



ABN 38 597 032 631

Lachlan Valley Water Inc

Sustainable, productive and efficient water use in the Lachlan Valley

Submission to Productivity Commission

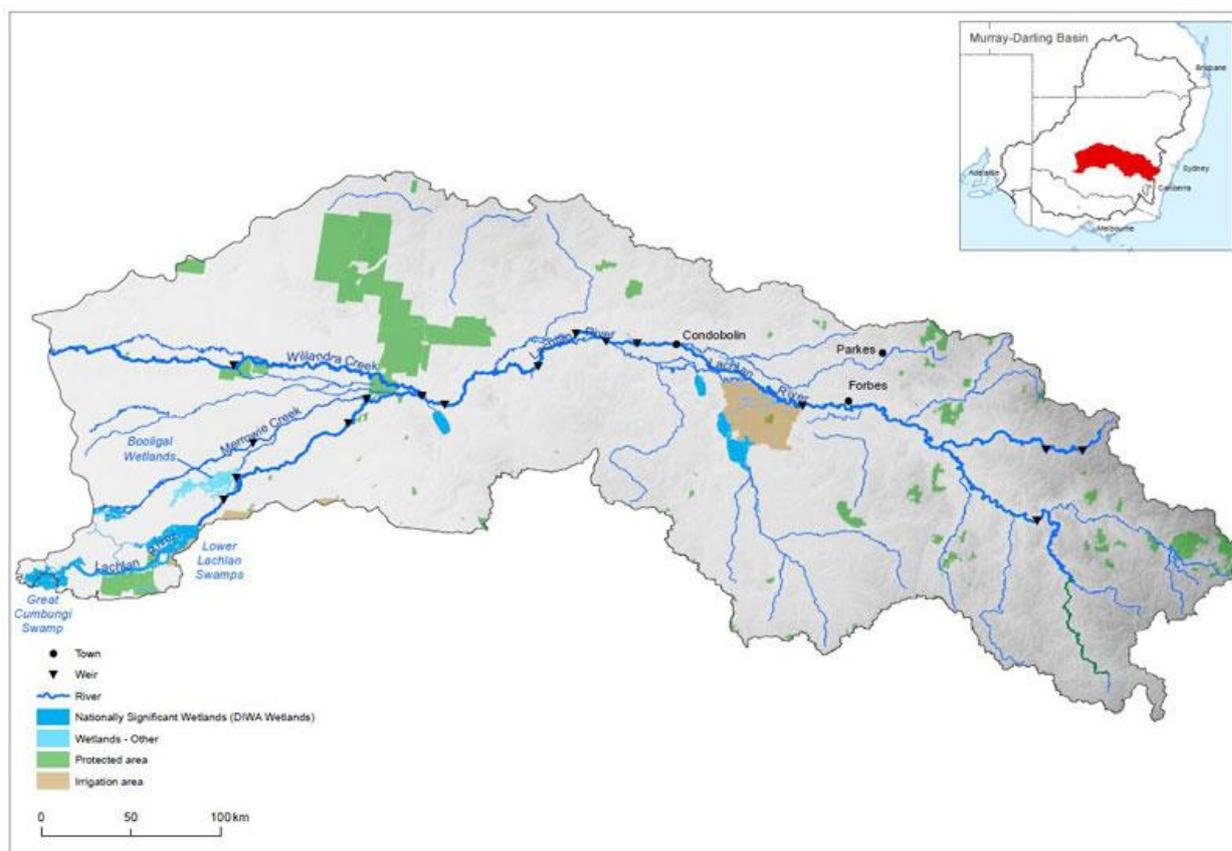
National Water Reform

February 2024

LVW SUBMISSION – INQUIRY INTO NATIONAL WATER REFORM 2024

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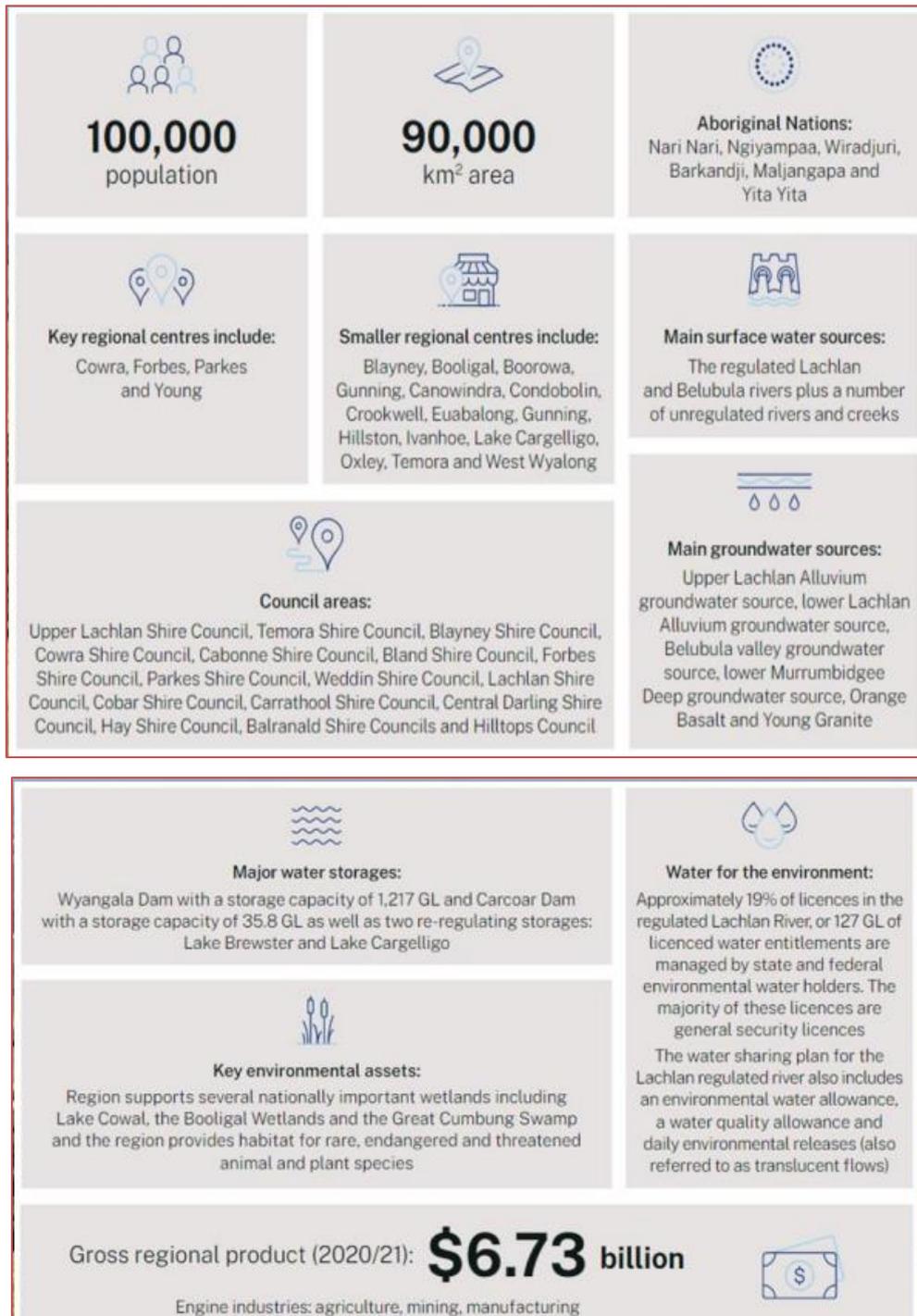
The Lachlan Catchment Area

About Lachlan Valley Water INC.

Lachlan Valley Water (LVW) is an industry organisation representing surface water and groundwater licence holders in the Lachlan and Belubula valleys. Membership of LVW is voluntary and some 450 members represent all categories of licences except for those held by environmental water managers. Our organisation is overseen by a voluntary Executive Committee made up of representatives from all sections of the Lachlan River.

This submission has been prepared on behalf of our members; however, individual members also reserve the right to make their own independent submissions.

About the Lachlan Catchment Area.



