



# National Irrigators' Council

Suite 1, Level 1, NFF House, 14-16 Brisbane Ave  
Barton ACT 2600

Ph: 02 6273 3637  
ABN: 92133308326

## Submission to Senate Environment, Communications and the Arts Reference Committee

### Re: Water Licensing

#### Background

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 NIC believes there are two fundamental points that are important to understand in the context of this inquiry:

1. The current system of water property rights and water plans as established by the National Water Initiative (NWI) is critical to the health of the environment and the certainty necessary for the viability of irrigators and rural communities; and
2. Problems experienced in water management around Australia at the moment, particularly in the Murray Darling Basin (MDB), are overwhelmingly the result of the worst drought on record.

Irrigators are food and fibre producers and must be recognised for their vital role in feeding and clothing the nation and the world and for the significant contribution they make to rural communities, exports and the national economy as a whole.

Irrigators, like all business people, seek certainty from governments. Without certainty, it is very difficult for irrigators to invest in their businesses and create benefits for rural communities, provide food, fibre and export income for the nation and contribute to the ecological health of the resource they rely on.

To provide a level of certainty, irrigators have for many years sought recognition of their water entitlements as a property right. A breakthrough in achieving that aim came with the signing of the NWI in 2004.

Clause 25 of the NWI states:

*The Parties agree that, once initiated, their water access entitlements and planning frameworks will:*

- i) enhance the security and commercial certainty of water access entitlements by clearly specifying the statutory nature of those entitlements;*

*ii) provide a statutory basis for environmental and other public benefit outcomes in surface and groundwater systems to protect water sources and their dependent ecosystems;*

Hence the provision of a secure property right is inextricably linked to the ability of governments to develop and maintain a healthy environment. It is the security of the property right that is underpinning almost the entire *Water for the Future* program and certainly the entirety of the *Restoring the Balance in the Murray Darling Basin* program (RTB). It is in this context that the NIC does not oppose government purchases in the market. The NIC supports the right of “willing sellers” to sell their entitlements to whomever they please.

#### Drought vs management

NIC is particularly concerned that the motivation for this inquiry and much of the general commentary about water policy in recent times simplifies the current problems facing the Murray-Darling Basin as being “management” related. The reality is that the problems facing the MDB – and indeed most of Australia – relate to the severe lack of rainfall over the past 10 years and drastically reduced inflows to system storages. None of these problems can be fixed by Commonwealth management.

To paraphrase a well-known political statement: *“It’s the drought, stupid”*.

Irrigators do not deny there is a need for continuing reform in water policy. But statements that a Commonwealth takeover or any other government action is “urgent” misrepresent the situation. No amount of “urgent” action will make it rain. Those who speak this way either don’t understand the problem or are deliberately misrepresenting it for political gain.

#### Comments on terms of reference:

The ability of the Commonwealth, across state borders, to sustainably manage water resources in the national interest, with particular reference to:

NIC is concerned at the lack of clarity in the principle reference for this inquiry and the lack of an identified problem that the inquiry seeks to address. Is the inquiry aiming to discover whether the Commonwealth *has* the ability (or capability) to manage water resources across state borders with a view to recommending it takes over the entire management of water? Or is the inquiry seeking to discover whether the Commonwealth is doing a good job in relation to its *current* involvement in water management?

If the former then the NIC would be concerned at the prospect of a major upheaval in water policy. As mentioned above, NIC believes that the NWI has put in place a system of water management for the good of both the environment and consumptive users and that system is gradually being implemented across all jurisdictions. There is no evidence to suggest that the system is failing. On the contrary, the establishment of water plans for all water resources and the provision of secure property rights for consumptive use has led the world and provided certainty for both the environment and irrigators. State water plans provide the basis for allocating available water to the environment before then dividing it up between consumptive users (cities, towns, industrial and agricultural). It is certainly the basis upon which the Commonwealth is now proceeding with the development of a Basin plan and the *Water for the Future* program which aims to get the MDB on a more sustainable footing.

