NWI Policy Guidelines for Water Planning and Management

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## **Introduction**

The National Irrigators' Council (NIC) is the peak body representing irrigators in Australia. The NIC's objective is to develop projects and policies to ensure the efficiency, viability and sustainability of Australian irrigated agriculture and the security and reliability of water entitlements. NIC currently has 21 member organisations covering a variety of states, regions and commodities.

While this document has been prepared by the NIC, each member reserves the right to independent policy on issues that directly relate to their areas of operation, or expertise, or any other issues that they may deem relevant.

## **Overview**

The National Irrigators' Council welcomes the opportunity to provide input to the development of these guidelines. Our members have a strong interest in the development of consistent, transparent and balanced water plans and we have long been supportive of the principles of the National Water Initiative. In particular, both the NWI and the development of water plans with appropriate balance between the needs of the environment and consumptive use should provide our members with the necessary certainty to invest in their irrigation businesses and continue to add value to the economy, to regional communities and to food security for the nation.

In general terms, the NIC supports the principles espoused in the guidelines and is pleased that on most occasions, the value of productive use has been given adequate recognition. However we make a number of comments in this submission that highlight the need for care when considering trade-offs between the needs of the environment and those of consumptive users such as irrigators. Water planners and policy makers need to understand that providing water to the environment comes at an opportunity cost. More than most people, irrigators support healthy aquatic ecosystems because they understand that the natural environment is their lifeblood. However they also understand that if Australia is to continue to be a world leader in food production and maintain food self-sufficiency, then we need to understand the opportunity costs arising from delivering more water to the environment and manage the resource accordingly to ensure an appropriate balance.

NIC also notes that while we may generally support these guidelines, the real impact on our members is in the plans that are ultimately drawn up using them. We expect our views to be reflected in the final document and that agencies charged with water planning will also take heed of the position of irrigators who, after all, live and breathe water management every day.

## Specific comments

### 2.1 Definitions

NIC notes the use of the term “sustainable water extraction regime” which is not listed in the NWI Schedule B (i) or B(ii) and suggests that it may be more useful to use the term “sustainable diversion limit” as is being used in the development of the Murray Darling Basin Plan.

Although we hesitate in suggesting that actions and terminology used in the MDB should be replicated across the country, it is a term that will likely grow in acceptance and understanding given publicity over the Basin Plan.

The Murray Darling Basin Authority defines sustainable diversion limit as “the level at which water...can be taken from a water resource without compromising the key environmental assets, key ecosystem functions, the productive base or key environmental outcomes of the water resource”.<sup>1</sup> We note that this closely matches the definition given in the draft guidelines to “sustainable water extraction regime” and that the MDBA’s definition of “productive base” adequately covers the term “other public benefit outcomes” such as mitigating pollution, recreational, cultural or tourism use.

### 3. Planning

The guidelines highlight that Clause 37 of the NWI commits states and territories to water planning that will provide for both environmental outcomes and resource security outcomes and that these should be developed using the “best scientific and socio-economic assessment”. Given that the environment and consumptive users are effectively competing for a share of available water, it is imperative that:

1. The analysis used is indeed “best-available” and as such has been peer-reviewed to establish its veracity.
2. Any social and economic assessment (they are separate issues) must play a part in the setting of the sustainable water extraction regime. To give a hypothetical, if the environmental science shows a cut in extractions of 20 per cent is needed, but the social and economic science demonstrates the local community cannot withstand a cut of more than 15 per cent, then an appropriate balance needs to be reached.

In our submission, the term “peer-reviewed” should be inserted as a minimum whenever the term “best available science” is used throughout the guidelines. We also suggest that irrigators, who often have an intimate knowledge of the resource base, should be consulted at the information gathering stage.

In relation to planning for climate change, NIC does not disagree that it should be taken into account, but submits that planners need only consider the forecast climate change implications for the period for which they are planning for. For example, there is little point using 2030 projections for climate change if the plan that is being prepared relates to the period 2014 to 2024.

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<sup>1</sup> MDBA Issues Paper: Development of Sustainable Diversion Limits for the Murray Darling Basin November 2009, pg 13.

### 3.1 Water Planning Principles

#### *Groundwater connectivity (dot point 4)*

NIC is concerned at the reference to the “precautionary approach” in relation to interconnectivity between groundwater and surface water systems. Irrigators understand that in many instances the two systems are very closely connected and we do not object to them being managed as a single resource in these instances.

However the guidelines suggest that if there is “insufficient information” then it “should be assumed that the system is highly connected”. It is NIC’s strong belief that no planning decisions made in relation to water should be made on the basis of assumptions.

In our submission, if there is not enough information, then water planning has failed. Rather than taking a precautionary approach and potentially penalising irrigators unnecessarily, the principle should be: “If in doubt, find out.” That is, undertake the appropriate research to ensure that decisions are based on the best available, peer-reviewed science, rather than on assumptions that may prove unfounded.