Background

The Productivity Commission's 2024 inquiry seeks to assess progress towards achieving NWI objectives and whether this in addition to subsequent national water reforms are achieving the intended outcomes. Specifically:

"In undertaking the inquiry, the Commission should assess:

- progress in jurisdictional adoption of NWI principles, objectives and key outcomes and, where not adopted, issues that may influence implementation, and the opportunity costs of not doing so.
- outcomes to date of the NWI and related water reform efforts, taking account of other reform drivers.
- where practicable, implications for key water security and management challenges for Australia, including economic, environmental, social and cultural.

The Commission should provide recommendations:

- on actions that the parties to the NWI might take to better achieve the objectives and outcomes of the NWI.
- to support all Australian governments in efforts to progress national water reform in light of current priorities, including water security and the involvement of First Nations communities in water management.
- on how the Australian Government can better utilise the Act as a framework for guiding national water reform policy.

In conducting the inquiry, the Commission should consider:

- the objectives provided for in clause 23 of the NWI
- any current Commonwealth, state or territory reform initiatives relevant to the Inquiry scope
- the perspectives and cultural rights of First Nations Australians.

Lachlan Valley Water (LVW) welcomes this opportunity to make a submission on the Inquiry into progress on national water reform, and specifically the National Water Initiative (NWI).

Summary of LVW Recommendations

- A. That the NWI and governments will move away from the language of rebalancing and addressing over-allocation, and place equal emphasis on complementary measures to achieve environmental outcomes.
- B. That the NWI will require sound systems of water allocation and priority of use that automatically reduce the share of water to consumptive uses to reflect water availability in real time and critical higher priority needs.
- C. The NWI will improve the supporting architecture for delivering on the principles of the risk assignment framework. This potentially includes being guided by the DPE Extreme Events Policy and Incident Response Guide developed following the millennium drought.
- D. That NWI and governments improve the consultation process in terms of which management responses from the Incident Response Guide should be applied to manage the risk. There needs to be flexibility in the way water shortages are managed, and this requires genuine input from stakeholders across the board, including water users, on which management options should be implemented so that all users can plan and manage to the changing conditions.
- E. The NWI will contribute to a better understanding of 'reliability' and 'improvement in knowledge', including distinct separation between the two, providing measurement options/approaches, reporting and communication requirements, and impact assessment requirements.
- F. That the Productivity Commission recommends that NSW reviews the cost-share ratio with a view to better apportion costs for public interest items in future pricing determinations for rural bulk water, consistent with the NWI user-pays principle.
- G. That the NWI will share the risk of reductions or less reliable water allocations due to climate change.
- H. That the NWI will require consistently high standards for metering and measurement across jurisdictions, including consistency among jurisdictions.
- I. That the NWI include provisions for the improvement of Environmental Water monitoring. This includes the need to monitor and evaluate programs that are to clearly identify the change in conditions as a result of climatic variation, and as far as possible they should distinguish between the additional environmental outcomes achieved as a result of the use of water entitlements held by Commonwealth and state governments, and the outcomes that have occurred as a result of planned environmental water that was already available due to state-based water sharing plans.

Submission

Achieving Sustainable Levels of Extraction

NWI Clause 23 (iv) states that full NWI implementation includes achieving the “*complete the return of all currently overallocated or overused systems to environmentally sustainable levels of extraction*”. This objective be considered achieved in the Murray-Darling Basin with Sustainable Diversion Limits now in place and being met, through significant water recovery. This has, of course, had significant social and economic ramifications, particularly for communities dependent on irrigated agriculture.

A sustainable balance has been attained in the Murray-Darling Basin through the recovery more than 2100 GL of water for the environment¹ under the Murray-Darling Basin Plan. In total, the equivalent of 1 in 3 litres of irrigation water has been redirected to the environment (when combined with 875 GL recovered pre-Basin Plan water reforms²). Consequently, total diversions for agriculture, towns and industry have been reduced to just 28per cent of inflows, while 72per cent of inflows are for the environment, remaining in rivers (both as Held Environmental Water (HEW) and Planned Environmental Water (PEW)). This is well within globally accepted standards for water diversions³.

These rebalancing efforts (i.e., reapportioning water between environment and consumptive use) have succeeded in achieving positive environmental outcomes. For example, in 2021-22 the Commonwealth Environmental Water Holder (CEWH) reported the most wide-spread waterbird breeding in over 20 years⁴, and Federal Water Minister Tanya Plibersek credited the Basin Plan with saving rivers in the severe drought⁵, building resilience for the environment to respond as soon as rain returned.