Irrigators are comfortable with the current state management and water sharing arrangements and would need a significant amount of convincing that a full Commonwealth takeover is warranted.

- a. the issuing, and sustainability of water licences under any government draft resource plans and water resource plans;

Since the signing of the National Water Initiative, all states and territories (where relevant) have developed (or are developing) a process of water management that benefits both irrigators and the environment. Water resource plans have either been finalised or are in progress. These plans are the basis for water policy in Australia and set out the rules for which water is shared between the environment and consumptive use.

As these plans expire and new ones are prepared they will need to be compliant with the new Murray Darling Basin Plan currently being prepared by the MDBA. Plans must also be consistent with the principles of the NWI. Any entitlements issued under water sharing plans will be required to comply with the NWI and/or new sustainable diversion limits to be outlined in the Basin plan.

Most areas of the basin are already covered by water sharing plans and new extractions are not possible.

NIC would be very concerned if there were any significant alteration to this policy platform, particularly as jurisdictions are at different points in the cycle of completion of their water plans.

- b. the effect of relevant agreements and Commonwealth environmental legislation on the issuing of water licences, trading rights or further extraction of water from river systems;

NIC contends that the NWI, the *Water Act (Cth)* and the forthcoming Basin plan are the relevant frameworks through which any water licences, trading rights or new extractions will be issued. NIC notes that the issuing of any new water licences should be only on the basis of providing a property right to recognise long-term legal extraction rights or on scientific evidence that confirms that a particular water area has not reached its sustainable extraction limits. We also note that any new extractions would be the exception rather than the norm.

It is important for the committee to understand here that *water entitlement* does not mean *water extraction*. While it may be true that past practice has seen too many *entitlements* (licences or rights) issued in some areas, this does not mean these areas are “over-allocated” in a physical sense. A water entitlement is an entitlement to a *share* of the consumptive pool available at any given time. The system of allocations that are announced progressively by the states throughout the year ensure that irrigators receive only a share of the available pool in that year. To illustrate, there could feasibly be *entitlements* of 1 million ML in a water resource area but if the available “pool” each year is only 500,000 ML (after accounting for environmental and critical human needs) then the *allocation* against those entitlements would only ever be a maximum of 50 per cent. Irrigators can’t take water that’s not there or that is already allocated for other purposes.

- c. the collection, collation and analysis and dissemination of information about Australia's water resources, and the use of such information in the granting of water rights;

The sharing of available water between the environment and consumptive users should always be based on the best available scientific evidence.

Significant concern has been raised in the past with regard to the accuracy of the CSIRO Sustainable Yields reports. NIC is hopeful that in updating the information, the MDBA will ensure that any inaccuracies are reflected. Irrigators would always wish to see local knowledge used to best advantage when information on water resources is collected and we note that, in general, state governments hold the most up to date and accurate data on water resources.

As mentioned above, the issuing of any new water licences should be only on the basis of providing a property right to recognise long-term legal extraction rights or on scientific evidence that confirms that a particular water area has not reached its sustainable extraction limits.

d. the issuing of water rights by the states in light of Commonwealth purchases of water rights; and

States have issued water rights in the past on a range of criteria but all water entitlements now are a property right and should be respected as such. This is recognised by the Commonwealth through its RTB program. As mentioned above the issuing of any new water licences should be only on the basis of providing a property right to recognise long-term legal extraction rights or on scientific evidence that confirms that a particular water area has not reached its sustainable extraction limits.

e. any other related matters.

Irrigators need certainty above all else when it comes to government policy. Irrigators have been partners in water reforms over the past 15 years and will continue to be into the future. They recognise that the current system of entitlements backed by water plans under the NWI is the foundation for certainty going forward. Irrigators would be very concerned at any attempts to undo the current basis for reform and would respond strongly to kneejerk policies that do not recognise that climatic factors have had far more bearing on water management in the past 10 years than past policy decisions relating to extraction.

END OF SUBMISSION

For more information contact:

Danny O'Brien  
**CEO - National Irrigators' Council**  
Ph: 02 6273 3637  
M: 0438 130 445