



# Murray Irrigation Limited

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Friday 24<sup>th</sup> June 2005

Mr John Feil  
Executive Director  
National Competition Council  
GPO Box 250B  
Melbourne VIC 3001

Email: [info@ncc.gov.au](mailto:info@ncc.gov.au)

Dear Mr Feil

**Subject: Murray Irrigation submission to NCC Issues paper for the Lakes R Us application for declaration of a water storage and transport service**

Please find enclosed Murray Irrigation's submission to the National Competition Council issues paper on the Lakes R Us application for declaration of a water storage and transport service.

Murray Irrigation looks forward to the progress of your declaration. If you have any questions about the content of this submission please contact Jenny McLeod, Policy & Communication Manager on phone 03 5881 9300.

Yours sincerely

**George Warne**  
**General Manager**



**Murray Irrigation Limited**

ABN 23 067 197 933

**Murray Irrigation Ltd**

**Response to the NCC Issues Paper**

***Lakes R Us application for declaration of a  
water storage and transport service***

***June 2005***

## Executive summary

Murray Irrigation is an unlisted private irrigation company in southern NSW owned by its primary customers, its irrigator shareholders. The company is Australia's largest private irrigation company supplying irrigation water and drainage services to 2,400 farms over an area of nearly 750,000 hectares.

Murray Irrigation's licence is approximately 70% of the NSW Murray general security licenced entitlement.

NSW Murray irrigators have recently emerged from a period of significant change and uncertainty with respect to the regulation of water. The NSW government's participation in the National Water Initiative and the enactment of the Water Sharing Plan for NSW Murray and Lower Darling Water Sources in 2004 is expected to provide water users with a regulatory regime that is more certain than the previous decade.

The Lakes R Us proposal challenges existing regulatory arrangements for water resource management including the water arrangements embedded in Snowy Hydro Ltd's licence and the annual allocation rules which aim to ensure the NSW Murray complies with the Murray Darling Basin Ministerial Council cap on diversions.

Implications of the declaration on water availability to water users and the extent the proposal will result in increased competition in water markets that is beneficial to water users requires careful consideration.

Murray Irrigation supports actions that provide individual water users with more choices about how they manage and use their share of the available water resource, including choices about their use of the annual water market.

Murray Irrigation also supports actions that will reduce existing barriers to competition in the annual water market.

Murray Irrigation does not support actions by individuals, supported by regulatory change which allows individuals to impact on the rights of other water users, established through community accepted and government gazetted water sharing plans. Murray Irrigation considers this is a key issue the NCC needs to address when considering the Lakes R Us application.

The Lakes R Us proposal contends that irrigators are not able to store their unused allocation. In the NSW Murray this is incorrect. Carryover combined with an active annual water market in the NSW Murray and Murray Irrigation's liberal annual trade rules that attract no fees provide individual licence holders with significant opportunities to manage their annual water availability between seasons.

Murray Irrigation acknowledges the carryover option is blunt because it only allows individuals to transfer water from the current year to the next water year.

Carryover water can also be stored in farm storages, but these storages are less efficient with higher evaporation losses than large storages. In addition once the water is in the farm dam the licence holder cannot then sell that parcel of water on the annual market.

The storage and release of water from the Snowy scheme are integrated functions, whilst the physical components of the scheme can be described separately. To fulfil their function of supplying irrigation water to downstream storages they are not independent. This statement also applies to storage, release and transport of water from dams controlled by State Water or River Murray Water to licence holders' diversion points.

The Snowy Scheme is a unique, engineering achievement. It would be uneconomical, illogical and technically impossible to establish another facility with the same benefits as the Snowy Scheme.

In the foreseeable future Murray Irrigation expects the demand for water in the Murray catchment is likely to increase because of the relative profitability of irrigated agriculture and sustained community demand for environmental flows in the Murray River.

Murray Irrigation questions whether there is any spare storage capacity in Snowy Hydro. Over time the water captured in Snowy Hydro storages is released to downstream storages. If the Lakes R Us proposal reduces the storage volume available to Snowy Hydro by 800,000 megalitres it will, over time impact water availability to downstream irrigators not using the Lakes R Us services.

The Lakes R Us proposal does not adequately describe how Lake R Us intends to store unused allocation water available at the end of May in downstream storage in Snowy Hydro storages. How the swap proposed by Lakes R Us is operationalised is not explained. Whether the Lake R Us application will provide more competition will be influenced by how the proposal is operationalised, what Snowy Hydro charges Lakes R Us for access to their storage and what Lake R Us charge licence holders for the service.