It is imperative that focus shifts beyond ‘rebalancing’, i.e., moving water between types of users (i.e. between environmental and productive water use buckets), to how water can be optimally utilised by each water user (i.e. within buckets). However, the persistent political narrative of water management and irrigated agriculture fails to recognise the significant reforms of the past decades. Ultimately, this narrative jeopardises progress on future reforms, by perpetuating outdated priorities such as water recovery from farmers.

This shift requires a change in language of the National Water Initiative and by governments, placing equal emphasis on complementary measures.

The Productivity Commission touched on complementary natural resource management in its NWI renewal advice section 3.3:

“3) statutory water provisions for the environment which are **integrated with complementary natural resource management** to achieve agreed environmental outcomes and, where this does not compromise environmental outcomes, managed to also achieve cultural and social benefits.”⁶

It is LVW’s view that this objective does not give enough emphasis to complementary measures. “Integrated with complementary natural resource management” suggests that statutory water provisions for the environment (i.e., ‘rebalancing’) remain the priority for the management of surface and groundwater resources. Complementary natural resource management must be given the same policy priority and funding/resourcing, as water alone will not improve ecological health and functions in rivers, wetlands and floodplains.

¹ [Progress on Murray-Darling Basin water recovery - DCCEEW](#)

² [Pre-2009 water recovery table 2017 | Murray-Darling Basin Authority \(mdba.gov.au\)](#)

³ N. Elroy Poff et. al (2009). The ecological limits of hydrologic alteration (ELOHA): A new framework for developing regional environmental flow standards.

⁴ [Waterbird breeding bonanza in the Basin - DCCEEW](#)

⁵ [National Press Club address | Ministers \(dceew.gov.au\)](#)

⁶ [Findings, recommendations and renewal advice - Inquiry report - National Water Reform 2020 \(pc.gov.au\)](#), page 3

Risk Assignment Framework

Water planning and management frameworks should be designed to be flexible enough to incorporate rules for extreme events into plans, and that suspending plans is only appropriate in the most extreme circumstances.

LVW believes in the need for clear guidelines around the management flexibility is important. We do not support changing the approach in NSW and incorporating the worst-ever drought of record into water sharing plans. To do this would be detrimental to both water entitlement holders and to the regional economy as a whole because it would require much larger volumes of water to be retained in storage to meet the priority needs of local water utilities, certain environmental provisions, and higher priority licences through a repeat of the worst-ever drought, therefore further reducing access and reliability for general security.

A more responsive risk management approach is the one currently used in NSW, which is based on the drought of record up to when WSPs were developed. It is guided by the Extreme Events Policy and Incident Response Guide developed following the Millenium drought and as part of the Water Resource Plan process. These documents define the stages of drought, identify a large number of possible management responses for each stage, and specify the decision-making responsibility.

One aspect LVW recommends should be improved in NSW is the consultation process in terms of which management responses from the Incident Response Guide should be applied to manage the risk. There needs to be flexibility in the way water shortages are managed, and in our view this requires genuine input from stakeholders across the board, including water users, on which management options should be implemented so that all users can plan ahead and manage to the changing conditions.

LVW also considers that the risk assignment framework around changes in allocation needs further work to provide clarity and assurance for all parties in exactly how this will operate. Clause 48 states that entitlement holders wear the risk arising from reduced reliability due to changes in climate or events such as drought, clause 49 specifies that risk arising as a result of bona fide improvement in knowledge after 2014 are to be shared, while clause 50 states that Governments are to wear the risk arising from changes in Government policy.

There are two issues here, one is that there needs to be a clear and agreed definition of "reliability", and LVW's view is that it should relate to an average across a year, not be defined at a certain point in time. The other issue is that there needs to be clear distinction between an 'improvement in knowledge' and a 'change in government policy' given that these two measures can be linked. LVW believes it is important that detailed stakeholder input be considered on how this should be determined.

