

Submission to Murray-Darling Basin

Authority

Sustainable Diversion Limits

Issues Paper

091208

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Introduction

NSW Irrigators' Council (NSWIC) represents more than 12,000 irrigation farmers across NSW. These irrigators access regulated, unregulated and groundwater systems. Our members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries.

This document represents the views of the members of NSWIC. However 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.

Compliance with Consultation Expectations

In March 2009, in response to the growing number and complexity of consultation processes, NSWIC adopted a policy outlining the expectations of industry in this respect. The policy is appended to this submission. Consultation processes in which NSWIC participates are evaluated against this policy.

We assess this consultation as *Direct* and encourage the MDBA to ensure that individual irrigators, together with representative groups, have access to the process.

Our policy requires consultation to proceed through five stages.

(i) *Identification of problem and necessity for change*

Satisfactory as the process is pursuant to the *Water Act* (2007).

(ii) *Identification of solutions and proposed method for implementation*

This process must occur subsequent to the close of submissions.

(iii) *Summary of submissions, identification of preferred approach*

This process must occur subsequent to the close of submissions.

(iv) *Explanation of interim determination and final feedback*

This process must occur subsequent to the close of submissions.

(v) *Publication of final determination*

This process must occur subsequent to the close of submissions.

We acknowledge that the MDBA was under no obligation to consult with stakeholders at this point in the preparation of the Basin Plan. The fact that the Authority has *chosen* to consult at this point is admirable and NSWIC thanks the Authority for this opportunity.

At the same time, we express our serious concern at the timeframe for this process. Five weeks is insufficient to provide a meaningful response from the 12,000 Water Access License holders that we represent. Moreover, with a number of other consultative processes for water users happening concurrently, our resources are severely strained. We ask that the MDBA take notice of these points in designing future engagement processes and note that NSWIC is content to advise in this respect at any point.

General Comments

NSWIC is greatly concerned that the Objectives and the balance of the *Water Act* are not reconcilable.

The Object of the Act set out in Section 3 (c) is to “promote the use and management of the Basin water resources in a way that optimises economic, social and environmental outcomes.”

From this, it is clear that these three elements are to be treated equally.

The balance of the Act, however, far from achieves this – and the methodology for determining a Sustainable Diversion Limit further contrives to undermine the Object.

In the submission of NSWIC, the process of the Basin Plan should be to determine what is required – *at the optimum* – for both environmental and consumptive use after critical human needs have been catered for. The process, in our submission, should occur thus:

- How much water is available?
- At optimum, how much do humans need
- At optimum, how much does the environment need?
- At optimum, how much does industry (including agriculture) need?
- Weigh up the balance *if* there is a shortage.

In our submission the process should be a balancing act between environment and consumption based on what the Australian community wants – not the fluid “requirements” of international treaties whose effects were not fully contemplated at the time of their endorsement and subsequent ratification. It seems an enormous stretch of Constitutional capacity to rely on the *Ramsar Treaty* to effectively bring about the devastation of rural and regional Australia and to impose a significant blow to Australia’s exports and overall economy.

Specific Comments

Transitional Water Resource Plans – Victoria

NSW Irrigators Council has sought information from the National Water Commission, the Commonwealth Minister (and Department) and the MDBA as to what the Victorian Water Resource Plan actually is. We recognise that capacity exists within the *Water Act* (2007) for such a plan to be adopted by Regulation, but note that even one full year subsequent to the amendments to the Act and the establishment of the MDBA, no such Regulation has been made.

We are concerned at the MDBA reiteration¹ of the 2019 date for expiry of Victorian WRP's. If no such plan is identified, on what basis has the MDBA determined that it expires in 2019? If the Basin Plan is, indeed, about management of the *entire* Basin, it is clearly imperative that all Basin jurisdictions be subject to it. The additional 5 years of protection from likely Plan reductions to be enjoyed by Victoria comes at a cost – a cost which ought rightly be identified by the MDBA.