The Lakes R Us proposal may impact on property rights to water if it allows irrigators who participate with the opportunity to divert more water. In a regulatory environment where diversions are limited by regulations, (not just by water availability) this will have third party impacts on individual property rights to water.

If the Lakes R Us proposal reduces the volume of water spilt from downstream storages it will impact on the property rights of the environment.

Murray Irrigation expects substantial change to regulations governing Snowy Hydro, State Water and Water Sharing Plans will be required to allow this proposal to proceed.

Until further information about how the Lakes R Us proposal is to be operationalised and the nature of regulatory change required the impacts both positive and negative on water users of this proposal cannot be clearly identified.

## 1. Introduction

Murray Irrigation's response to the National Competition Council (NCC) issues paper for the Lakes R Us application for declaration of water storage and transport service focuses on issues relevant to water resource management and regulation in the NSW Murray. This is a subject area where Murray Irrigation has substantial expertise and knowledge. It is also an area that has been subject to significant and continual change since the announcement of the Murray Darling Basin Ministerial Council Cap on diversions in 1993/94.

Consideration of the criteria which the NCC has to consider in its declaration the under the Trade Practices Act are not straight forward because of the inter-relationship between storage and release of water from Snowy Mountains scheme and water availability to both irrigators and the environment in the Murray and Murrumbidgee valleys.

The Lakes R Us proposal, if successful has implications for water resource management and regulation in the NSW Murray and Murrumbidgee valleys and also in Victoria and South Australia. The central thesis of the Lakes R Us application is that there are deficiencies in the current regulatory regime apply to Snowy Hydro Ltd (Snowy Hydro) and water users licenced to extract regulated water from the Murray and Murrumbidgee Rivers. Lakes R Us argues these deficiencies limit competition and reduce the efficiency of irrigated agriculture.

This submission provides background information about Murray Irrigation. It also provides the historical context and rationale for the current regulatory regime affecting irrigators access to water. Brief comments are then provided on selected questions asked by the NCC in their issues paper.

The Lakes R Us proposal to stored unused allocation water in air space in Snowy Hydro challenges existing regulatory arrangements for water resource management in the NSW Murray including the water arrangements embedded in Snowy Hydro's water licence. Careful consideration of the implications of the proposal on water availability to other water users and the extent that the proposal will provide additional competition is required.

Central arguments in the Lakes R Us proposal are that; the existing regulatory arrangements are limiting the capacity of water users to maximise their efficient and productive use of water; and secondly providing Lakes R Us with access to Snowy Hydro storages will increase competition in the market for both lending and trading in annual water.

In principle Murray Irrigation supports actions that provide individual water users with more choices about how they manage and use their share of the available water resource. Murray Irrigation also supports actions that will reduce existing barriers to competition in the annual water market. However, Murray Irrigation does not support actions by individuals, supported by regulatory change which impact on the rights of other water users to their share of the available water resource.

Murray Irrigation considers this is a key issue the NCC needs to address when considering the Lakes R Us application.

## 2 Background

Murray Irrigation is an unlisted private irrigation company in southern NSW owned by its primary customers, irrigator shareholders. It was established when the formerly government owned and operated NSW Murray Irrigation Area and Districts were privatised. It is Australia's largest private irrigation company and it supplies irrigation water and drainage services to over 2,400 farms owned by approximately 1,600 family farm businesses in the southern Riverina. Murray Irrigation's area of operation is approximately 750,000 hectares. Each irrigator is a company member and shareholder, each share has one entitlement attached. Murray Irrigation has ten shareholder elected directors, eight of whom are irrigators drawn from the geographical regions that formed the former Murray Irrigation Districts.

The company operates under the Irrigation Corporations section of the Water Management Act 2000 (*NSW*) and is subject to the Corporations Act 2001 (*Comm*) The company operates according to its Memorandum and Articles of Association.

Murray Irrigation has an annual turnover of between \$27 and \$35 million. Annual water deliveries usually range from 1.2 to 1.6 million megalitres, although three years of record low annual allocation from 2002 has resulted in Murray Irrigation's five year average, annual water deliveries now being 0.85 million megalitres.

Murray Irrigation is closely linked to the state government through its licences. The company holds a 15 year Irrigation Corporation Water Management Works Licence issued by the NSW Ministerial Corporation and regulated by Department of Infrastructure Planning & Natural Resources (DIPNR) for the diversion and delivery of water to Murray Irrigation shareholders. Murray Irrigation also has an Environment Protection Licence with the NSW Environment Protection Authority (EPA) (reviewed every three years).