The absence of an agreed metric and method to measure reliability, and lack of reporting and baseline data, are leading causes to poor implementation. Significant improvements are required for the risk assignment framework to be operationalised effectively in practice.

Pricing

NWI Clause 67 states that for cost recovery for planning and management:

"The States and Territories agree to bring into effect consistent approaches to pricing and attributing costs of water planning and management by 2006, involving:

- i) the identification of all costs associated with water planning and management, including the costs of underpinning water markets such as the provision of registers, accounting and measurement frameworks and performance monitoring and benchmarking;

- ii) the **identification of the proportion of costs that can be attributed to water access entitlement holders** consistent with the principles below:
 - a. charges exclude activities undertaken for the Government (such as policy development, and Ministerial or Parliamentary services); and
 - b. charges are linked as closely as possible to the costs of activities or products”.

In NSW, cost-sharing arrangements are based on an 80:20 cost-share ratio for capital expenditure (80 per cent share for water users), and 100:0 for operating expenditure (100 per cent share for water users). This means productive water users carry a significant burden of water management costs.

The most recent IPART Pricing Determination (2021) resulted in substantial price increases for water users in almost all NSW valleys. The WaterNSW Rural Bulk Water Prices increased by an average of 29 per cent for entitlement charges and 31 per cent for usage charges.

Note: this refers to water license fees & charges, not the price of water on the market.

Annual bills for bulk water charges for High-Security water increased by 51.8% for the Lachlan, and similarly annual bills for General Security increased by 47%, making the cost increases some of the highest in all NSW catchments.

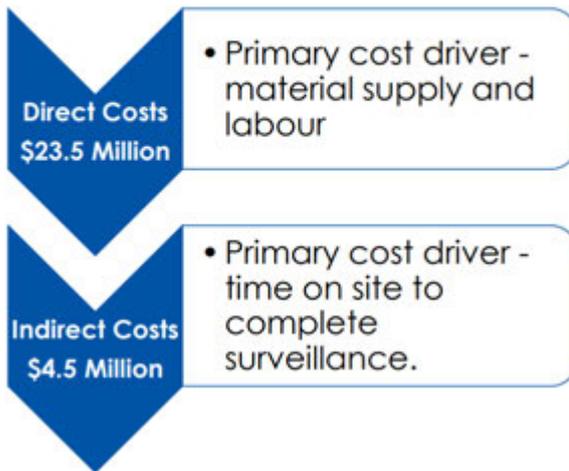
LVW believes that the objectives of best practice pricing principles are not being met in NSW. Clause 64 of the NWI sets out best practice pricing principles, including the principles of user-pays and pricing transparency in respect of water storage and delivery in irrigation systems and cost recovery for water planning and management. The impacter-pays approach adopted in NSW does not properly recognise that the provision of storages and active river management provides significant benefits to the wider community, particularly as water sharing plans have been implemented over the last 20 years, as well as during the droughts experienced over that period. Instead, it attributes the vast majority of costs to entitlement holders and fails to recognise that the requirement to maintain basic river flow conditions and meet environmental goals account for a significant proportion of costs.

LVW recommend that the Productivity Commission provide a framework to guide how the user-pays principles should be implemented in NSW in accordance with the NWI. The new cost-sharing framework for setting prices should appropriately recover costs for public interest items and reflects the source of demand originating beyond immediate water users, given public interest and social expectations of water management.

