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Submission

Prescribed Wetlands in draft inland water sharing plans

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Secure – Sustainable – Productive

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Executive Summary

NSWIC welcomes the opportunity to provide a submission on the Prescribed Wetlands. We represent the interests of our 20 members organisations across NSW, many of which will make separate submissions for the wetlands' provisions. This submission is broadly consistent with our members' submissions, but there will also be some valley-specific differences that need to be recognised. Our key points are summarised below and explored in more depth later in the submission.

1. Delay gazettement of wetlands provision for three years and protect wetlands through voluntary landholder partnerships

NSWIC believes that the proposed implementation of wetland provisions is unworkable within the specified timeframes. As it stands, there are too many errors with mapping, there has been inadequate communication with landholders and there are too many legal grey areas that need to be clarified before continuing. NSWIC proposes that water sharing plans include a review provision enabling wetlands to be gazetted beginning 1 July 2028, on the condition that the desktop mapping of wetlands has been ground-truthed with landholders and there has been transparent consultation on legal obligations that can then be clearly defined in the amended water sharing plans. Once this has been done, voluntary conservation partnerships could then be created between the Government and any willing landholders, provided there are no involuntary third-party impacts on surrounding landholders.

2. Re-examine wetlands in the Border Rivers Water Sharing Plan

As part of consultations in late 2023, the Border Rivers also had wetlands included in its water sharing plan (WSP). NSWIC member Border Rivers Food and Fibre encountered similar issues with desktop mapping, with many wetland 'sites' being incorrectly added to dry areas and to this day, many fundamental questions and issues remain unresolved. These issues were not able to be given proper attention at the time, as these consultations coincided with the Federal debate on the Restoring our Rivers Act at the end of 2023 (a busy time for irrigation organisations). NSWIC requests that the Border Rivers water sharing plan be amended with the review provision described in section 1, to enable ground-truthing and good-faith engagement with affected landholders.

Submission

1. Delay gazettement of wetlands provision for three years and protect wetlands through voluntary landholder partnerships

The proposed wetland provisions do not demonstrate best practice management of important water resources and we ask that the wetland provisions not be gazetted until 1 July 2028, subject to conditions including that wetlands are properly ground-truthed with landholders in the three years between 1 July 2025 and 1 July 2028. There is clearly widespread regional



concern surrounding these reforms, as witnessed by the high attendance at the wetland webinar on 9 December 2024. Landholders have raised a number of issues, namely:

a) A lack of ground-truthing of wetlands

NSWIC understands that these new wetlands were mapped in a desktop study, using spatial data from various datasets. However, there appears to have been little on-the-ground work done to confirm the new prescribed sites are in fact wetlands. NSWIC knows of several landholders that have had wetlands added to their property on areas that are in fact cropping land or irrigation supply channels. It is inappropriate and scientifically indefensible to include hundreds of new wetlands, without proper ground-truthing and confirmation with affected landholders. We do not view this process as adequate to identify 'significant' wetlands.

The Department appears to acknowledge this in its wetlands' factsheet 'Identifying wetlands for inclusion in water sharing plans'. It states that 'it is also recognised that not all named features will necessarily meet the wetland criteria' and that 'it is suggested that there be some flexibility in the final list of features to either include or exclude individual features based on local expert opinion provided written justification is provided'. Given the countless errors that have been identified by landholders, the onus should not be on landholders to provide written justification; the Department has also not provided any guidance on what it would accept as local expert opinion. Rather, the Department must undertake the field work to properly assess which wetlands do not fit the criteria.

NSWIC also notes concerns raised by members that wetland sites such as the Mallawa wetlands in the Gwydir Valley were included in previous WSPs without consultation with individual landholders. Ground-truthing of wetlands must include all sites gazetted in all earlier WSPs.

b) Current timelines are not manageable

Even with the extension on wetland consultation until 2 February 2025, there is not enough time to properly examine and confirm the hundreds of wetlands included in the draft WSPs. The Department is not under any obligation to include these new rules at this time and can opt to delay or remove them. As such, NSWIC asks that these wetland regulations do not come into effect until 1 July 2028, conditional on the Department completing ground-truthing of wetlands, clarifying any legal obligation on landholders (oral statements of intent by department officials are not acceptable), and ensuring that landholders have a good understanding of any legal obligations.

