

Speaking Notes, NSWIC General Meeting

Nov 21

Thank you, Claire and Jim, for the invitation to speak today.

I'd like to take this opportunity to update you on progress in the first tranche of the non-urban meter rollout. I propose to then describe the characteristics of tranche 2, and our compliance approach.

This is the fourth time I have contributed to your general meetings. Each time I commence by affirming NRARs role. We were established in 2018 with a clear, legislated mandate to; ensure the efficient, effective, transparent, and accountable delivery of water regulation, and to maintain public confidence in that regime.

As an independent regulator, we have:

- Re-established a visible compliance presence with 'boots on the ground'.
- Re-set what is required to be a professional regulator that is outcome focused, intelligence-led and risk-based.
- Require the highest ethical standards of our people; accountability, integrity, and trust.
- Committed to always act in the public interest.
- Continued to fiercely protect our independence.

As a law enforcement agency, we work with the willing to educate, encourage and enable water users to actively comply with the law. We also enforce the law to sanction wilful and reckless conduct, to provide deterrence and ensure fairness for the compliant.

The implementation of the non-urban metering framework has brought us into close contact with water users captured by the first tranche. Execution has not been without its challenges. The frustration expressed by some users and their representatives is acknowledged, as too the respectful way that this is mostly conveyed. DPIE-W makes the rules and WaterNSW leads implementation. As a law enforcement agency, it is our job to ensure compliance. We will enforce the law. We will do so in a firm and fair manner.

We continue to investigate alleged breaches of water law as we have always done. On a case-by-case basis, in accordance with our regulatory principles and policy, our enforcement guidelines, underpinned by evidence and upon evaluation of individual circumstances.

We actively monitor the movement, abstraction, storage and use of water across the flood plain. Our boots on the ground are complimented by novel and sophisticated technology derived from satellite imagery sourced from NASA and the European Space Agency and airborne laser survey data from Geoscience Australia.

Where we have reasonable grounds to determine a breach of water law, we exercise our discretion as to what enforcement action may be taken. We consider the harm caused, the culpability of the individual or entity, the public interest, and the attitude to compliance.

We have access to a full suite of enforcement tools that are applied with increasing severity. These are advisory letters, cautions, PINS, stop work orders, directions, financial orders, enforceable undertakings, prosecutions, licence suspensions and licence revocations.

Unauthorised works and structures on floodplains have always been a focus for NRAR. Since our inception we have:

- undertaken 852 investigations regarding unauthorised construction or use of a flood work or water supply work.
- finalised 338 investigations with a likely breach of the Water Management Act.

Of these breaches, the following sanctions were imposed:

- 205 directions
- 155 formal warnings
- 149 PINs
- 8 Prosecutions

Since our inception we have investigated 714 instances of water being taken without an access licence. 232 were finalised with a likely breach of the Water Management Act

Of these, the following sanctions were imposed:

- 122 Formal warnings
- 75 PINs
- 1 financial sanction under s60G
- 2 Enforceable Undertakings
- 12 Prosecutions

In March this year I advised Council that we had commenced our non-urban meter compliance campaign. We began with a desktop audit of compliance, we followed up with a phone survey of water users, and we concluded with physical inspections on-farm.

As of 01 November 2021, almost 90% of large surface water pumps had an accurate meter installed. 63% of works are now fully compliant and connected via telemetry.

This has been a substantial improvement since July when less than half of works were connected to accurate meters and where full compliance was less than 30%.

We are encouraged by the improving rates of full compliance and expect this to continue in the months ahead. Water users have responded positively to direct engagement by NRAR.

We have issued 30 Directions to install and operate metering equipment for 50 works. 10 draft directions have been sent out for 61 works. We have issued 10 Penalty Infringement Notices and one Official Caution

Finally, we have sent 35 advisory notices for 79 works awaiting telemetry.

Water users can transition a non-pattern approved meter by employing the services of a Duly Qualified Person to certify its accuracy. We recognise this legitimate pathway and have accounted for it in our assessment of compliance.

To date, I understand that Water NSW, as system administrator, has received 10 certificates from DQPs to certify the accuracy of non-pattern approved meters. The number of meters that have been certified through this legitimate pathway is a minor portion of the total works covered by the metering laws in Tranche 1.

In addition, 22 exemptions from the meter regulations have been received by DPIE-W. 16 are being assessed, 6 have been completed (2 granted subject to conditions and 4 either returned as incomplete, refused, or withdrawn).

Between 1 Dec 2020 and 3 Aug 2021, WaterNSW received 76 notifications that metering equipment is no longer operating or operating properly (this includes telemetry if required).

Our focus is now on the next group of water users in the northern inland who need to comply by December of this year. We are working with WaterNSW and the Department of Planning, Industry and Environment to encourage water users with surface pumps greater than 100 mm or groundwater bores greater than 200 mm act now.

Most works captured must be connected to an accurate meter that is independently certified and have a local intelligence device installed. Approximately 16 % of works must also be connected to the telemetry system.

Approximately 5,700 approvals cover over 9,000 works. These figures are likely to overestimate the proportion of active works or those recently made exempt.

We estimate that about 20 % of works covered by Tranche 2 account for 80% of water taken. Our compliance approach will be risk-based and initially focused on high volume water users. Those that do not comply by the 01 December deadline and who fail to demonstrate their best endeavours to comply, can expect enforcement action. Water users should not be waiting for NRAR to contact them, they must check their obligations and act now.

Thank you.