

4th April 2003

Executive Director
National Competition Council
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Dear Sir/Madam

I am writing on behalf of the 1000 high security horticultural irrigators of the Murrumbidgee Valley in NSW.

On behalf of those growers we wish to highlight our concerns regarding two of the issues to be considered under the 2003 NCP assessment framework for water reform.

We are particularly concerned with ongoing restrictions to high security irrigator's ability to enter a free and competitive transfer market (both temporary and permanent) in the Murrumbidgee valley.

As you would be aware the NSW Water Sharing Plan process has developed over the last 2 to 3 years and we have significant concerns over the inclusion of restrictions to temporary trade in the Murrumbidgee Regulated River Source plan (gazetted on 27th December 2002) which reduce competition and severely undermine our property right to water.

Full details of our concerns are attached for your review.

We thank you for the opportunity to make submission to the Council and for taking the time to consider our comments.

Yours sincerely,



Belinda M Wilkes
Chief Executive

2003 NCP Assessment and Progress Report Issues

1. Institutional Reform Arrangements Including Institutional Separation, Performance Monitoring And Benchmarking, Commercial Focus And Irrigation Scheme Management.

1.1 Institutional Separation:

The separation issues of regulation and service provision have not, to the best of our knowledge, yet been fully or adequately addressed in NSW. Ministerial responsibility for both the DLWC and State Water remains (at the time of writing) consistent and that absence of transparency with regard to transactions between the two remains a concern.

2. Outstanding water allocation and property rights commitments for NSW

With particular regard to the Water Sharing Plan for the Murrumbidgee Regulated water source we would emphatically note that the NCP requirements have not been met, particularly in regard to High Security entitlements.

The assessment framework particularly makes the following references;

- p.33 *“Water property rights should be clearly specified so as to promote efficient trade within the social, physical and ecological constraints of the catchments.*

The water property rights of our 1000 constituents, as set out in the Murrumbidgee Water Sharing Plan, most certainly do not promote efficient trade, far from it. Within the transfer (dealings) rules, Part 10, Section 53 (8) states “A dealing is prohibited if the application for assignment of water allocations from a regulated river (high security) access licence water allocation account is received after 1 September in any water year.”

This restrictive rule bears no relationship to the ability to physically supply the traded water.

The concern on behalf of both buyers and sellers in the market place is that such a restriction places significant impediment to the market place, disallowing normal market influences such as General Security announced allocation, forecast allocation announcements and crop price forecasts, to be taken into account over the normal course of the irrigation season

(We refer you to the Murrumbidgee Water Exchange to view one example of the variation that can occur over any given season with the information for the 2002/03-irrigation system able to be viewed in the historical data section www.murrumbidgeewater.com.au)

The reduction in competition for the subsequent sale of General Security entitlement (not constricted by the 1st September cut off) or, indeed any resale of High Security entitlement purchased by General Security licence holders prior to the 1st September cut off, will have very significant influence on the market to the direct benefit of only General Security irrigators who are able to access the market after the 1st September.

The restriction is anti-competitive in the extreme.

The Water Management Act 2000 provides for a very specific hierarchy of rights with the environment having first priority, followed by water utility and stock and domestic licences, then regulated river high security licences, then general security (other) licences and finally supplementary water licences. It is obvious that restricting high security temporary trade, to the direct benefit of a lower security of water in the hierarchy of rights, is in contravention of the legislation specifically set up to establish these rights.

There are also still a sizeable number of restrictions on permanent trade in the Murrumbidgee valley. These restrictions generally relate to inhibiting transfer of licences outside irrigation areas (in some instances to avoid the issue of 'stranded assets'). These rules significantly undermine efficient trade.

One of the underlying rationale for property rights, is that there will be a greater incentive for holders of water rights to manage the use of their water efficiently if their entitlement is clearly defined, secure and transferable. By directly undermining the transferability aspect of the property right of high security irrigators in the Murrumbidgee valley, the NSW government is contradicting NCC requirements for water property rights to be implemented.

- *P.33 “ Any constraints on water rights and trade should be based on a sound public benefit justification and be implemented in a way that minimises impacts on efficient trade.*

There has been absolutely no attempt to justify the abovementioned restriction to high security temporary trade, from a public benefit stand point. In the development of the NSW Water Sharing Plans by the advisory committees, a broad scale (essentially statewide) socio-economic analysis was carried out, however it failed to address the specific rule at issue (indeed the rule had not even been tabled or discussed at the time of the development of the socio-economic study).

We would go so far as to suggest that the inclusion of these restrictive and anti-competitive rules have little or no net public benefit whatsoever.

They must be challenged by the National Competition Council in this assessment.

- *P.34 “In assessing compliance the Council will look for arrangements that ensure confidence in water entitlements and transactions and facilitate an efficient and transparent water market”.*

Under no circumstances can the arrangements outlined above be deemed to meet the Council's requirements in terms of facilitating an efficient and transparent water market.

3. Intrastate Trading Arrangements

Please refer to above section 2 Outstanding water allocation and property rights commitments for NSW for comments on this area as the two are closely aligned.