

**Kim Evans
Secretary
Department of Primary Industries and Water
GPO Box 44
HOBART TAS 7001**

Attention: Christina Jackson

18 August 2006

Dear Ms Jackson,

**RE: SUBMISSION ON DRAFT IMPLEMENTATION PLAN FOR THE
NATIONAL WATER INITIATIVE TASMANIA**

The Tasmanian Farmers and Grazier's Association (TFGA) welcomes the opportunity to provide a submission on the draft implementation plan for the National Water Initiative in Tasmania.

It goes without saying that reliable access to economically viable irrigation water is fundamentally important for successful agriculture in Tasmania. We consider that Tasmania is indeed a special case for water resources management in Australia, in that as yet it has not been determined that any catchments are over-allocated.

As per the State Government's Water Development Plan, there is the opportunity for further well-planned sustainable water development. Furthermore, Tasmanian farmers do not wish to see issues of over-allocation occur here as on parts of the mainland and consider that all water users have a role in this.

Accordingly our submission of 8 August 2005 relating to the *Review of the Operation of the Water Management Act*, raised a number of issues that remain current and which will affect the achievement of Government's and Industry's goals for water development and the NWI in Tasmania.

This submission on the Draft Implementation Plan for NWI Tasmania should be read with the previous submission in mind.

Background

The TFGA's general approach to water management is consistent with the spirit of the NWI expressed through:

"..the framework within which water is allocated attaches both rights and responsibilities to water users – a right to a share of the water made available for

extraction at any point in time and a responsibility to use this water in accordance with usage conditions set by Government.

Likewise 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 (NWI Preamble, Clause 2, Page 1)."

With this in mind, Tasmanian farmers are fundamentally seeking long-term security and certainty of their water access entitlements (i.e their rights) in return for meeting economic, social and environmental outcomes for water development (i.e their responsibilities).

In-turn the TFGA is looking for the Tasmanian Government to honour their obligations in this regard.

Rationale

More secure water entitlements will promote the efficient use of water (facilitating both industry advancement and environmental outcomes) and will also provide a sounder basis for investment and security for finance.

Improved security necessitates:

- Water access entitlements should be able to be registered in a manner comparable to real property and be able to be used as collateral to secure financial dealings.
- Commercial certainty of water access entitlements. The more secure the entitlement the more certain water users will be of investments based upon that entitlement and the more willing financiers will be to use that asset for the purposes of loan security.
- Water allocations are consistent with Catchment Water Management Plans (and conditions), which are based on best available information following transparent planning processes.
- Water allocations for consumptive use must have equivalent security as any water that Government may set aside to achieve environmental and social outcomes.
- Fair access to available water to increase primary production through lease, buy or trade arrangements. This requires avoiding the situation where a party, or parties develop a dominant-market position through the trading of water access entitlements. This also includes discouraging speculation in water allocations prior to a resource being fully allocated, through ensuring that any water allocation licenses are supported by plans for its productive economic use.
- Transparent risk assignment for any future changes to the consumptive pool (or its equivalent).
- All water users and the environment equitably must share changes to the consumptive pool (or its equivalent) arising from climatic variation.
- Protecting the integrity of water access entitlements from unregulated growth in interception through land use changes.

The TFGA recognises that the Draft Implementation Plan for NWI Tasmania is a statement of current Tasmanian Government Policy. We also note that the

Government has and is taking positive steps forward towards implementing the NWI in some areas.

However, significant questions remain over whether the Government, as articulated in the draft Implementation Plan, is meeting the “resource security test” that is required by the NWI. Farmers’ confidence in and broad acceptance of the NWI depends on Government passing this test.

The issues discussed below arise from how the TFGA considers the Draft Implementation Plan addresses the above criterion.

Issues

Security and Tenure of Water Access Entitlements:

The TFGA considers that this issue overrides all others as it forms the fundamental basis for water development in Tasmania and is the keystone of the National Water Initiative.

The NWI states that, *“the consumptive use of water will require a water access entitlement ...to be described as a perpetual or open-ended share of the consumptive pool of a specified water resource as determined by the relevant water plan...”*

However, the Draft Plan notes that under the Water Management Act water licences and allocations are granted for a specified period of time only (normally 10 years) and renewed upon application by a licensee provided several conditions are met.

The TFGA believes that this 10-year “rolling” approach does not meet the Federal and State Governments’ commitments or the spirit of the NWI

We have serious concerns over whether this approach satisfies the requirement that a water access entitlement has similar status as freehold land (real property) which lending institutions require for collateral for providing finance.

The “10-year” approach also potentially creates uncertainty and risk in that it infers that the Minister could revoke a license (by way of not reissuing) after 10 years. It is unclear if the risk assignment provisions in the NWI are adequate compensation for this sort of risk.

The TFGA is making its own inquiries into this issue. It was not possible to resolve this in time for this submission. However, based on some initial comment there is the view that a 10-year license and allocation will

- Limit the ability to borrow for on-farm water-dependent development generally, and differentially across short, medium and long-term finance arrangements;
- Limit the value (percentage) that could be borrowed as compared to freehold land title individually (and/or land title plus the water access entitlement in combination).
- Effectively devalue potential land prices.

In addition the Draft Plan provides limited evidence to support the following statement and therefore provide confidence that the rules based approach to water management planning (and resource allocation) as adopted in Tasmania actually meets the NWI requirements to describe a share of a consumptive pool:

“...the Water Management Act does not require the water access entitlement to be specified as a share of the resource (consumptive pool) due to the practicalities of applying such a system in unregulated rivers. In Tasmania the size of the consumptive pool changes with natural streamflow on a daily, monthly, seasonal and annual basis...”