Murray Irrigation has an extensive environment program, the cornerstone of our environmental program is the implementation of the Murray Land and Water management Plans (LWMPs). The Plans are an integrated package of farm and district scale on ground activities, education, monitoring, research and development with a 30 year \$498 million community-government funding program.

Water licencing and access to water is determined by DIPNR under the Water Management Act 2000 (*NSW*), Water Management Amendment Act 2004 (*NSW*) and Water Sharing Plan for the Murray and Lower Darling Regulated Rivers Water Sources 2003, gazetted under the Water Management Act 2000. Murray Irrigation has water access licences for general security, high security, local water utility, conveyance and supplementary water. Murray Irrigation's holds approximately 70% of NSW Murray general security water access licence entitlements.

The Murray and lower Darling catchments are the source of Murray Irrigation's water supply. The Murray River and Darling River inflows into the Menindee Lakes are shared between NSW, Victoria and South Australia. NSW's access to water is determined by River Murray Water (the Murray Darling Basin Commission's bulk water businesses) according to the Murray Darling Basin agreement 1992. Water availability is augmented each year by releases from

Snowy Hydro. Releases from Snowy Hydro are regulated through DIPNR through the Snowy Hydro water licence.

### 3 Water Policy reform in the NSW Murray

Since its formation in 1995 Murray Irrigation and its shareholders have faced a raft of water reforms that have altered water allocation policy, increased allocations to the environment and increased the price the water. Water reforms have caused irrigators to be uncertain about their future access to water and left them feeling vulnerable to the power of governments to attenuate their rights to water through regulation. Murray Irrigation is optimistic the June 2004 Council of Australian Governments National Water Initiative agreement will provide a more certain regulatory regime going forward. Key policy changes that have impacted NSW Murray irrigators access to water since 1995 are discussed below.

#### 3.1 Murray Darling Basin Ministerial Council Cap on diversions

In June 1995 the Murray Darling Basin Ministerial Council announced a Cap on diversions from the basin. The Cap aims to limit diversions to 1993/94 levels of development for each river basin in the Murray Darling Basin. The States were responsible for implementing and ensuring Cap compliance in their respective states. In NSW DIPNR is responsible for Cap compliance. In the NSW Murray, assuming maximum development of both high security and general security licences the maximum long term average diversions of NSW general security entitlements, under the current rules will be 82% of entitlement. (The actual Cap target varies between years because of different volumes in storage and inflows which vary seasonally).

In the 10 years prior to the announcement of the Cap Murray Irrigation had an average annual water use of 110% of its NSW general security entitlement, in contrast other NSW general security licence holders in the NSW Murray had a measured water use of between 55 and 65% of entitlements.

DIPNR has implemented the Cap in the NSW Murray by progressively introducing changes to the allocation policy which limit individual access to allocation water. Changes to allocation policy to ensure Cap compliance are detailed in table 1. Individual licence holders were treated the same way, whether their licence had a history of using their available water or not, prior to the introduction of the Cap.

Table 1 changes to allocation policy as a result of Cap implementation

<b>Allocation rule</b>	<b>Prior to the Cap</b>	<b>Current rules</b>
<b>Maximum announced allocation</b>	140%	100% (110% in specific circumstances)
<i>Carryover</i>	<i>Not available</i>	<i>Up to 50%</i> <i>Loss factor of 5% applies *</i>
<b>Limits to carryover &amp; announced allocation</b>	Not applicable	Carryover plus announced allocation cannot exceed 100%
<i>Overdraw</i>	<i>Available</i>	<i>Not available</i>
<b>Off allocation (now supplementary water)</b>	Unlimited access if announced	Limited, licence issued based on history of dependence on supplementary water
<i>Cancellation of overdraw or allocation use</i>	<i>Overdraw and allocation water use cancelled by a spill of Hume dam</i>	<i>No</i>

\* The rationale for the loss factor is that the carryover water is held in storage for longer and incurs evaporation losses, in some years water is stored in Menindee Lakes where evaporation losses can be in excess of 25%.

The NSW Government's implementation of the Cap in the NSW Murray resulted in an acrimonious relationship between Murray Irrigation and Government for a number of years, the Cap was seen as a cut to our water availability and a windfall gain to other general security licence holders and high security licences holders. Murray Irrigation argued it was a windfall gain because it automatically increased the value of unused allocation water on the annual transfer market and it also allowed irrigators who regularly used less than their annual allocation to increase their diversions.