Socio-economic studies

Much has been made of socio-economic studies and their relevance to the Basin Plan. NSWIC notes the comment in the issues paper² that such studies will “help determine the level of impact of changes in diversion limits and these findings will be including in products associated with the Basin Plan.”

NSWIC has long maintained that social and economic considerations of water use in the Basin are and must be equally as important as all other uses. In particular, we have advocated that social and economic matters in the Basin Plan must be far more than descriptive of outcomes once the SDL is effective – but must form an integral part of establishing the SDL.

We note in particular the Objects of the *Water Act* at Section 3:

“to promote the use and management of the Basin water resources in a way that optimises economic, social and environmental outcomes...”

We submit that it is patently clear from this Object that economic and social considerations must not be an afterthought, but must be at least as integral to the Basin Plan as environmental considerations.

Key Environmental Assets

NSWIC submits that the MDBA must broach an unpalatable subject at this early juncture to effectively manage the expectations of all parties involved – the Basin Plan is not designed to address all of the environmental assets of the Murray-Darling Basin.

¹ At page 14

² At page 15

As the preliminary material in the Paper describes in detail, the Basin is vast, its resources are vast and its environmental assets are vast.

At the same time, its economic and social activity is vast, its population is significant and its role as a producer of agricultural wealth and production is nationally and internationally relevant.

Both agriculture and environment require water. The Basin Plan process is – and must be – about making choices, with significant consequences, and sacrifices. Agriculture cannot – and should not – bear the full burden of reduction.

The Basin cannot – and should not – be returned to a “natural” state”. The Basin Plan is not, in our submission, attempting to achieve this and we believe it would be universally useful for the MDBA to clearly state this as the case.

As identified by the Paper, consideration of what is “key” lies at the heart of the Basin Plan.

Key Ecosystem Function

Much of the basis for the development of models determining physical water requirements appears to be the Sustainable Rivers Audit conducted by the CSIRO³.

NSWIC submits that this is entirely inappropriate as;

- This was not the basis for the SRA in the first instance and hence its modelling is inappropriate for use in this altogether separate context;
- The SRA is surely not the “best available science” in the context of ecosystem function (and if that is agreed then the entire Basin Plan process must be deferred until accurate scientific information is available); and
- NSWIC and other representative organisations have advised on numerous occasions of glaring errors contained within the SRA. Whilst NSWIC does not have the capacity to provide advice on the veracity of scientific data contained with the SRA – or data upon which the SRA was based – the factual inaccuracies in respect of matters in which we do hold expertise are such that we cannot express confidence in any part of the report.

List of Key Assets

NSWIC notes that the MDBA has in effect been operational for approximately one full year. We cannot, therefore, countenance that a list of assets has not yet been produced.

³ Table 2 on page 18.

The list of assets must be produced so that informed discussion and debate in respect of what attributes a “key” asset might have can occur.

Environmental Watering Plan

NSWIC remains stunned that vast quanta of entitlements have been purchased and are currently held *in absentia* any form of EWP.

The Issues Paper notes that the EWP will specify “targets to measure progress⁴.” NSWIC reiterates its submission to DEWHA⁵ that an important measure of progress is opportunity cost. The capacity to place an economic value on environmental assets is one that economists, physical scientists and policy makers have struggled with over a long period. With the development of a market in water, it is clearly now possible to assign an accurate economic value to water as an input to environmental management.

NSWIC submits that the EWP must provide for reporting on the volume of water *and the market price of that water had it been sold for consumptive use* as a key progress meter.

Economic and Social Assessments

Whilst NSWIC is pleased that the Paper sets out that economic and social analysis will be factors affecting the development of the Plan, we remain concerned that the Plan itself, pursuant to the *Water Act*, is primarily an environmental plan. That is, the Plan pursuant to the Act will describe the amount of water available, determine the amount required for environmental use and leave the balance for consumptive use.

In our submission, the social and economic considerations appear to merely be descriptive. We have consistently advocated that such a result would be disastrous for regional Australia and for the national economy as a whole.

