

BASIC LANDHOLDER RIGHTS

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Introduction

NSW Irrigators' Council (NSWIC) represents more than 12,000 irrigation farmers across NSW. These irrigators are on 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.

Executive Summary

Basic Landholder Rights (BLR) refers to the taking of water for stock and domestic use without the requirement for a license.

NSWIC recognises and supports this right, but calls for it to be adequately managed in order to:

- (a) Properly manage the resource base from which it is drawn; and
- (b) Ensure that the resource base is not abused.

Background

Replacing the *Water Act 1912*, the *Water Management Act 2000 (WMA)* introduced Basic Landholder Rights (BLR) as a replacement for Riparian Extraction. This change maintained the right of those adjacent to rivers, estuaries, lakes or aquifers underlying the land to extract water for domestic and stock use without a licence. It does not, however, specify how much water can be extracted.

Definition of “Basic Landholder Rights”¹

Domestic and Stock Rights – An owner or occupier of a landholding is entitled, without the need for an access licence, water supply work approval or water use approval:

- To take water from any river, estuary or lake to which the land has frontage or from any aquifer underlying the land, and
- To construct and use a water supply work for that purpose, and
- To use the water so taken for domestic consumption and stock watering, but not for any other purpose.

This does not authorise a landholder to construct a dam or water bore without a water supply work approval.

Domestic Consumption, in relation to land, means consumption for normal household purposes in domestic premises situated on the land.

Stock Watering, in relation to land, means the watering of stock being raised on the land, but does not include the use of water in connection with intensive animal husbandry.

¹ *Water Management Act 2000* – Section 52, Chapter 3, Part 1, Division 1

MEASURING OF BLR

NSWIC maintains a basic philosophy; *“if you can’t measure it, you can’t manage it.”*

Presently a works approval is not required when accessing BLR². The result is that there are no accurate records of how many BLR pumps exist, no restrictions in place for pump size or pipe size and no requirement for meters to measure the amount of water taken.

With no effective management of BLR, the water is accrued to losses rather than usage. Operational losses are increased not only by the water extracted for BLR but also by the water required to run the river and / or creeks to deliver BLR. This skews data on the river meaning less water being available for Available Water Determinations (AWD’s).

NSWIC submits that an accurate understanding of capacity and extraction of BLR is required in order to manage our river systems for the benefit of all users.

Furthermore, NSWIC is cognoscente of the requirement to comply with National Water Initiative principles. We submit that adequately *managing* the water resource committed to BLR provides such compliance.

REASONABLE USE GUIDELINES

Contents

NSWIC submits that the establishment and enforcement of a set of Reasonable Use Guidelines (RUG) is a vital part of implementing a BLR policy. We note that, subsequent to amendments to the Act in 2008, this enforcement is now jurisdictionally possible.

A formula for assessing how much water is required for reasonable use must be developed in consultation with stakeholders. Guidelines for both what *is* and what *is not* reasonable use must then be published for a reasonable period prior to enforcement.

Basis of Determination

NSWIC recognises that the reasonable use amount can be set in a number of ways, primarily by megalitres per hectare or pump and/or pipe size.

Whilst we recognise that either of these would best be managed by a requirement for metering, NSWIC submits that the significant expense that would be incurred by such a measure would not justify the benefit accrued. For that reason, we do not support a requirement for metering of all stock and domestic water.

² Landholder not authorised to construct a dam or water bore without a works approval.

Where stock and domestic water is taken through works that are metered (such as an irrigation pump), the BLR should be measured through such means.

We submit that defining a BLR by pump and/or pipe size may not adequately address the range of issues that water resources will face in coming years, including effective management, subdivision of property and shortage of available resource. For that reason, we submit that a RUG be set on the basis of megalitres per hectare (land area and variables relating to rainfall and land use).

For the purposes of defining the entitlement, we note that they could be issued by *property* or by *works approval*. NSWIC submits that the former is the only logical determinant as it relates to the size of the property which, in our submission, ought be the basis of the BLR. Even in the event of pump or pipe size being the determinant of the BLR, multiple works approvals may exist on one property potentially significantly affecting the volume taken as a BLR.

Enforcement

NSWIC reiterates that it does not support metering of all stock and domestic use, but instead supports the effective monitoring of RUG.

To assist in enforcement, a register should be created where all landholders who have any works extracting BLR are required to register them with DWE. This is not a license, merely a means of tracking all points where BLR is extracted.

Where non-compliance with the RUG is reasonably suspected, NSWIC supports the requirement for a meter to be fitted *without expense to the water user*. In the event that subsequent monitoring of the meter shows a breach of the RUG, the costs of installation and monitoring should be levied against the offending user. Revenue from fines for misuse should be directed toward installation and monitoring to ensure no net increases in cost to water users.

Longer Term

The NSW Irrigators' Council appreciates that national water initiatives will mean that, over time, all water extractions will be the subject of metering.