Changes to allocation policy had the greatest impact on individual licence holders that had historically used the announced allocation and also used off allocation water. The new allocation policy forces individual licence holders to enter the annual water market (or increase their permanent entitlements) to maintain their historical water use.

In dry years, such as those experienced in recent years where allocations are substantially below 100% the change, which has impacted on individual's water access are the provisions for carryover of up to 50% of entitlements. In the NSW Murray the water year extends from 1<sup>st</sup> June to the end of May. Water accounts effectively operate from the first allocation announcement in July until the 31<sup>st</sup> May. Carryover water is unused allocation that is carried to the next water year on individual licences. Before carryover was introduced any unused water on licences remained in storage and was shared between all licence holders as part of the next season's announced allocation. With carryover, unused water from the previous season is available to the individual licence holders for their exclusive use i.e. it is not shared. Carryover gives individual licences holders more choice about how they use their irrigation water.

### *Carryover and the Cap*

Annual allocation rules regulate the total amount of water available on individual licences. NSW general security licence holders cannot have more than 100% available, including carryover and net annual trade. The rationale for this limit is 1) the need to ensure allocation policy will result in the NSW Murray complying with the Cap and 2) the importance of allocation policy ensuring equity between licence holders and their access to regulated water.

Central to the Cap management rules in the NSW Murray is the principle that individuals can have access to up to 100% of their NSW general security entitlements but **not more**, if the water is available. This rule provides some equity between licence holders who use all of the available every year and those who don't. If individual licence holders were allowed to add their carryover to the announced allocation so they could have access to more than 100% of allocation, this would result in more water being allocated and available for use in the NSW Murray Valley with the risk that diversions will exceed the Murray Darling Basin Ministerial Council Cap.

The Lakes R Us proposal contends that irrigators are not able to store their unused allocation. In the NSW Murray this is incorrect. Carryover combined with an active annual water market in the NSW Murray Valley and Murray Irrigation's



liberal annual trade rules that attract no costs results in NSW general security licence holders having significant opportunities to manage their annual water availability between seasons.

Murray Irrigation argues the carryover option available to NSW general security licence holders provides individual licence holders with the opportunity to reduce the chance of an extremely low allocation year, it also provides the licence holders with more water early in the season, when they are likely to be making key irrigation planning decisions. However, Murray Irrigation recognises the carryover option is blunt in that does not allow an irrigator to transfer water between several seasons, this is an option that the Lakes R Us proposal, if successful, would presumably provide.

### *Cap management in other valleys*

The approach to Cap management differs between States and between valleys within States. Murray Irrigation argues that in the Murrumbidgee Valley and also in Victoria annual trade rules are being used, in preference to allocation policy to manage diversions to achieve Cap compliance. Specifically in the Murrumbidgee these limitations include cut off dates for annual transfers that are irrelevant to water supply, forfeiture of unsold water, penalties if water is sold and then water is subsequently purchased. Victoria limits access to sales water if water is sold and also has premature cut off dates for annual transfers to NSW. These artificial barriers to trade impact on the water market, and on the rights of individuals to either use or sell their available water.

## 3.2 Water Sharing Plan for Murray Lower Darling Water Sources

Between 1999 and 2002 the NSW Government embarked on major changes to water legislation and water administration. In December 2000 the Water Management Act was passed replacing the Water Act 1912. The NSW The Water Management Act requires individual valley Water Sharing Plans (WSPs) which apply for 10 years and describe in detail how water will be shared between water users and the environment and also between different water users, eg. general security and high security licence holders. The WSP for the NSW Murray includes alterations to allocation policy implemented as part of the Cap management and detailed in table one above. It also includes an enhanced Barmah/Millewa forest allocation and changes to the way Menindee Lakes are operated. The WSP is expected to reduce diversions in the NSW Murray to 3.8% below the Cap.

## 3.3 Environmental flows for the Snowy and Murray Rivers

Governments have signed agreements which commit them to providing increased environmental allocations for both the Snowy and Murray Rivers. The intent of these agreements, which include a commitment from government to fund water recover is to minimise the impact of water recovery for the environment on the irrigation industry.

