



The Commonwealth Environmental Water Office (the CEWO) supports the Commonwealth Environmental Water Holder, who is responsible for managing Commonwealth environmental water to protect and improve the health of rivers, floodplains and wetlands within the Murray-Darling Basin. The Office also supports the Australian Government in its international engagement on the Convention of Wetlands of International Importance (Ramsar Convention).

Thank you for the opportunity to provide comment on the [Coastal Harvestable Rights Review](#) discussion paper (the Review). There are several matters the CEWO would like to raise.

In summary:

- Impacts to Matters of National Environmental Significance (MNES) must be considered and referred under the *Environment Protection and Biodiversity Conservation Act 1999* if required
- Any increase to consumptive take should be treated as an issue of sustainability of water resources under the National Water Initiative 2004.
- Any approach needs to be tailored to the requirements of each catchment to allow for the significant variability between each.
- Increasing consumptive take has ramifications for other water users and environmental water, particularly in light of climate change impacts.

### **Ecological impacts**

Changes to harvestable rights are likely to have cumulative environmental and cultural heritage impacts on Matters of National Environmental Significance including threatened species and ecological communities.

Please see **Attachment A** for detailed information on the proposal's possible intersection with the requirements of the *Environment Protection and Biodiversity Conservation Act 1999*, including Wetlands of International Importance (Ramsar wetlands).

As identified in the Review, delay in implementing appropriate management frameworks could result in significant ecological degradation (as seen in the Murray-Darling Basin), with negative impacts for downstream users, coastal tourism and fishing industries in affected catchments.

Harvestable rights are not based on ecological requirements and impacts are not well understood. Seemingly small reductions in runoff may have significant ecological impacts, particularly at finer spatial and temporal scales.

- In altering the quantity and quality of sediment and flows to the coast, any changes to harvestable rights may also impact meeting the objectives of the NSW *Coastal Management Act 2016*, namely:
  - '(a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and...

- (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities...'
- The negative impact to water quality and potential increase in eutrophication of currently healthy systems must be considered in any proposal to increase take
- While dams can function as artificial ecological refuges, they are managed for productive outcomes which do not align with natural breeding cues required for successful reproduction and sustainable ecosystems.

### **Water sharing**

The equity considerations raised on page 21 of the Review highlight that in some catchments, the proposal to increase the harvestable rights percentage would only benefit a small stakeholder group in the short-term, and have a negative impact on communities, all other water users and the environment in the long-term.

The National Water Initiative, Australia's blueprint for water reform, states that governments have a responsibility to ensure that water is allocated and used to achieve socially and economically beneficial outcomes in a manner that is environmentally sustainable. Therefore, a blanket increase to harvestable rights would need to demonstrate that coastal ecosystems and downstream users already impacted by water regulation would not be put under further stress and that the level of extraction is sustainable in the long term.

Any proposal to increase access to groundwater (p. 23) needs to consider these impacts, including the potential to cause saltwater intrusion in coastal areas.

### **Climate risks**

The report identifies valid causes for concern about the negative impacts of increase in harvestable rights percentages. These include impacts of reduced inflows on many water users; individuals, industry, town supply, the environment and impacts on water quality. The *Intergovernmental Agreement on a National Water Initiative 2004* (NWI) identifies water access entitlement holders as responsible for bearing the risks of any reduction in water allocation, including the reliability of water allocation, resulting from:

- seasonal or long-term changes in climate, and
- periodic natural events such as bushfires and drought<sup>1</sup>.

This approach aligns with a key 'driver for good adaptation' where climate risks are well understood and clearly allocated to those best placed to manage them<sup>2</sup>.

While a blanket increase to harvestable rights under the current climate forecasts could provide short-term buffering, subsidising agricultural production in this way could inhibit the industry from adapting to climate change in an appropriate and in a timely manner.

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<sup>1</sup> NWI, 2004: clause 48

<sup>2</sup> DIICSRTE (Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education), 2013. *Climate Adaptation Outlook: A Proposed National Adaptation Assessment Framework*, Australian Government, Canberra.

The Productivity Commission's recent statements about the importance of building resilience to increase community, industry and environmental capacity to deal with shocks (2020's bushfires and pandemic, were the cited example), encourage governments to take the changing climate into account when they assess the impacts of any regulatory or policy change.