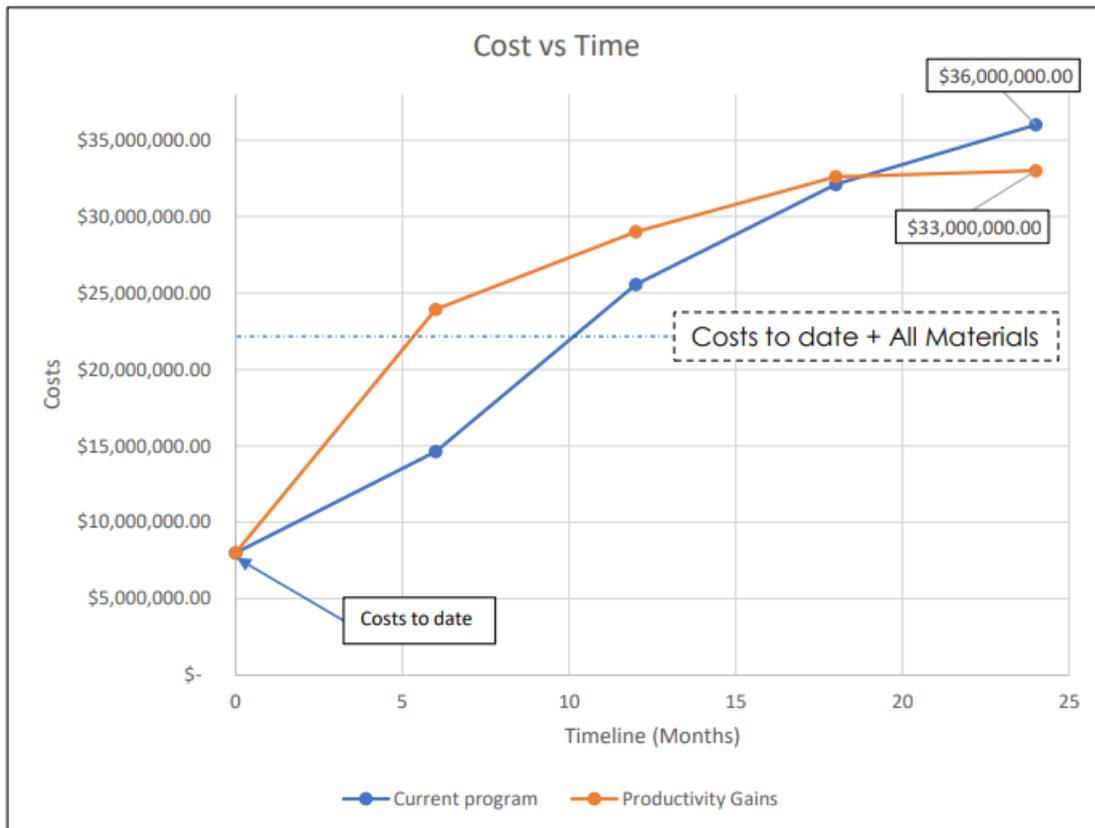
This would include cost-sharing public interest items such as environmental water management, water quantity monitoring, fish passage, water strategies, and infrastructure. Items such as water quantity monitoring, for example, have proven critically important in recent times for flood management and emergency service operations but are funded entirely by water users.

It must be recognised that water users cannot meet the cost of the services being demanded. For example, the unaffordability of water users' covering the costs associated with constructing fish passageways have stalled the progress of this infrastructure across the Murray-Darling Basin. Additionally the 300% increase (see images below – IPART initially approved a budget on \$11.5m in 2021) in budget to the Lake Cargelligo Embankment Project will be cost prohibitive for water users if they are required to “foot the bill”. To progress these projects Government intervention will be required to cover costs.

Forecast cost to completion (\$28 Million)



Slide presented at Jul 23 Lachlan CAG in relation to Lake Cargelligo Embankment Project cost increase



Slide presented at Jul 23 Lachlan CAG in relation to Lake Cargelligo Embankment Project cost increase

Metering and Measuring

NSW has introduced best practice standards for metering and is progressively implementing them. Consistency of standards across jurisdictions is required to achieve best practice monitoring and compliance, so the NWI should be amended to require consistency among jurisdictions on the degree of accuracy of monitoring required to be achieved.

It is the experience of water users and industry that the NSW non-urban metering reform is not fit-for-purpose. In 2023, the New South Wales Irrigators Council (NSWIC) published Addressing Metering Compliance Barriers report⁷ in response to the NSW Non-Urban Water Metering Policy five-year review. The report outlines acknowledged and experienced barriers to compliance and provides suggestions for ways to move forward.