#### **4. Corporatisation of Snowy Scheme & Snowy Hydro Ltd' water licence**

The Snowy Hydro Ltd water licence, issued and administered by the NSW Ministerial Corporation under the Snowy Hydro Corporatisation Act 1997 is the principle instrument through which the water rights of the Snowy Mountains Hydro electric scheme are conferred and its water operations are governed. The Snowy Hydro water licence is issued for 75 years, it gives Snowy Hydro the right to collect, divert, store, use and release water within the Snowy Scheme. The licence imposes obligations on Snowy Hydro to release water for irrigation purposes and for environmental flow requirements in the Snowy, Montane and Murray Rivers (Vanderzee and Turner 2002).

Water arrangements for Snowy Hydro were developed during the corporatisation of the Snowy Mountains Hydro-electric Authority. Governments during their complex negotiations for corporatisation of the Snowy Mountains Hydro-electric Authority aimed to codify the existing water arrangements in the Snowy Hydro water licence. Governments were driven by their interest in Snowy Hydro's commercial security. Codification of the water arrangements was essential to provide Snowy Hydro with commercial certainty (Vanderzee and Turner 2002). Snowy Hydro's income is derived primarily from electricity sales with its owners the NSW, Victorian and Commonwealth governments benefiting from profits.

During the corporatisation process Murray Irrigation argued that governments need to recognise that water is the finite resource, not electricity. Murray Irrigation argued codification of water arrangements, driven by commercial outcomes for Snowy Hydro will restrict opportunities to optimise the integration of water supplies in Snowy Mountains Hydro-electric Scheme with downstream water supplies. Governments did recognise the importance of Snowy releases for the protection of downstream irrigation rights. The Snowy Hydro's water licence included provisions to guarantee the release of minimum notification, now referred to as the required annual release, if required for irrigation purposes. Minimum notification volumes are 1062 gicalitres and 1026 gicalitres to the Murray and Murrumbidgee valleys respectively.

#### **5. Water reliability and security in the NSW Murray**

The Lakes R Us proposal needs to be understood in the context of water sharing arrangements between states and then to licence holders. In the case of the Murray River water is shared between NSW, Victoria and South Australia according to the Murray Darling Basin Agreement. The sharing rules have a long history dating back to the turn of last century which have been refined with time.

River Murray Water determines how much water is available to each State based on the agreement, and each state in turn regulates the amount of water which is available to individual licence holders. As described in section three, the NSW WSPs describe rules for allocation of the available water to licence holders.

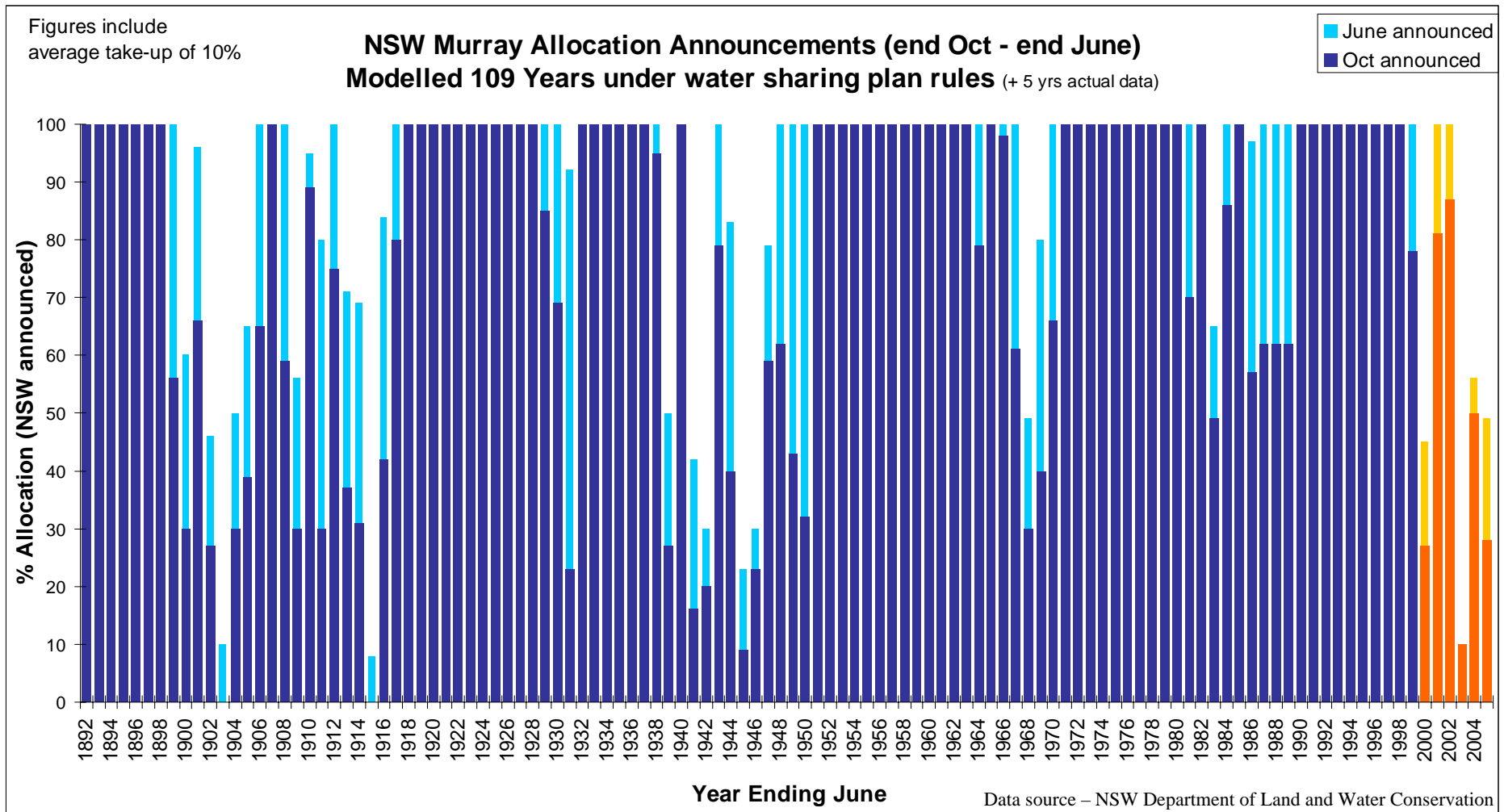
NSW and Victoria have different allocation policies. NSW maximises water use in each year and carries minimum water reserves to the next year. In contrast Victoria aims to keep a volume of water in reserve at the end of each irrigation season. A consequence of NSW minimal reserve policy is that starting allocations, particularly in years where inflows are low are often low as described by Lake R Us.