We reiterate our opening comments in respect of how the Basin Plan ought be formulated – that in the event that sufficient water is not available for optimum performance of all functions, then a trade process must take place. Simply favouring one function over the other will result in disaster.

NSWIC concurs with the Paper in the respect that social and economic studies must be undertaken at a local (water resource plan) level. Data collated across the entire Basin must include large population centres (including Canberra) and hence will be rendered inappropriate.

⁴ At page 22

⁵ Submission to interim plan, available at www.nswic.org.au

Specific Comments Relating to Issues

What are your views on the proposed approach to determining WRP areas as set out in this paper?

NSWIC believes that the WRP areas in the Basin Plan ought reflect WRP areas already identified in NSW Water Sharing Plans.

NSWIC submits that separate WRP areas ought be defined for surface and groundwater areas.

What are your views on the proposed approach to 'take' limited by SDLs, as set out in this paper?

Whilst generally concurring with four of the six categories of take, NSWIC harbours serious concerns in respect of Incidental Interception and Unauthorised Take.

In the first instance, however, we are concerned that "take" potentially includes impoundment of water in public storages as identified in the Paper.⁶ Moreover, we believe that such an approach may result in water diverted onto and subsequently flowing off private property as take, although we recognise and concur with the 'net' approach advocated by the paper.⁷ For the sake of clarity, we submit that the Authority and the Plan embrace an undertaking that deferral of delivery is not take. The concept of take must be underpinned by a motivation to permanently remove. Such an approach is taken in aspects of criminal law, where an intent to permanently deprive is an element of many property offences.

To this end, accidental *or* incidental take ought not be considered take in the context of the Basin Plan. Instead, such incidences must be treated as either Authorised Interception and duly licensed or as Unauthorised Take and be treated appropriately.

With respect to Unauthorised Take and Interception generally, NSWIC submits that inclusion within the SDL is tantamount to acceptance of such activity. Aside from the obvious difficulty in assessing volumes, neither Unauthorised Take nor Unauthorised Interception should be tolerated and, as such, should not be included in SDLs.

What are your views on the proposed approach to treating interception activities as set out in the paper?

NSWIC believes that interception activities that have an effect on the SDLs must be licensed.

A significant part of setting SDLs is contemplating current diversion activity and managing it. In particular, we note that Flood Plain Harvesting licenses in NSW are considered when assessing total diversions under the cap. Such activity is a legitimate part of use of the water resource set and must continue to be recognised

⁶ At page 28

⁷ At page 30

as such by movement from a life-of-plan entitlement to a perpetual entitlement. The same must occur for Supplementary Entitlements.⁸

Which interception activities are significant enough to be explicitly identified in the SDL provisions?

Any licensed or authorised interception that can be calculated with a reasonable degree of accuracy should be included.

What are your views on the proposed approach to optimising economic, social and environmental outcomes through SDLs as set out in this paper?

NSWIC remains concerned that social and economic studies in respect of the SDL are descriptive only. Merely describing impacts will not in any way ameliorate them.

The inappropriate design of the *Water Act* (as discussed at the outset of this submission) does not provide sufficient room to address social and economic requirements for water in volumetric terms (nor, practically speaking, in reliability terms), but it does offer potential to minimise impacts through the timing of the delivery of environmental water. In particular, the EWP must be designed to avoid where possible (and limit where not possible) the use of environmental water early in the NSW water year where planting decisions are being made. That is, the use of environmental water ought be limited to allow early allocations to productive use.

The Paper raises the prospect of inter-valley sharing of environmental water contributions being linked to social and economic consequences. NSWIC is greatly concerned at this possibility, noting that it may provide outcomes where permanent plantings are favoured at the expense of annual cropping which would have a clear inequitable impact across state borders. Moreover, such a result might favour one type of user over another regardless of license type, thereby having an unwarranted reliability impact.

NSWIC submits that significant consultation at a valley basis on this matter is clearly required.