As previously mentioned, the Department has stated that there should be 'flexibility' in its final wetlands list. It should therefore properly take the time to assess all wetlands and speak to landholders. NSWIC does not see it as appropriate that the Department can acknowledge there may be wetlands that do not 'necessarily meet the wetland criteria' and that this may need to be verified but then allow only a couple of months to undertake this process with the onus on landholders to prove whether a site doesn't meet the criteria.

Any reform that potentially affects water access and potentially land values must be undertaken thoroughly and with the full knowledge of impacted landholders. Our proposed three-year timeline is more appropriate, given that by our estimation there are close to 1000 wetlands across the seven WSPs (and more if the Border Rivers valley is included).



It appears that the Department is trying to implement all the Natural Resources Commission (NRC) recommendations, regardless of their practicality. This means that the NRC suggests reforms that the Department is ultimately responsible for implementing, often at great cost in time and resources. This often leads to cost blowouts and ill-conceived implementation. NSWIC believes that the revised timeline for wetlands allows the Department more time to manage its workload and gives proper time for consultation with landholders.

c) Concerns surrounding the future interpretations of wetland provisions

While the Department's intention is to enable landholders to continue the practices that they are doing now, NSWIC is concerned that these wetland provisions will lead to issues in interpretation down the line and will cause unnecessary burdens on landholders.

It appears that the Department has not considered all the potential legal ramifications. For example, 'waterfront' land is subject to Natural Resources Access Regulator (NRAR) compliance tools involving public access, buffer zones, controlled activities and agricultural permits. The proposed wetland maps appear to greatly expand the area NRAR may consider to be waterfront.

Another issue identified is the 'no trade-in' rule and how this would affect landholders that use identified 'wetlands' as temporary storage for irrigation. NSWIC is aware of one landholder with a 0 water access licence (WAL) who buys water on the temporary market when required and then moves water into a pool. This is then used as temporary storage before this water is used to irrigate crops. Based on our understanding, this should still be allowed as no entitlement transfer has occurred – but situations like this demonstrate that the interpretation and wording of the reforms is causing concern and confusion on the ground.

We have seen this show before. In 2016, the Department put 'at-risk' water sources into WSPs without robust justifications; it said it would do the modelling and analysis later (it didn't). But this classification led to issues in the non-urban metering reform, where the Department used it to force water users that were otherwise exempt to comply with the new standards. It has taken more seven years to correct this issue. NSWIC is concerned that the provisions to include and protect prescribed wetlands will be similarly reinterpreted and adjusted over time to the point where farmers will have diminished water access and restrictions on land use.

NSWIC asks for strong, written assurances in the water sharing plans that landholders can continue the practices they are doing now and there will not be future changes, in order to avoid a repeat of the at-risk water sources debacle that undermined metering reforms.

d) Concerns on implications of wetlands for land values and mortgages

Two of NSWIC's member organisations have advised that banks are now concerned about the implications for land values and the mortgageable value of water entitlements, due to uncertainty about whether land and water use may be restricted now or in the future. This is having knock-on effects for property values and the mortgageable value of water entitlements. The Department has clearly not considered these financial implications, which must be properly addressed before this reform can be implemented.

e) Wetland reforms to be undertaken in a bottom-up manner that ensures landholder buy-in



Given that 93 per cent of wetlands in the Murray-Darling Basin are located on private land, the buy-in of landholders is crucial if these reforms are genuinely intended to improve environmental outcomes. Unfortunately, the superficial way the Department has gone about these reforms suggests they are merely performative. As such, rather than cultivating regional goodwill, they are hardening resistance and undermining future environmental reforms.

NSWIC firstly requests that the Department properly verifies all wetlands on the ground, to confirm the validity of its initial mapping. There have been countless errors in wetland maps so far and these need to be ground-truthed. Should significant wetlands be confirmed, we believe that these will best be protected as part of a voluntary partnership with willing landholders that also ensures no third-party impacts on surrounding properties, not through a rushed, top-down and non-consensual gazettal. The three-year period between 1 July 2025 and 1 July 2028 allows for time to undertake this process.