#### *Transparency of decision-making (dot point 8)*

Irrigators strongly support the principle that “*All decision making should be transparent and explicit*”. We are particularly supportive of the following statement under this principle:

*The decisions that balance the water requirements for the environment with the water demands of consumptive users should be made clear. This should involve actively and transparently considering and settling the tradeoffs between competing outcomes for water systems, using best available science, social and economic analysis and community input, and addressing impacts on affected entitlement holders and communities.*

Irrigators are concerned to ensure that governments and the wider community understand that there is an opportunity cost in directing water to environmental use and away from food and fibre production. With the advent of markets in water, that opportunity cost and the flow-on costs can be readily calculated.

In addition, NIC believes that water entitlements are a property right and as such compensation should be provided in the event that ultimately it is decided to take water away from them. This is a fundamental principle which is also reflected in the NWI Risk Assignment framework.

#### *Consultation (dot point 9)*

NIC supports the principle that there should be active consultation with the local community and relevant stakeholders. Certainly we support the objective that planners should “build community understanding” about water. However we note that there are differing levels of engagement within the community in relation to water planning.

In our submission, there should be a weighting given to certain views to ensure that those with the most to lose are given sufficient consideration. We suggest that for example, irrigators, who rely on the water resource considerably more than others for their livelihoods should have more say than a fringe environment group with no local representation, or an individual with a passing interest in water management but no real understanding or appreciation of the complex decisions involved.

To put it bluntly, irrigators have some “skin in the game” and their views should be taken more seriously than casual participants.

We suggest a sentence be added to this dot point along the following lines:

*The consultation process should clearly identify key stakeholders and give due consideration to those stakeholders likely to be most directly affected by the plan.*

#### *Knowledge-based decision making (dot point 11)*

As mentioned above “best available science” can be a matter of perspective. In such critical decision-making, it is essential that the science is indeed the best.

NIC suggests that the words “peer reviewed” should be added to “best available” as a minimum toward ensuring that there is confidence in the information that is informing decisions.

#### *Use professional judgement as appropriate (dot point 13)*

NIC is concerned at the inclusion of this point. While there are a number of qualifications listed under it, we do not see any need for its inclusion. In any event, we expect that officials will necessarily make professional judgements on even minor matters every day and should not need a direction from these guidelines to do so.

It is our belief that water planning decisions should always be made with the best available, peer reviewed science (environmental, social and economic) and that the inclusion of this principle potentially gives tacit approval for unelected officials to make decisions based on their own views. Significant decisions based on judgement should only be made by elected representatives (ie Ministers) who at least have to answer to the public.

As such, we request that this dot point be removed from the guidelines.

#### *Adequate resources (dot point 14)*

NIC concurs with the principle that adequate resources should be devoted to water planning and management. We also support the counterpoint which is to achieve outcomes at least possible cost. As a general principle the overall costs of water planning and management should be shared equally among the community, with irrigators paying only their fair share of efficient costs through jurisdictional charges. Their “fair share” should recognise the position of irrigators as food and fibre producers for the nation.

### 3.2 Stakeholder engagement

#### *Stakeholder identification (dot point 1)*

NIC supports the principle of identification of key stakeholders but reiterates our point raised above that there needs to be a weighting of the views of stakeholders relative to the impact they are likely to feel from water planning.

We agree that stakeholders should be engaged early and often in the planning process and also expect that agencies should ensure that engagement suits all stakeholders and recognises the constraints to their participation. For example, key stakeholder engagement activities should be

avoided at busy harvest or sowing times where possible, or alternative avenues for engagement provided.

We would also note that stakeholder engagement needs to be genuine – not just a “ticking of the box” process whereby agencies can report that “they have consulted”. Stakeholder views need to be genuinely considered and used to inform the process. Engagement that seeks stakeholder views and then completely disregards them will be pointless and lead to loss of confidence in the process.

#### *Consideration of structural adjustment issues (dot point 6)*

NIC supports this principle but considers that a reference to risk assignment provisions should be added. The NWI provides a framework (as yet, still somewhat uncertain) for the assignment of risk and effectively, for the compensation of entitlement holders in the event of reduced water availability. We believe this should be planned and budgeted for by jurisdictions when developing water plans. As such we submit that the following line (or similar) should be added:

*Governments should plan for and budget appropriately for compensation in the event that property rights are removed, reduced or affected, as per the risk assignment provisions of the NWI, including those government who choose to opt out of the NWI framework via clause 51.*

#### Considerations

##### *Reduce inequalities in bargaining power (dot point 2)*

NIC does not disagree with this point and supports the principle of helping those with a lower level of knowledge to understand the process and planning procedures. However this should not be done at the expense – in terms of time, money or administrative red tape - of sophisticated stakeholders with a deep understanding of the issues.

