

## **Submission to NSW Office of Water**

### ***Draft Water Management (General) Regulation 2011***

**110720**

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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.

## **General Comments**

NSWIC welcomes the opportunity to be part of the process of reviewing the Regulations. We were part of the key stakeholder consultation early in the process and are pleased to note that much of our feedback has been incorporated.

We further welcome the opportunity to provide input into the process through this submission. We are available to discuss our submission and any other details either formally or informally.

## **Background**

This document contains submission on specific proposals contained within the Regulatory Impact Statement (RIS). It does not seek to comment on each proposed change are remaking without change. Where no comment is recorded against a particular section, NSWIC chooses to make no submission on the issue. This does not preclude an opinion on the matter either later being formed by NSWIC or being advocated by one or more of its Members.

### **5.1 Amnesty for pre-existing works**

NSWIC submits that applications for amnesty for pre-1999 works have had sufficient time to be made. We support the removal of the amnesty on the proviso that all existing applications are processed under the terms of the existing Regulation.

### **5.2 Form and content of applications**

NSWIC supports the introduction of voluntary electronic lodgement of documents and hence the preferred option noted. We do not support mandatory electronic lodgement at this point.

The RIS notes that cost savings will be achieved in implementing this process. We submit that, in a user pays environment, these cost savings must be passed on to those users who choose electronic lodgement.

### **5.3 Exemptions for access licenses**

Whilst NSWIC notes the RIS suggestion that exemptions are designed to apply to a “small volume of water”, we express our reservation thus; a large number of small volume exemptions quickly mounts to a large volume. We therefore urge caution in exemptions, particularly for access licenses.

### *Hydrostatic testing of gas pipelines*

With the potential development of a large scale gas industry in NSW and the potential for transport through pipelines over a large distance, NSWIC is concerned that this exemption may account for significant volumes of water.

### *Prospecting and fossicking for minerals*

NSWIC is uncomfortable with the proposed exemption from an access license for prospecting and fossicking given the current interest in mineral and gas exploration and likely future significance of this activity.

We note that the majority of exemptions proposed are non-commercial activities – or ancillary to public benefit, such as road maintenance and constructions. Fossicking and prospecting, on the other hand, is solely related to the pursuit of commercial benefit. On that basis, NSWIC submits that exemption from the commercial realities of purchasing water entitlements must not be afforded in this instance.

### *Removal of aquifer interference exemption*

NSWIC supports the removal of the aquifer interference exemption on the basis of mining or extraction of any material.

### *Dust suppression*

NSWIC supports the limitation on the dust suppression exemption to public authorities only. Other entities engaging in dust suppression are, pursuant to those identified in the RIS, commercial in nature and hence must be treated commercially in respect of access licenses.

### *Domestic electricity generation exemption*

NSWIC does not oppose the exemption as currently regulated, nor the alteration that any water so taken must be returned within 50 metres. We submit that a further clarification such that the nature (temperature, salinity, turbidity and the like) of the water must not be significantly altered as part of its exempted use.

### *New exemption – approved emergency environmental watering*

NSWIC strongly opposes the inclusion of this new exemption to allow water to be taken for “emergency” environmental watering. The environment – through the Commonwealth Environmental Water Holder and various state and Commonwealth programs – is the single largest holder of water entitlements in the country. Moreover, the environment has access to massive volumes of planned environmental water. There is absolutely no need for a further creep in environmental water volumes – at the exemption of the Minister or otherwise – through subordinate legislation.

NSWIC opposes this amendment outright.

#### *New exemption – approved critical human needs watering*

NSWIC has expressed concern at both Commonwealth and State levels at the broad definition associated with “critical human needs”. The broad interpretation of what appears a strict definition term has led to perverse outcomes.

NSWIC submits that the definition within the Draft Regulation addresses this issue in part, but not in sufficient detail. The Draft states that water must be both “in the public interest” and “urgently required for critical human needs” in order for it to be classified “approved critical human needs watering”. Whilst NSWIC supports the inclusion of the word “urgent” and the implied link between “human” and “public interest” (as opposed to commercial interest), this remains a circular reference which does not provide adequate definitional support for certainty.

NSWIC submits that a definition of “critical humans needs” must be inserted which limits such needs to those associated with drinking, sanitation and health.

## **5.4 Approvals**

#### *Exemption from advertising approvals*

NSWIC notes that the current Regulation limits exemptions on advertising to those uses that will have a use of not more than three months. The draft Regulation proposes lifting this to twelve months.

NSWIC opposes such a move. As listed in the cost/benefit analysis, the social cost of an extension of the exemption is reduced transparency – a cost that NSWIC submits is unacceptable. The total saving assumed at net present value is but \$500,000. NSWIC argues that in the commercial context of exemptions sought, the equation is clearly in favour of cost above benefit and hence we oppose this amendment.

#### *Security deposits for approvals*

NSWIC concurs with the RIS consideration that security deposits are the only effective means of ensuring remediation where necessary.

#### *Exemptions – water use approvals*

NSWIC notes the proposed continuance of exemptions from water use approvals for domestic consumption and stock watering. We were active participants in the development of Reasonable Use Guidelines for stock and domestic water use. Unfortunately, no formal Guidelines have been released.

NSWIC submits that Reasonable Use Guidelines are a necessary precursor to the continuance of these exemptions.

## **6. Water Supply Authorities Regulations**

NSWIC sees no reason to object to the amalgamation of the two Regulatory instruments.

ENDS