Once interest has been gauged, willing landholders can be engaged with to ensure that they understand obligations and are confident in the purpose and benefits of the reforms. This approach ensures acceptance from landholders and gives the Government a chance to manage any potential opposition. Voluntary collaboration may also allow for additional work to be done on the ground, like revegetation or fencing around wetlands. This allows for a bottom-up approach that includes other ecological interventions, like habitat restoration (and not just water recovery). It will deliver actual improvements in wetland health, while the current top-down approach is only fostering resistance.

The Murray-Darling Wetlands Working Group is an example of an organisation that has achieved significant gains through working in partnership with landholders. NSWIC sees that environmental reforms will be more successful if they are done in a considered manner in partnership with landholders - not enforced through top-down regulations with no buy-in from those impacted by the changes.

2. Re-examine wetlands in the Border Rivers Water Sharing Plan

NSWIC sees it as unreasonable that the wetland provision in the Border Rivers WSP was not given the thorough examination we are asking for above, due to the timing of its consultation. The consultation processes for this valley coincided with the Restoring our Rivers 2023 Act being introduced and debated in Federal Parliament from September to December 2023, which naturally consumed lots of stakeholder time, resources and attention. As a result, proper time could not be dedicated to responding to the proposed WSP changes.

Because the Border Rivers WSP included wetlands, the Department appears to be using this as a justification for why all the following WSPs must now include this provision. We believe it is more appropriate to delay the gazetting of wetlands in the WSPs now on public exhibition, and include them on 1 July 2028, if issues have been addressed. For practical purposes, this would allow more time for wetlands to be mapped correctly and landholders properly notified. NSWIC asks the Border Rivers WSP to be amended to allow for its wetlands to be similarly reviewed with ground-truthing between 1 July 2025- 30 June 2028 and gazetting afterwards.



Conclusion

NSWIC asks the Department to strongly consider the recommendations in this submission. We have worked closely with our members to understand their concerns and they have made it clear that the proposed provisions are not viable in their current form.

NSWIC proposes an alternate timeline for these reforms and asks the Department to consider other means of implementation. It is not appropriate to incorrectly gazette wetlands on properties, without the consent and support of landholders. If the Department is serious about wetland protection, it will have greater success working in voluntary partnership with landholders - not through poorly conceived, top-down changes to regulations.

Kind regards,

NSW Irrigators' Council.



NSW Irrigators' Council

The NSW Irrigators' Council (NSWIC) is the peak body representing irrigation farmers and the irrigation farming industry in NSW. NSWIC has member organisations in every inland valley of NSW, and several coastal valleys. Through our members, NSWIC represents over 12,000 water access licence holders in NSW who access regulated, unregulated and groundwater systems.

NSWIC members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton and horticultural industries. NSWIC engages in advocacy and policy development on behalf of the irrigation farming sector. As an apolitical entity, the Council provides advice to all stakeholders and decision makers.

Irrigation Farming

Irrigation provides more than 90% of Australia's fruit, nuts and grapes; more than 76% of vegetables; 100% of rice and more than 50% of dairy and sugar (2018-19).

Irrigation farmers in Australia are recognised as world leaders in water efficiency. For example, according to the Australian Government Department of Agriculture, Water and the Environment:

“Australian cotton growers are now recognised as the most water-use efficient in the world and three times more efficient than the global average”¹

“The Australian rice industry leads the world in water use efficiency. From paddock to plate, Australian grown rice uses 50% less water than the global average.”²

Our water management legislation prioritises all other users before agriculture (critical human needs, stock and domestic, and the environment with water to keep rivers flowing), meaning our industry only has water access when all other needs are satisfied. Our industry supports this order of prioritisation. Many common crops we produce are annual/seasonal crops that can be grown in wet years, and not grown in dry periods, in tune with Australia's variable climate.

Irrigation farming in Australia is also subject to strict regulations to ensure sustainable and responsible water use. This includes all extractions being capped at a sustainable level, a hierarchy of water access priorities, and strict measurement requirements.

¹ <https://www.agriculture.gov.au/ag-farm-food/crops/cotton>

² <https://www.agriculture.gov.au/ag-farm-food/crops/rice>