##### *Stakeholder authority (dot point 5)*

NIC concurs with the position that the authority of representatives to speak on behalf of stakeholder groups should be confirmed. Agencies should also ensure that stakeholder groups are indeed relevant and that agencies are not wasting their time considering the views of “groups” which are actually only one or two individuals (which is not to say that the views of individuals should be disregarded). Consequently, we submit that this dot point should be re-written as follows:

*Confirmation of the authority of representatives to speak on behalf of stakeholder groups, and the bona fides and relevance of such groups, should be established before the engagement process commences.*

We again re-iterate our point that the views of different stakeholders should be considered relative to their respective role in the debate.

### 3.3 Developing the plan

NIC broadly agrees with the principles.

##### *Take into account other natural resource management issues (dot point 8)*

NIC concurs with this principle. It is our view that the current process for the development of the Murray Darling Basin Plan places emphasis solely on the role of water in improving environmental health. Clearly this is not the case as other activities such as land management and infrastructure can and do play a great role. We suggest the addition of the following line (or similar) to this point:

*Planners should recognise that water is only a part of the solution to environmental degradation and integrated approaches considering land management and infrastructure should also be considered.*

### 3.4.2 Current use and users

#### Considerations

*Identify overallocation and overuse of water resources (dot point 3)*

This point states that overallocation is to be substantially addressed by 2010. Given this paper remains in draft form until at least February 2010, we wonder whether it is necessary or should be updated.

### 3.4.3 Outlook for the resource base

*Assessments of future climate (dot point 2)*

NIC does not disagree that future climate change projections should be taken into account when setting water plans, but we are wary of the extent to which this may occur. Predictions of future climate are, by their nature, extremely variable and uncertain. Irrigators would be very concerned if water availability was reduced based on projected climate patterns that may be well beyond the timeframe of the water plan in question and/or may yet lack the accuracy needed to make such decisions.

This matter is referenced further in dot point three, "Setting the pace of change" under "Considerations".

### 3.4.4 Outlook for future resource use

*Changing community attitudes (dot point 2)*

NIC is perplexed at how water planners are supposed to consider the "direction of community sentiment" about resource use into the future. It may be that in the future the community begins to place more emphasis on the sustainability of our resources. On the other hand, with a growing global population and food security likely to become a bigger problem, the community may shift towards a view backing more productive use. Asking planners to predict the direction of those attitudes, and presumably make decisions based on those predictions, is highly questionable.

NIC supports the NWI principle that fully functioning markets will ensure the most effective use of water resources. In our submission, this dot point, or at least the first sentence, should be removed.

### 3.5 Setting objectives and outcomes

NIC supports the use of set planning timeframes and the identification of them at the outset of the planning process. Irrigators need certainty over a reasonable period of time in order to invest in their businesses and provide food and fibre for the nation.

We also strongly support the setting of measurable outcomes, particularly in relation to environmental assets. Watering of environmental assets should have clearly defined goals and outcomes that can be readily measured. If irrigators are to lose water, or be denied access to a resource in currently under-utilised catchments, they and the community need to be able to see why.

#### 3.5.1 Conceptual framework for establishing a sustainable water extraction regime

NIC supports the three elements that are listed that would underpin the development of a sustainable water extraction regime. We are particularly supportive of the paragraph:

*By using the three elements in (a)–(c) above, it should be possible to optimise the level of water use within even a variable system. That is, the level of use can be maintained as high as possible with a low probability of being in the zone of unacceptable risk to environmental outcomes.*

We believe that all water planning should aim to optimise economic, social and environment outcomes.

However we note that while the principles state that the sustainable water extraction regime “should” contain these elements, we note that when it comes to setting socio-economic thresholds or trigger points, the language used is “it is also possible to...” We submit that this should be changed to “should” to ensure that water planners understand the need to give social and economic outcomes the same weight as environmental outcomes.

**For irrigators, this is a critical point.**

### 3.6 Management arrangements

NIC supports the principles laid out here but reiterates some of our earlier points:

- Risk-based approach – We agree a conservative approach should be taken where there is a high degree of uncertainty about the resource, however we caution against using highly uncertain forecasts of climate change in setting the sustainable extraction regime, particularly if those forecasts go beyond the planning timeframe.
- Risk-assignment – Again, we support the use of the NWI risk-assignment provisions and subsequent government agreements and submit that planners should be encouraged to plan and budget for compensation where applicable.
- Recovery of efficient water planning and management costs: This cost recovery should be based on those costs which can be “reasonably and accurately” attributed to water users, but we would like to see the word “transparently” included as well.



### 3.6.1 Water access entitlements

NIC strongly supports the use of entitlement structures that provide water users with “planning confidence now and in the future”.