Any blanket increase to the NSW coastal harvestable rights percentage or permitting harvestable rights on third-order streams may exacerbate some of the current challenges for harvestable rights in meeting the aims of the NSW *Water Management Act 2000*<sup>3</sup>. These challenges include that:

- The volume of allowable harvest is not moderated by climatic conditions and water availability in any given year.
- The impacts on mean annual flow in dry years is much larger than if all years are considered. For example, in the Wollondilly catchment, existing HR dams take 35% of mean annual flow in dry years and 12.3% of mean annual flow in all years (increasing to 50% and 19.6% if uptake of HR is 100%). Impacts on low flows and maintenance of refuges during dry years may be significant.
- The maximum harvestable right dam capacity multiplier values (rainfall runoff factors) were calculated 20 years ago. This means that current and somewhat dryer climatic conditions may not be reflected in harvestable rights calculations, and potentially may already be leading to harvests of greater than 10% of current annual average rainfall runoff.
- Climate change and possible reductions in rainfall or runoff have not been considered in the review.

Climate change may also affect the demand for water. For example, demand patterns for water may vary with changes in the seasonal distribution of rainfall. Further, in regions with reduced water availability, there will be increased demand and competition for water among urban, irrigated agricultural, mining, industrial and environmental users.

Reductions in flows combined with rises in sea level could have negative ecological outcomes for coastal catchments. The detrimental impacts experienced in the Coorong during the millennium drought are a notable example, with dramatic negative effects on agriculture, tourism, Indigenous heritage and culture and the environment.

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<sup>3</sup> In particular: 'to protect, enhance and restore water sources, their associated ecosystems, ecological processes and biological diversity and their water quality'.

## Attachment A:

### Matters of National Environmental Significance

Any proposal to increase harvestable rights may intersect with the requirements of the *Environment Protection and Biodiversity Conservation Act 1999*, including Wetlands of International Importance (Ramsar listed wetlands).

Altered hydrological processes, including extraction of surface and groundwater flows, are identified as key threatening processes for several ecological communities along the NSW coast, listed under the EPBC Act.

The department is currently evaluating this as a key issue for the Melaleuca dominated Temperate Swamp Sclerophyll (or Coastal Swamp Sclerophyll Forests (CSSF)) on Coastal Floodplains of Eastern Australia, with the assessment to date indicating that the community is critically endangered.

Many of the species identified in this and in other ecological communities – have significant cultural values for First Nations people, for example Melaleuca quinquenervia is an important medicine and shelter tree. CSSF is significant Koala habitat, as are these:

- approved conservation advice for Coastal Swamp Oak Forest – which forms part of a the mosaic of coastal floodplain ECs:  
<http://www.environment.gov.au/biodiversity/threatened/communities/pubs/141-conservation-advice.pdf>
- approved conservation advice for Riverflat Eucalypt – which forms part of a the mosaic of coastal floodplain ecological communities:  
<http://www.environment.gov.au/biodiversity/threatened/communities/pubs/141-conservation-advice.pdf>

Please see following the listed ecological communities that are likely to be impacted by an increase to coastal harvestable rights.

#### Listed as Critically endangered

- Illawarra and south coast lowland forest and woodland ecological community
- Illawarra-Shoalhaven Subtropical Rainforest of the Sydney Basin Bioregion
- Robertson Rainforest in the Sydney Basin Bioregion
- River-flat eucalypt forest on coastal floodplains of southern New South Wales and eastern Victoria
- Lowland Rainforest of Subtropical Australia
- Subtropical and Temperate Coastal Saltmarsh: “For example, coastal saltmarsh may occur in intermittently open *Subtropical and Temperate Coastal Saltmarsh* lagoonal estuaries that are only intertidal when the lagoon is opened (which may only be for limited periods, with periods of several years of closure). Such estuaries, known as ICOLLs (intermittently closed and open lakes and lagoons), are common in NSW ... The *Coastal Saltmarsh* ecological community may also include areas that have groundwater connectivity to tidal water bodies. For example, groundwater hydrology may play a role in the occurrence of species such as

the nationally vulnerable *Tecticornia flabelliformis* (bead samphire) which has a preference for water logging (Coleman and Cook, 2008). (Conservation Advice, pp 92-3)”

### Listed as Endangered

- Coastal Swamp Oak (*Casuarina glauca*) Forest of New South Wales and South East Queensland ecological community (Endangered)
- Coastal Upland Swamps in the Sydney Basin Bioregion
- There are strong hydrological controls on the distribution of the Coastal Upland Swamps community, both regionally and locally. Geomorphic development of the swamps is driven by positive feedbacks that operate when there is significant excess of precipitation over evaporation.
- Currently being assessed/listed for assessment:
- Melaleuca dominated Temperate Swamp Sclerophyll Forests on Coastal Floodplains of Eastern Australia (Currently being assessed – expected to be CE).
- Subtropical Coastal Floodplain Eucalypt Forest of northern New South Wales and southern Queensland – on PPAL for assessment (to commence – ie has been identified as being at risk)