The *Water Act* allows for the Basin Plan to commence at different times across state boundaries, which will clearly result in uneven economic outcomes in the first instance which clearly leads to uneven social outcomes in the second instance. A potential method for overcoming this glaring inequity is to implement the glide path approach enabled by temporary diversion provisions only in those states which commence under the Basin Plan in 2015. Whilst even this will not fully offset the economic and social disadvantage that will be visited upon water users in NSW, it will at very least address part of the inequity.

What is the best way to maximise input from particular communities of interest in the time available?

⁸ Refer to NSWIC policies in this respect available at www.nswic.org.au

Preliminary to answering the question, NSWIC submits that “time available” as a caveat is entirely inappropriate. The Basin Plan represents an enormous policy shift in the management of water in Australia, in the fundamentals of the economy of rural Australia and on the agricultural export base of the nation. If sufficient time is not available to, in the vernacular, **get this right**, the Authority ought clearly state as such to Government and advise that further time is required.

NSWIC notes that the MDBA recently commissioned a Stakeholder Engagement Strategy and notes that the consultant who completed this work did not seek our input, nor that of our Members.

Do you have any suggestions you would like to provide to the MDBA in this regard?

NSWIC notes the consultation work that the MDBA is currently engaging in. We note that consultation in the preparation of the draft Basin Plan was not proscribed but is being voluntarily undertaken by the Authority, a situation which deserves acknowledgement and approbation. We encourage the Authority to continue this approach, noting that NSWIC is the peak body for irrigators in this state and that the National Irrigators Council is the peak body for irrigators nationally. We submit that engagement with both state and national peak bodies, together with their members, is both necessary and will provide invaluable advice in the formation of the Basin Plan and its various components.

What are your views on the proposed approach for dealing with surface water – groundwater connectivity as set out in this paper?

NSWIC concurs with the position of the Paper that sees a general approach of setting separate SDLs for surface water and groundwater.⁹

Irrigators recognise that surface and groundwater systems are, in many instances, connected and that the traditional separate management approach may be inappropriate. That said, a simple presumption of connectivity based on geographic proximity would be equally inappropriate, as would a presumption of temporal proximity.

It is widely recognised that groundwater movement, availability and connectivity is not sufficiently well understood. NSWIC submits that management decisions in respect of this resource – as with all water resources – must be based on peer-review science. We submit that such science is generally lacking in the Basin Planning process – and in particular note that the CSIRO SYA is not peer-reviewed – but is particularly lacking in respect of groundwater. It must be a priority of the MDBA to obtain such scientific data *before* making management decisions that significantly affect groundwater users in NSW.

We note, in particular, the recent Achieving Sustainable Groundwater Extractions (ASGE) program in this state which purported to reduce regulated aquifers to sustainable extraction levels. The science which underpinned this program must be

⁹ At page 35

given account in the Basin Plan process, particularly in considering SDLs for NSW groundwater sources.

Whilst the conceptual model identified in the Paper is likely correct at a broad level, broad level planning is inappropriate in determining an SDL at a WRP area level. A detailed understanding of the hydrology of each WRP area is expected by irrigators prior to management decisions being made, particularly in light of the ASGE program which was designed to reach a sustainable level of extractions.

What are your views on the proposed approach to setting and expressing SDLs as set out in this paper?

This is clearly the nub of the issue – what does a SDL look like. From the commencement of the *Water Act* onward, this has only been discussed in theoretical terms. It appears evident from this paper that the MDBA has clearly assessed over the past year exactly how difficult this process is as we collectively move beyond theory toward practice.

NSWIC reiterates its early submission in respect of timeframes – if the timeframe for preparation of a Basin Plan is insufficient to fully explore the options for developing the SDL model, then the MDBA must advise the Commonwealth Government as such and seek an extension.

NSWIC notes the possible options advanced by the Paper but is unable to provide a meaningful response to each in the timeframe available to us pursuant to this Paper.

Do you have any suggestions you would like to provide to the MDBA in this regard?

