



RICE MARKETING AMENDMENT BILL 2024



AN INITIATIVE OF THE
SUSAN MCKINNON FOUNDATION

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WHAT IS THE BILL?

The objects of the *Rice Marketing Amendment Bill 2024* are as follows –

- a) to initially exclude rice cultivated and harvested in the Northern Rivers region from the operation of the Rice Marketing Act 1983 (the Act),
- b) to provide that all other rice vests in the Rice Marketing Board for the State of New South Wales (the Board) until 30 June 2025 only,
- c) to provide for the winding up and dissolution of the Board,
- d) to enable the Governor to repeal the Act by proclamation after the Board is dissolved,
- e) to provide for consequential and savings and transitional matters.

WHAT IS A SHADOW SPI?

The Shadow SPI is a new initiative of the Susan McKinnon Foundation that builds upon the work of the Evidence Based Policy Research Project. It seeks to support parliamentarians in the Legislative Council of NSW during the legislative consideration and voting process, to inform decision making and robust parliamentary debate. It is also intended to improve the quality of tabled SPIs and their usefulness, and to shine a light on the importance of transparency in policy making. Each Shadow SPI is collectively developed by a collaborative team from two ideologically differentiated think tanks (Per Capita and Blueprint Institute) and is intended to be utilised as a companion to the tabled Government Statement of Public Interest in the Legislative Council of NSW. The Shadow SPIs aim to demonstrate a comprehensively answered SPI, within the constraints of time and publicly available information.

This Shadow SPI was developed by Blueprint Institute and reviewed by Per Capita.

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Rice Marketing Amendment Bill 2024 ('the Bill') proposes to implement a staggered end to rice vesting arrangements in NSW, including the winding up and dissolution of the governing Rice Marketing Board (RMB) by 1 July 2026.

Rice vesting is an example of a statutory marketing arrangement (SMA), whereby all of a particular agricultural product grown in a region is compulsorily acquired by a statutory board, who is granted special authority over the product supply pool. Established in 1928 under the *Marketing of Primary Products Act* (later replaced by the *Rice Marketing Act 1983*), rice vesting was one of Australia's many agricultural SMAs, which were established to use a co-operative style economy of scale to protect infant industries.ⁱ Although most other SMAs were dissolved by the early 2000s, the support of rice growers enabled the practice of rice vesting to continue—leaving rice vesting as the only remaining SMA in Australia today.ⁱⁱ

Although rice constitutes a minor share of Australian crops (with a farmgate value of \$219 in FY2023), nearly all the rice produced in Australia (97–99%) comes from NSW farms.ⁱⁱⁱ NSW has two primary rice growing regions—the larger and more established Southern region (around Riverina/Murray) and the smaller, more recent Northern region (around the Richmond and Tweed Valleys). In part due to climate conditions, rice growing practices differ between the two regions, with Northern region upland rice dependent on seasonal rainfall and Southern region rice irrigated by nearby river headwaters.^{iv}

All rice grown in NSW is vested under the Rice Marketing Board, who is authorised to award an exclusive right to export rice vested under them. This exclusive export license has historically been and is currently in the possession of SunRice.

The Bill proposes that rice vesting in NSW be dissolved in three stages:

1. The exemption Northern region rice growers from vesting arrangements by 1 September 2024;
2. The end of vesting arrangements and export restrictions for all other NSW rice growers by 1 July 2025; and
3. The winding up of the Rice Marketing Board and the subsequent repeal of the *Rice Marketing Act 1983* by 1 July 2026.

The dissolution of rice vesting is supported by recommendations made in the 2021 NSW Government Review of Vesting (the 2021 Review) and the 2023 ABARES Independent Report into NSW Rice Vesting Arrangements (the ABARES Report), which both indicated the need for greater competition and commercial flexibility in the NSW rice industry.

As confirmed in stakeholder interviews conducted for the 2021 Review, the ABARES Report, and briefings to the NSW Minister of Agriculture, Northern region rice growers have long been in opposition to rice vesting arrangements, due to the disproportionate impact the SMA has on the commercial viability of growing, transporting, and selling rice crops grown in Northern NSW.

As SunRice, the exclusive export license holder, is based in and conducts operations from the Southern NSW, Northern region rice growers have an additional logistical burden in transporting their rice crops several hundred kilometers to SunRice's export receival facilities.^v The lack of milling and storage facilities in the Northern region effectively limits the commercial feasibility of Northern region rice growers selling their product on international markets due to handling and transportation costs diminishing potential profit.^{vi} As such, Northern rice growers are confined to selling their product on the more domestic market—and must compete against cheaper, imported rice.

The impact rice vesting practices have on rice growers in the North is compounded by the centralised control of seed. SunRice is the main supplier of seed to NSW rice growers, and allocate seed based on their business needs, meaning that rice growers do not have access to and the authority to plant alternate rice seed varieties.^{vii} The centralised control of SunRice (as the RMB's sole export license holder) prevents farmers from making their own decisions on choosing the best seed for their growing conditions or from growing a seed to capitalise on a gap in the market.^{viii}

Although Southern region farmers have traditionally supported rice vesting arrangements for the commercial convenience and cost efficiencies the system provides in bringing their product to market, recent stakeholder consultation indicated that Southern region support for rice vesting is not as strong as it once was.

