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# **Supplementary or Uncontrolled Flow Water Policy**

**090316**

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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

This document deals with Supplementary Water licences in New South Wales, primarily the tenure and name of this water access entitlement.

NSWIC has adopted a policy to change the tenure of surface derived<sup>1</sup> Supplementary entitlements to a perpetual licence aligning them with other categories of water access licenses pursuant to the *Water Management Act* (NSW) 2000. Please note that reference to Supplementary Water also appears in our Coastal Water Policy.

The reliability of this entitlement is such that it is a vital source for operators in parts of NSW and therefore ought be renamed. "Supplementary" is an incorrect way of describing an asset upon which businesses and communities rely. Further, as some Supplementary licenses were issued as a transitional measure only (particularly in groundwater sources), the nomenclature ought be altered to take account those that are not transitional in nature.

NSWIC has adopted a policy to change the name of the entitlement to Uncontrolled Flow Entitlement.

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<sup>1</sup> But specifically not groundwater supplementary licenses or transitional arrangements.

## **Background**

Supplementary licences are an important part of irrigation operations in northern NSW, the Lower Darling, the NSW Murray and coastal areas. In some cases, the entitlement is more reliable than regulated General Security water.

Prior to the introduction of the *Water Management Act 2000*, in some systems no license was required to access Supplementary water. Referred to by various names (including High Flow and Off Allocation water), access to this water was an implied right.

Supplementary water, for the purposes of defining this licence category, is water that is available and surplus to other requirement, generally during wet periods or at times of low water demand. Access to supplementary water is triggered when a dam overflows due to natural inflows or there are significant flows on regulated rivers.

The *Water Management Act 2000* lists supplementary water in the “Categories of licence”<sup>2</sup>. As such, licences were issued for regulated rivers and groundwater sources. These licences were not issued in perpetuity but rather as “Life of Plan”<sup>3</sup>.

The Life of Plan approach establishes that licences are valid for ten (10) years from the commencement of the relevant Water Sharing Plan.

## **Tenure of Licence**

Supplementary licenses in NSW will expire in 2014. As such, they are currently a depreciating asset and do not provide any investment certainty for the irrigators that rely on them, the communities that they support or the financiers that have secured them to fund investment. In an era where high levels of investment in efficient irrigation infrastructure by both the public and private sector are being encouraged by government, it is important that the asset that underpins that investment is secure. Only a perpetual license can achieve that.

Council supports the Life of Plan approach where Supplementary licences have been issued for groundwater sources as a transitional adjustment method.

## **The National Water Initiative**

Clause 28 of the National Water Initiative set the goal of licensing of water to provide irrigators with a property right separate to their land. It stated that licenses ought be perpetual and expressed as a share in an available resource. This has clearly not been achieved in relation to Supplementary Water in NSW.

Clause 33 of the NWI allowed for fixed term entitlements, such as “Life of Plan”, where it is “demonstrably necessary”. The relevant example of this in the NWI is stated as “where the access is contingent upon opportunistic allocations.”

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<sup>2</sup> Water Management Act 2000 Section 57, Chapter 3, Part 2

<sup>3</sup> Where “plan” represents Water Sharing Plans pursuant to the Act.

The term “opportunistic” is not defined in the NWI, was not defined in the original *Water Act 2007* (Commonwealth) or the subsequent amendments to the Act passed in 2008.

In any event, even if supplementary water is deemed to be opportunistic, the temporary licensing of it is certainly not demonstrably necessary. Supplementary Water has been a feature of the NSW landscape for many decades underpins the operations of many irrigators and is, in some instances, more reliable than other forms of perpetual water entitlement.

### **Third Party Impacts**

NSW Irrigators Council recognises that the priority and security of supplementary water is low. We do not wish to alter that, nor the rules that surround determination of access periods to supplementary water. We note that supplementary water is not presently made available until all environmental and higher priority rights holders have been satisfied.

Further, we recognise that Supplementary Entitlement provides significant flexibility in NSW against activation of entitlement (growth in use) across the state. We do not wish to see this buffer removed.

We do not, however, believe that limiting tenure of Supplementary Entitlement is required to achieve these ends.