NSWIC is of the opinion that a “one size fits all” approach across the Murray-Darling Basin for SDLs is likely to be unwieldy at best.

We submit that a volumetric model does not suit the Australian hydrological landscape where variability is a way of life.

It is clear, in our opinion, that volumetric allocations are necessary for human consumption. We are also of the opinion that these can be calculated with a high degree of certainty.

Assigning volumetric limits for either of the bulk uses of water – environmental or consumptive – is not appropriate given the enormous fluctuation in availability and the irregular needs of both. To reiterate previous submissions, Australia’s environmental assets have not, historically, existed with set levels of water in each annual period. They exist with a flood and drought cycle and must continue to do so, both for their own health and the health of rural economies and social fabric.

NSWIC submits that a model for setting SDLs ought be based on percentages of available resources. Such a model not only deals with existing climate variability, but would have the capacity to adapt to any climate change scenario that develops in the longer term. We specifically submit, however, that the BP is being developed for

implementation over a 10 year period only, which is not “long term” in the context of climate change science. In respect of this, we note that flexibility to deal with dramatic climate change, should it occur, is built in to the process when the Plan is reconsidered in 10 years.

In determining an available resource, consideration must be given to current storages and expected inflows. Determining expected inflows must take into account the best available data sets and utilise all data available in that set. In NSW, the Integrated Qualitative and Quantitative Model (IQQM) is clearly the best available data.

If, in analysis of this model, it becomes conclusive that the full data set does not allow sufficient flexibility for outlying flood and drought events, the capacity for a Dry/Wet Inflow Sequence should be built into the model. When triggered, the DWIS would alter the percentages up or down based on the severity of the event. Triggering would be on the basis of a decision by the Ministerial Council.

We submit that this model should be calibrated to operate on a 3 year average basis.

We are not in a position to submit that such a model must be the basis for determining the SDL. We do not have the resources available to test such a model to determine outcomes. At this juncture, we merely submit such a model for analysis using the resources available to the MDBA.



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Consultation

The Expectations of Industry

090303

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Introduction

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This document represents the views of the members of NSWIC. However each member reserves the right to an independent view on issues that directly relate to their areas of operation, or expertise, or any other issues that they may deem relevant.

Executive Summary

This document sets out the consultation process that the irrigation industry expects from Government on policy matters affecting the industry.

Specifically, the industry expects that the contents of this document inform the consultation process with respect to preparation of the Basin Plan by the Murray Darling Basin Authority.

Background

Industry has been critical of consultation processes entered into by both State and Commonwealth Government entities in the change process with respect to water policy. Irrigators have significant sums invested in their businesses, all of which are underpinned by the value, security and reliability of their primary asset – water.

Irrigators recognise the imperatives for change and are content to provide advice on policy measures to ensure effective outcomes for all involved.

In light of these two factors, it is not unreasonable that irrigators request adequate consultation.

Recent consultation efforts have ranged from excellent to woeful¹⁰. Irrigators believe that a method of consultation should be determined prior to the commencement of a policy change process. To that end, this document sets out the methods which we believe are acceptable and ought be adopted by Government both State and Commonwealth.

In particular, this document aims to inform the Murray Darling Basin Authority in its work developing the Basin Plan.

¹⁰ See case studies later in this document.

Forms of Consultation

We consider two forms of consultation to be acceptable – Direct and Indirect. The preferred option will be dictated by circumstances.

Direct Consultation

This method involves engaging directly with affected parties, together with their representative organisations. As a default, it ought always be considered the preferred method of consultation.

Irrigators acknowledge that practical exigencies must be considered to determine if Direct Consultation is possible. Such considerations will include:

- The number of affected stakeholders (the smaller the number, the more ideal this method);
- The timeframe available for implementation (the longer the timeframe, the more ideal this method)¹¹; and
- The geographical distribution of stakeholders (the closer the proximity, the more ideal this method).