In the issuing of entitlements in new statutory plans, we also support the rights of “bona fide existing water users” being considered and submit that compensation must be paid in the event that existing rights are curtailed.

#### *Recognise that interception activities may erode entitlements (dot point 3)*

NIC submits that where interception activities result in significant water use, that use should be required to be covered by entitlements. That is, water users who are taking significant amounts of water through interception should have to enter the market to buy entitlements. This is outlined further on page 35 of the guidelines and should also be reflected here.

### Considerations

#### *Entitlements in connected systems (dot point 1)*

NIC reiterates its earlier statements that where there is uncertainty about the degree of connectivity between groundwater and surface water systems, further research should be undertaken to remove or reduce that uncertainty.

We are wary about the ability of jurisdictions to establish single licences in highly connected systems given the general scientific uncertainty about connectivity. NIC is not convinced that single licences are worth pursuing.

### 3.6.2. Providing for Indigenous water use

NIC supports the principles in this section, however seeks clarification on the issue of indigenous use for commercial purposes. As a general principle, we believe that any users – whether irrigators, indigenous, mining or other – seeking water for commercial purposes should enter the market to procure that water. This is particularly the case in fully allocated systems or those which are already stressed.

We understand the use of the term “statutory authorisations” to mean that indigenous users should also enter the market but would encourage that this be clarified in the final version of these guidelines.

In water systems that are not yet fully developed the same should apply, however if governments make a policy decision to provide water to indigenous users for commercial purposes, we support the principle that this should be disclosed and reported transparently.

### 3.6.3 Environmental water

NIC generally concurs with the principles in this section.

#### 3.6.4 Groundwater specific management

NIC generally concurs with the principles in this section. We note the comment (page 34) that the use of non-renewable groundwater is increasing in arid areas to satisfy the demands of the mining industry.

It is in this context that we again argue that industrial users should be made to enter to market for water where a market is available. We are aware of at least one example where a mining company was gifted a 6000 ML entitlement over and above any water plan and to the likely detriment of existing (agricultural) users.

#### 3.6.5. Interception

NIC agrees with the principles in this section. Specifically we strongly support the principle (dot point 2) that access to water should be through the entitlement system (as mentioned above), particularly for interception activities that are “significant water users” as defined in the guidelines.

Where a particular activity has an impact on the water resource, then it should be appropriately licensed and entitlements purchased from the market (where available) to limit any third party impacts.

#### 3.6.5a Plantations

As mentioned above, NIC believes any interception which has a material impact on the water resource should be brought into the entitlement system and plantations should be no different. NIC is comfortable with the principles and considerations listed here with the exception of the reference to the issuing of “free entitlements” under “Existing plantations”(page 39).

If there is a desire to offset the water use of plantations through the entitlement system then governments cannot go around issuing “free entitlements” out of thin air – they must come from within the existing consumptive pool. If governments wish to *subsidise* or purchase entitlements for plantations then that should be transparent and clearly reported. NIC suggests that this section may require some rewording to make it clear when plantation users need to enter the market.

We support the principle that where offsetting entitlements are deemed necessary, these should be high reliability entitlements. We are concerned however about the reference to “an equivalent amount of low reliability entitlements calculated using an appropriate exchange rate”. Experience has shown that it is very difficult to calculate an appropriate exchange rate without impacting on third parties. We therefore suggest that the section in parentheses at the bottom of page 39 be removed.

#### 3.6.5b Stock and domestic water use

NIC generally concurs with the principles in this section.

We particularly welcome consideration of costs and benefits of monitoring (ie metering) or stock and domestic water use. While metering would be useful in an ideal world, the relative cost means it is unlikely to be a worthwhile exercise.

### 3.6.6. Mining and other extractive activities

#### *Water resource impacts of mining (dot point 2)*

We suggest that this principle should be amended so that the first bullet point reads as follows:

- The cumulative effect of all operations, including on other water users

We again reiterate our earlier statement that miners and other industrial users seeking water should enter the market.

As mines are often also *producers* of water, they may be in a position to treat mine water and on-sell it to other consumptive users.

### 3.6.7 Statutory uses

There is a syntax error or word missing in dot point 2, "Remote areas".

### 3.7 Monitoring and 4. Reporting and review

NIC submits that this section lacks detail and should include at least one "principle" specifically relating to the monitoring of environmental outcomes (eg bird breeding events, aquatic and riverine health etc).

NIC strongly supports the monitoring of outcomes of water planning, particularly in relation to environmental outcomes.

For consumptive users and the community generally to have faith in water planning they must be able to measure the outcomes, particularly where decisions are taken to protect environmental assets through increased flows (in highly developed areas) or use restrictions (less developed areas).

**END OF SUBMISSION**