It is our understanding that other jurisdictions e.g. Western Australia and South Australia are preferring a “unit share” or “proportional share” arrangement in both regulated and unregulated systems ie, each licensee holds a number or share of the total number of shares issued for a consumptive pool. The unit share arrangement, for example, allows for the issuing of further shares should additional water become available.

This raises the following questions

- Is the approach to defining a “share of the resource” in Tasmania consistent with the approach outlined in Section 28 of the NWI? i.e. can the two approaches be reconciled?
- What is the definition of an unregulated system that the Government is applying in Tasmania?

The State Government needs to engage independent financial and legal advice (and/or release any such existing advice) to validate that the approach to defining water access entitlements being taken in Tasmania:

- 1. Is wholly consistent with the requirements of the NWI; and**
- 2. Will not restrict investment into water dependent development by limiting the borrowing potential (using water entitlements as collateral).**

Plantation Water Interception

Recognising that this is a complex policy and land use planning issue, the TFGA has consistently called for defensible science backed up with transparent community consultation to inform the debate on “plantation water use”.

However, a significant concern remains that plantation development continues whilst the science to quantify the significance of any impacts on water resources in Tasmania is still being debated and developed.

The TFGA is encouraged by the commitment that the comprehensive catchment-modelling project in the Ringarooma Catchment will be completed and incorporated into the Draft CWMP by December 2006.

However given the ongoing expansion of the plantation forest estate in some catchments, it is untenable that an appropriate “risk management strategy” (page 33) will not start to be developed until 2008 and potentially not implemented until 2011 (5-years from now).

An urgent response (planning, management and/or regulatory) based on best available information is required to protect the integrity of water access entitlements of stock & domestic users, irrigators and also environmental water and other public benefit outcomes.

The State Government has undertaken to implement a “risk management strategy” by 2011. The pace of plantation development is such that there must be a risk management strategy in place before this date. Accordingly the Government must develop an “interim” strategy to recognise the impact of

large-scale plantation forests on water access entitlements. This must be developed as a matter of urgency by Departmental inquiry into the specific impacts of plantations on local water catchments, followed by development of Government policy on plantation establishment based on the outcomes.

Catchment Water Management Plans

The TFGA strongly supports the concept of Water Management Planning because it provides increased certainty on the meaning and content of water access entitlements. However we remain disappointed at the slow rate of completion of CWMP's (5 enacted plans in 7 years). Water planning activities in the Draft Implementation Plan appear to still be hampered somewhat by under-resourcing of DPIW and lack of knowledge, information and data.

We note that part of the Government's response to this is to the effect that, *"...it is timely to review the priorities for water management planning. The review will be undertaken to determine where a statutory CWMP is the most effective mechanism to determine water management and allocation decisions ...in catchments of low risk, statutory-based measures will be put in place, (rather than a CWMP) "*

The TFGA agrees that the State needs to carefully prioritise catchments for CWMP to ensure that Plans are completed more rapidly and in the appropriate order. Open consultation and negotiation with affected irrigators must remain an integral part of this planning process.

The value of the CWM Planning model is that it is based on best available information following transparent planning processes. There are concerns that proposed prioritisation approach could seriously compromise commercial certainty and the chances for new water development projects in "low risk" catchments. Whereby an enacted CWMP provides increased security for proponents in appeals processes relating to Dam Permits and Water Licenses.

The State Government needs to ensure that water users are fully and openly consulted on the review of priorities for water management planning.

Intra-State Trade

Trading of water for speculative purposes by third parties not directly involved in the use of water for genuine agricultural production makes agriculture uncompetitive and unnecessarily increases the costs of agricultural products to the community.

The TFGA and farmers are extremely concerned that water allocations and licenses could be held and traded by third parties to the detriment of agriculture. This includes:

- trading in surface water systems that could lead to speculators purchasing large volumes of water and thereby push up the price.
- monopoly power in water could be used to block water development and/or encourage the exit of water from agricultural irrigation sector.

The State Government needs to effectively explain to irrigators how water markets and trading are currently and could operate in Tasmania, including for example, public disclosure mechanisms that are being adopted and also Trade Practices Act provisions relating to the misuse of market power.

Notwithstanding this, to prevent the speculation and misuse of water allocations, relevant water legislation needs to clearly state that water title can only be issued, purchased or traded to those who have the land title (owned, leased or similar) on which to use that water.

Rural Water Pricing

Water fees and charges remain a significant cost item for farmers who face declining terms of trade and fierce competition in international markets. In terms of best practice water pricing, the TFGA supports the move to lower bound pricing only and only in an operating environment where Government's charging for water management is transparent and inclusive of significant public consultation and water operations are as efficient as possible.

The State Government should recognise in the Draft Implementation Plan the role of the joint DPIW/TFGA Joint Water Management Committee to develop strategies for the efficient Government operation and administration of water in Tasmania.

Conclusions

The issues identified in this submission focus on questions arising in relation to whether the Draft NWI Implementation Plan is adequately meeting its obligations to provide security and certainty to support water development in Tasmania. Of key concern to the TFGA is the security and tenure of water access entitlements.

The TFGA looks forward to further dialogue with Government to resolve each of these issues so to provide the agricultural industry with confidence that the NWI in Tasmania will deliver on what was promised.

Yours Sincerely,

Roger Swain
PRESIDENT