The announced allocation at the start of the irrigation season is underpinned by minimum required annual releases from Snowy Hydro.

Figure one shows the NSW Murray general security allocation announcement, it contains 109 years of modelled data and five years of actual data. The modelled data is based on the gazetted WSP rules. The darker colour is the announced allocation at the end of October and the lighter colour is the end of season maximum allocation announcement. Key points to note from this graph are;

- The current rules which limit the maximum announced allocation of 100% reduce the variability in allocations.
- Historically the NSW Murray has experienced at least two periods of low water availability which have extended for several years.
- Water security was greater in the second half of the last century than in the first half.

Figure 1



## 6. Response to issues paper questions

This section provides brief comments on selected questions asked by the NCC in the issues paper. Questions answered are those where Murray Irrigation has a view and some expertise.

### **Defining the services and the facilities**

*Is it appropriate to distinguish an integrated water storage and transport service provided by Snowy Hydro for the purpose of part 111A? Alternatively is it appropriate to consider the component services separately or redefine them, including on functional and or geographical bases? Should for example the service of water storage be distinguished from the service of water transport and the service of water connection? Should services relevant to the Murray River system be distinguished from those relevant to the Murrumbidgee River system?*

The storage and release of water from the Snowy Scheme are integrated functions. The generation of electricity and release of water to downstream storages are joint products of the Scheme. The physical components of the scheme can be described and separated according to their function but their use to supply irrigation water and generate electricity is not independent.

The Snowy Mountains Hydro-electric scheme is an integrated set of assets that are operated as two separate developments, the Snowy Murray Development and the Snowy Tumut Development. The Snowy Murray Development releases water to the Murray River and the Snowy Tumut Development releases water to the Murrumbidgee River. Separate accounting of water stored in the two developments underpins the regulated water supply in the Murray and Murrumbidgee Valleys. Therefore it is possible and relevant to distinguish between the services to the Murray and Murrumbidgee Valleys provided by Snowy Hydro. However, it should be recognised that the system is integrated and water can be transferred between the Murray and Murrumbidgee developments and vice versa by adjusting accounts in Lake Eucumbene.

*Whether it is appropriate to distinguish an integrated water storage and transport service provided by State Water for the purpose of part 111A? Are there separate components of the water storage and transport service that should be considered services in their own right for the purposes of part 111A?*

The storage, release and transport of water can be described and separated according to their function but their use to supply irrigation water to licence holders is not independent.