Table 2 contains a summary of identified barriers and potential solutions:

Barrier	Solution
Excessive administrative costs to nominate a work as inactive.	Provide a simple pathway to correctly nominate works that is; cost-free, easily reversible, streamlined through removal of physical impediment requirements.
Inconsistent metering conditions on licences requiring compliance before the tranche 4 deadline.	NSW Government to remove pre-existing metering conditions on licences, and instead refer to one instrument – the Non-Urban Water Metering Policy.
Metering requirements place undue costs on low risk (smaller) water users.	Review exemption under work size-based framework. Further consultation with industry on a low volume user exemption, or alternate strategies.
Metering review changes affect water users in tranche 4.	Provide a minimum 12-month extension for coastal NSW (tranche 4) compliance.
Limited DQP supply in all NSW valleys.	Government to coordinate DQP services to match supply with demand. This should not incur a fee-for-service.
Telemetry equipment and systems are currently not fit for purpose.	Decouple data loggers and telemetry from metering requirements. Government to assume responsibility for telemetry system (water user can opt out if desired).
Floodplain harvesting metering requirements are currently not fit for purpose.	Revisit the Floodplain Harvesting measurement policy to ensure it is effective practically. Permitted entitlement holders to take water with approved, certified secondary meters until such time that barriers are addressed. Continue water user consultation to find a solution to policy failures.
Poor education and communication of metering report and recording requirements	Development of clear education strategy. Improvement of iWAS portal and streamline recording and reporting requirements.
Limited DQP supply to service faulty meters. Poor faulty meter reporting system.	Do not place time-based requirements on the repair of meters. Improve and streamline S91i faulty meter report form.
A significant portion of costs for the Metering reform are recovered from water users'	Review of the cost-shares associate with this reform – the NSW government must pay for its own reform, at least until the government

⁷ [Addressing Metering Compliance Barriers \(2023\) | NSWIC \(nswic.org.au\)](https://www.nswic.org.au)

fees and charges (on top of the purchase of required equipment and labour).	can demonstrate the reform is being delivered effectively and efficiently.
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Indigenous Access

LVW supports NWI renewal advice section 3.5 to “develop new elements covering Aboriginal and Torres Strait Islander people’s interests in water, and infrastructure development. Significantly enhance the environmental management and water accounting (system integrity) elements.”⁸ LVW sees significant opportunity for partnership-based models to be expanded in valleys to achieve cultural outcomes.

Environmental Water Management

LVW considers that NSW has done considerable work as part of the Water Resource Plan process to more clearly specify the environmental goals in WSPs and to recommend required monitoring.

LVW believes that the monitoring could be improved. We recommend that an important requirement of monitoring and evaluation programs should be that they must clearly identify the change in conditions as a result of climatic variation, and as far as possible they should distinguish between the additional environmental outcomes achieved as a result of the use of water entitlements held by Commonwealth and state governments, and the outcomes that have occurred as a result of planned environmental water that was already available due to state-based water sharing plans.

It is important to quantify the additional environmental benefit occurring as a result of the implementation of the Basin Plan to be able to evaluate the value of the Plan. This should also help identify where there are more cost-effective options to achieve the environmental outcomes.

The focus to date has been on volumes of water and the purchase of entitlement. However, the water market also provides opportunities to operate in the temporary market, either buying or selling, and the right to lease water or to protect flows at specified times, taking into account that the timing of environmental water demands can often be different from the timing of consumptive use. LVW agrees that the range of products now available provides significant potential for environmental managers to achieve goals more cost-effectively and that this avenue should be actively investigated.

The market also provides the opportunity to trade water and use the proceeds to undertake complementary environmental management actions such as rehabilitating banks, improvement to fish passage through fish ladders, or changes to culverts and other road infrastructure that may be impeding fish passage, installing pumps or other infrastructure to improve the delivery of water to environmental sites, and installing curtains on storage offtakes that will help reduce thermal pollution as an example.

⁸ [Call for submissions - National Water Reform 2024 \(pc.gov.au\)](https://www.pc.gov.au/call-for-submissions-national-water-reform-2024)

Conclusion

The context for water management has evolved significantly since the 2004 National Water Reform. This creates opportunity and need for a modernised NWI to guide the adaptive management of Australia's water resources.

LVW reiterates the positions provided in our previous submissions to the Privacy Commission regarding reviews of national water reform.

LVW supports the views submitted through the NSW Irrigators Council current and prior submissions to the Productivity Commission regarding national water reform, regarding the broader basin valleys.

LVW and our members are available to assist with any additional enquires regarding the NWI and/or provide further information on any part of this submission.



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