Indirect (Peak Body) Consultation

This method involves engaging with bodies that represent affected parties. NSW Irrigators Council is the peak body representing irrigators in this state. The National Irrigators Council is the peak body in respect of Commonwealth issues.

Irrigators acknowledge that there will be occasions on which consultation with peak bodies is necessary for practical reasons. Such reasons may include:

- An overly large number of affected stakeholders;
- A short timeframe (not artificial) for implementation;
- A large geographic spread of stakeholders; and
- An issue technical in nature requiring specific policy expertise.

This form of consultation requires some specific considerations that must be addressed in order for it to be considered acceptable;

- Timeframes

¹¹ Although note specifically that artificial timeframes, such as political necessity, will not be well received by irrigators.

Indirect Consultation is, in essence, the devolution of activity to external bodies. That is, the task of engaging with affected stakeholders to assess their views and to gather their input is “outsourced” to a peak body. That peak body cannot operate in a vacuum and, as such, must seek the views of its members lest it become unrepresentative. Dependent on the nature of the issues and the stakeholders, this may take some time. It is vital that peak bodies be requested to provide advice on necessary timeframes prior to seeking to engage them in an Indirect Consultation model.

- **Resource Constraints**

Peak bodies do not possess the resources of government. In most instances – and certainly in the case of irrigation industry peak bodies – their resources are gathered directly from members and hence must be well accounted for.

Peak bodies engage in a significant range of issues and activities, many of which feature their own time constraints.

Prior to commencing the consultation process, discussions with peak bodies must be held to ensure that the needs of stakeholders with respect to resourcing and timeframes are respected. This may include ensuring that consultation does not occur during times of known peak demand; coordination with other government agencies to avoid multiple overlapping consultation processes; and coordination with peak bodies existing consultation mechanisms (for example, NSWIC meeting dates are set annually and publicly available. These are an ideal forum for discussion as they provides access to key stakeholders with no additional cost to stakeholders).

Stages of Consultation

Irrigators believe that a multi-stage consultative model, in either the Direct or Indirect applications, is necessary.

(i) *Identification of problem and necessity for change*

Irrigators are wary of change for the sake of change. In order to engage industry in the process of change, an identification of its necessity is required. This should take the form of a published¹² discussion paper as a minimum requirement.

(ii) *Identification of solutions and method for implementation*

With a problem identified and described, a description of possible solutions together with a proposed method of implementation should be published.

¹² We accept that “published” may mean via internet download, but require that hard copies be made available free of charge on request.

It is imperative that the document clearly note that the proposed solutions are not exhaustive. The input of stakeholders in seeking solutions to an identified problem is a clear indicator of meaningful consultation.

It is likely, in practice, that steps (i) and (ii) will be carried out concurrently. This should take the form of a document seeking written submissions in response. The availability of the document must be widely publicised¹³. The method for doing so will vary depending on the method of consultation. As a threshold, at least 90% of affected stakeholders ought to be targeted to be reached by publicity.

(iii) *Summary of submissions, identification of preferred approach*

Subsequent to the closing date, a document ought to be published that summarises the submissions received in the various points covered. It must also append the full submissions.

Acknowledgement of a consideration of the weighting of submissions must be given. As an example, a submission from a recognised and well supported peak body (such as NSWIC) must be provided greater weight than a submission from a small body, an individual or a commercial body with potential commercial interests.

There are no circumstances in which submissions ought to be kept confidential. Whilst we recognise that identification of individuals might be restricted, any material on which a decision might be based must be available to all stakeholders.

The document must then identify a preferred approach, clearly stating the reasons why that approach is preferred and why alternate approaches have been rejected.

Where the need for change has been questioned by submissions, indicating that a case has not been made in the opinions of stakeholders, further discussion and justification of the necessity must be made in this document.

(iv) *Explanation of interim determination and final feedback*

The document prepared in stage (iii) must now be taken directly to stakeholders via forums, hearings or public discussions. All stakeholders, whether a Direct or Indirect model is chosen, must have an opportunity to engage during this stage.