*The extent to which the definition of a water storage and transport service is generally understood and accepted within the water industry in the commercial and regulatory contexts?*

The services provided by Snowy Hydro, State Water and River Murray Water and the regulatory environment these organisations operate in are well understood by irrigation corporations. The services and production process issues raised by the NCC issues paper and relevant to the Trade Practices Act are not well understood by the water industry.

**Criterion (b) - That it would be uneconomical for anyone to develop another facility to provide the service.**

The Snowy Scheme is a unique, engineering achievement. It would be uneconomical, illogical and technically impossible to establish another facility which has the harvesting and storage capacity and low evaporation benefits of the Snowy Scheme to store unused carryover water.

Unused allocation water could be stored in storages on farm, these storages can be economical to build. Some Murray Irrigation shareholders use their farm storages which are usually smaller than 100 megalitres to store unused allocation water. However, farm storages have higher evaporation losses and are therefore less efficient than Snowy Hydro's storages. Holding carryover water in farm storages also reduces the licence holder's flexibility because, once the water is in the farm storage it cannot be sold to another licence holder.

*What is the reasonably foreseeable demand for water in the Murray, Murrumbidgee and Snowy river systems over the medium to long term?*

The demand for water in the Murray river in the foreseeable future is likely to increase for two primary reasons; 1) relative profitability of irrigated agriculture compared to dryland agriculture and 2) sustained community demand for environmental allocations to protect the health of the Murray River.

The demand for irrigation water from Murray Irrigation shareholders is inherently high. The irrigation intensity of only 1.8 megalitres per hectare is low by both world and Australian standards.

*What is the level of spare water storage, transport and electricity generating capacity (if any) in the Snowy Scheme facility operated by Snowy Hydro?*

Whether there is any spare storage capacity in Snowy Hydro is questionable. At times Snowy Hydro storages contain airspace however; when inflows to storage are high spare storage capacity will reduce. Snowy Hydro is able to influence the timing of water releases from the Snowy Scheme within the constraints of its Snowy Water licence. However, over time water stored in Snowy Hydro storages will be released to downstream storages. If the Lakes R Us proposal reduces the storage volume available to Snowy Hydro, the proposal will, redistribute the water available between irrigators, depending on their use of the Lakes R Us service.

**Criterion (a): The promotion of competition test**

*Whether the water lending market as defined by Lakes R Us in its application is a dependent market for the purposes of criterion (a)? How substitutable is water lending with other types of water dealing (temporary and permanent water trading and licence conversion)?*

The question which the Lakes R Us proposal does not adequately address is how Lakes R Us intends to store unused allocation water available at the end of May in Snowy Hydro Ltd storages? Lakes R Us proposes the use of "swaps" to effect this transfer uphill but how the proposed "swaps" would be operationalised is not explained.

The Lakes R Us proposal contends licence holders in the NSW Murray Valley cannot store unused allocation water. This is not the case for NSW general

security licence holders, where the opportunities to retain access to unused allocation water to the next year is significant. Many Murray Irrigation shareholders utilise the carryover option.

However, Lakes R Us correctly identifies that opportunities to retain access to unused allocation water in some areas is limited. In the NSW carryover is not available to NSW high security licence holders, it is limited to 15% in the Murrumbidgee Valley and is not available to SA or Victorian licence holders.

However, Murray Irrigation observes that the allocation policies of each State and the allocation rules within valleys are generally accepted by water users and in NSW are embedded in the WSPs.

Access to carryover for NSW high security licence holders would be of minimal benefit because of the very high reliability of NSW high security entitlements. This is demonstrated by the fact NSW high security licences have had access to their maximum announced allocation of 97% at the start of the irrigation season, over the last three seasons, despite record low inflows into Murray storages.

*Whether access would promote competition in the water lending, trading agricultural and electricity markets that depend on water storage and transport services from the Snowy Scheme.*

In theory two parties providing the same service should improve competition. If Lakes R Us application is successful, whether it provides more competition will depend on what Snowy Hydro charge for access to Snowy storages and what Lakes R Us charges to its customers for the service.

Murray Irrigation has participated in a number of water contracts with Snowy Hydro since 1998. To date these contractual arrangements have involved an advance of future year's annual allocation water, in some cases above target water has underwritten the advance. This is the reverse of the Lakes R Us proposal where they aim to store unused allocation water in Snowy Scheme storages.

Contracts to advance water from Snowy Hydro have been pursued by Murray Irrigation in low allocation water years, where the company and its shareholders have been vulnerable to Snowy Hydro's monopoly power and in a weak position when attempting to negotiate commercial arrangements. Snowy Hydro operates in a competitive electricity market which is significantly more complex and competitive than the water market. This market is not well understood by the irrigation industry, this makes it impossible for Murray Irrigation to establish whether the price charged by Snowy Hydro for advances is reasonable and does not involve use of its monopoly to power to increase profits.

To protect the interests of all licence holders commercial arrangements with Snowy Hydro limited require that additional water released must be paid back, in essence irrigators are paying for something which they are going to receive, in the future without payment to Snowy Hydro.

The majority of Murray Irrigation's shareholders have chosen not to participate in these advances because of their cost and the requirement to pay the water back, preferring to use either the annual water market to access additional water or to adjust irrigation programs to the available water.

*Incentives and opportunities that exist for Snowy Hydro and State Water to exercise market power in dependent markets.*

The Snowy Hydro water licence and WSPs limit the opportunities for Snowy Hydro and State Water to exercise market power. It is only in circumstances where variations to the regulations are sought that Snowy Hydro and State Water can exercise market power.

*Are there other mechanisms, such as water dealing, swaps and other financial instruments that affect the ability or incentive for Snowy Hydro and State Water to use market power to affect competition in dependent markets?*

Not that Murray Irrigation is aware of. Although Murray Irrigation is in the formative stages of developing alternative water products for irrigators, to assist individual irrigators manage their water security.

*Whether access would affect property rights to water?*

Section 3.1 describes the rationale behind the Cap management arrangements in the NSW Murray which are gazetted in the NSW Murray WSP. The rules in the WSP establish the property rights to water for both irrigators and the environment.

If the intention of the Lakes R Us proposal is to allow irrigators who participate in the Lakes R Us proposal with the opportunity to divert more water, in a capped environment where diversions are limited this will impact on property rights.

If the Lakes R Us reduces the volume of water that is stored and released from Snowy Hydro the proposal will impact on property rights to water.

If the Lakes R Us proposal reduces the volume of water spilt from downstream storages because of changes in water release patterns from the Snowy Scheme the property rights of the environment will be affected.

#### **Criterion (e): The effective access regime test**

*To what extent (if any) does the regulatory regime, including the water allocation mechanisms, the licensing regime and the statutory instruments conferring rights and obligations on Snowy Hydro and State Water provide an enforceable right of access to:*

- *the water storage and transport service of Snowy Hydro*
- *the water storage and transport service of State Water*
- *the water in the Snowy Scheme?*

The assumption and experience of Murray Irrigation is that the current regulatory regime provides enforceable rights to each of the above.

#### **Criterion (f) : The public interest test**

*Would competition in the water lending and trading market or any other dependent market resulting from third party access (not just the specific Lakes R Us business proposal) to water storage and transport services:*

- *deliver beneficial efficiency, resource use and/or environmental outcomes?  
What are the likely benefits and how would those benefits arise?*



Competition should result in improved market information and reduced transaction costs, which should benefit the irrigation sector. However, the interaction between Snowy Hydro and Lakes R Us will influence whether increased competition occurs. Increased competition in water markets is not necessarily related to improved environmental outcomes. Water markets provide benefits for buyers and sellers, however these benefits are not directly related to environmental outcomes and in some circumstance may be counter productive to improved environmental outcomes.

*What amendments to the current regulatory regime would be needed if the water storage and transport services were declared and what would be the likely costs of such amendments?*

Murray Irrigation expects substantial changes will at least be required to regulations governing the operation of Snowy Hydro, State Water and potentially River Murray Water and the NSW Murray WSP. DIPNR and Snowy Hydro would be able to provide specific advice on this issue.

*Whether there any other reasons why declaration of each of water storage and transport service may be contrary to the public interest?*

## **Conclusion**

Until further information about how the Lakes R Us proposal is to be operationalised and the nature of regulatory change required the impacts both positive and negative on water users of this proposal cannot be clearly identified.

Murray Irrigation and its shareholders are major stakeholders in the regulation of the Murray River. Any changes to the current regulatory regime required for the Lakes R Us proposal to proceed must be carefully considered. Murray Irrigation wishes to be involved in this process if the Lakes R Us declaration is successful.

## **Reference**

Vanderzee M. and Turner G. (2002). The Snowy flows again intergovernmental co-operation on water reform. 4<sup>th</sup> Australian Water Law and Policy Conference, Sydney October 2002.