The aim of this direct stage is to explain the necessity for change, to explain the options, to identify the preferred option (together with an explanation as to why it is the preferred option) and to seek further input

¹³ Regional newspapers, radio stations and the websites of representative groups and infrastructure operators are useful options in this respect.

and feedback. Further change to a policy at this point should not, under any circumstances, be ruled out.

(v) *Publication of final determination*

Subsequent to stage (iv), a document must be published summarising the feedback received from that stage, identifying any further changes, identifying why any particular issues raised across various hearings at stage (iv) were not taken into account and providing a final version of the preferred solution.

What Consultation Is Not

“Briefings” after the fact are not consultation (although they may form part of the process). Stakeholders will not be well disposed to engagement where prior decisions have been made by parties unwilling to change them. Briefings in the absence of consultation will serve to alienate stakeholders.

Invitations to attend sessions with minimal notice (less than 10 days) is not consultation. Consideration must be given to the regional location of parties involved, together with the expenses and logistical issues of travel from those regions.

Case Study One

Australian Productivity Commission (Review of Drought Support)

Getting it Right

During 2008, the Australian Productivity Commission commenced a review of Government Drought Support for agriculture. The review commenced with the publication of a document to which submissions were sought. A significant period of time was allowed for submissions.

Subsequent to the close of submissions, a draft position was published which took into account written submissions that were received, identified issues raised in submissions and identified a number of changes considered subsequent to submissions.

The Commission then engaged in a large series of public hearings in areas where affected stakeholders were located. Parties were invited to provide presentations in support of their submissions. Parties who had not lodged written submissions were also welcome to seek leave to appear. The meetings were open to the public, who were also given the opportunity to address the hearing.

A series of “round tables” in regional areas was conducted with identified and self-disclosed stakeholders. These meetings gave those who were unable or unwilling to provide presentations in public the opportunity to have input. At the same time, no submissions were kept confidential, the Commission recognising that the basis for its determinations must be available to all.

Importantly, present at the hearing were three Commissioners. It is vital that the decision makers themselves are available to stakeholders, rather than engaging staff to undertake this task.

We understand that a final publication will be made available in 2009.

Case Study Two

CSIRO (Sustainable Yields Audit)

Getting it Wrong

In early December, CSIRO (in conjunction with a number of other Government entities) conducted a regional “consultation” series with respect to the Sustainable Yields Audit. The series was, in our opinion, ill-informed, poorly organised, poorly executed and poorly received.

In late November, CSIRO sought advice from NSWIC over the format and timing of the series. We provided advice that:

- The series did not cover sufficient regional centres to engage all stakeholders. In particular, Northern NSW had not been included;
- The series should not be by invitation, but should be open to all comers given the implications not only for irrigators but for the communities that they support;
- Ninety minutes was vastly insufficient to cover the depth and breadth of interest that would be raised by attendees; and
- That the timeframe between invitation and the event was insufficient.

None of that advice was adopted.

Invitations were sent to an undisclosed number of stakeholders who had been identified by an undisclosed method. In the short space of time available to advise attendance, CSIRO threatened to cancel a number of sessions on the basis of low responses. Given the limited notice and invitation list, NSWIC became aware of a number of stakeholders who wanted to attend but were unable to.

During the sessions, information was presented as a “briefing” despite being described as consultation. As such, extremely limited time was available for questions to be addressed – a key feature of consultation. Moreover, where information that was presented was questioned, a defensive stance was taken – a key feature of lack of willingness to engage stakeholders in a consultative fashion.

In particular, NSWIC is particularly concerned at the lack of willingness to engage on factual matters contained within the report. Where glaring inaccuracies were pointed out, defensiveness was again encountered. In several instances, inaccuracies that had been advised by stakeholders were perpetuated in later documents.

Further, several presenters were clearly not aware of the full range of detail surrounding the matters that they discussed. It is imperative that those seeking feedback on a subject understand that subject in depth prior to commencing consultation.