Some Southern region rice farmers indicated that the 'buyer of last resort' provision in SunRice's mandate—which regulates that SunRice must pay all the rice growers a uniform and pre-determined price for their product dependent on the rice variety—prevents rice growers with commercial strengths from being adequately compensated for their product. For example, when extreme wet weather conditions and flooding during the 2022–23 season contributed towards a rice shortage, farmers who did contribute to the rice supply were paid the standard pool price for their scarce and therefore more valuable product.^{ix}

Variable rice production due to water concerns is likely to be an issue in the future—the Independent report highlights that "ABARES modelling of the MDB Water Markets indicates that water availability—and rice production—is likely to decrease further in coming years."^x As such, there is a need to review vesting arrangements to ensure that the commercial needs of both Northern region and Southern region rice growers are met.

COMMENT

The Government SPI successfully identifies the need for the Bill and supports the existence of this need with evidence from both government and independent reviews, including stakeholder feedback and econometric assessments. This section could have been minorly improved by providing further context on the differences between the rice growing regions and how these differences translate into the divergent needs and views of rice growers from these areas.

Objective: What is the policy's objective couched in terms of the public interest?

The Bill aims to address concerns about commercial efficiency—namely, the establishment of alternate export markets, the growth of the Northern rice growing region, seed availability, and appropriate compensation for product supply—of rice growers in the Northern and the Southern regions of NSW. By dissolving the Rice Marketing Board and ending the practice of rice vesting, the Bill serves the public interest by promoting a free and fair rice market in which rice growers can better target consumer demand and the needs of their own business.

For example, stakeholders consulted for the 2021 Review explained that the rice vesting arrangement prevented them from growing and selling niche products such as arborio and jasmine rice, as SunRice did not source or provide seeds for those varieties domestically.^{xi} If the RMB were to be dissolved, rice growers would be able to choose and market their own products at prices they determine, thereby serving as genuine competition in the rice market against SunRice's near-monopoly.

The historically cemented dominance of SunRice in rice exports may constrain the power of this Bill in serving the public interest by enabling competition in the Australian export market—however this feature of the rice market is only a minor constraint, as it does not override the effect of the Bill in serving the public interest.

COMMENT

The critical purpose of the Objectives section of an SPI is not to describe what the Bill does, but rather how the Bill addresses the identified need and how it serves the public interest by doing so. It is crucial for an SPI to couch the Bill's policy with regard to how it serves the public interest to assist policymakers in determining how they treat the Bill.

The objectives of the Bill address its and several arguments can be made in how the Bill functions to serve the public interest—by evening the commercial playing field between Northern region and Southern region rice growers; by granting greater autonomy to farmers over the products they grow as is best suited to their needs; and by promoting a greater selection of price and quality options to consumers.

An exemplary SPI will also identify and assess the impact of any constraints on the Bill which may inhibit its effect in serving the public interest. In this case, the characteristics of the rice market (with SunRice occupying such a large share) may pose a minor constraint on the action of the Bill in serving the public interest.

Options: What alternative policies and mechanisms were considered in advance of the bill?

The policy options considered were formulated to address the distinct but parallel needs of Southern region and Northern region rice growers. They include the following:

1. Base case: retain the status quo and re-assess vesting prior to 30 June 2027;
2. Remove Northern Rivers from vesting as soon as possible and retain and extend vesting for the Southern NSW rice region to 30 June 2029; and
3. Full deregulation: Accept ABARES Independent Report's main recommendation to cease vesting.

As the Rice Marketing Board is a statutory body with statutory powers to control the rice supply pool in NSW, only legislative options are appropriate to change the RMB's role and functions.

COMMENT

This section of the SPI is nearly identical to what was provided for in the Government SPI, with the notable addition of providing justification for the options themselves (in that they address the needs of Northern region and Southern region rice growers) and for why only legislative options were considered. The Government SPI appropriately noted the base case of maintaining the status quo as a policy option—the inclusion of a ‘no change’ option is vital to illustrating the need for policy action as in place of retaining existing policy.

Analysis: What were the pros/cons and benefits/costs of each option considered?

1. Base case: retain the status quo and re-assess vesting prior to 30 June 2027:
 - a. Retaining vesting and the exclusive export arrangements was not considered to be appropriate given the findings of the 2021 Review, the recommendations of the ABARES Report, and stakeholder feedback.
 - b. Both the 2021 Review and the ABARES Report found that growth in the Northern rice growing region and the development of alternate supply chains was restricted by the current rice vesting arrangements.
 - c. The ABARES Report found that, contrary to some stakeholder concerns raised in the 2021 Review, that rice vesting was necessary to obtain premium prices for Australian rice in the international market.
 - d. Stakeholders within the Northern region have long opposed vesting arrangements with the overwhelming view that the current regulatory arrangements place their industry at a disadvantage.
 - e. Retaining the status quo would have an economic cost in lost industry profit relative to the other options considered.
2. Remove the Northern region from vesting as soon as possible and retain and extend vesting for the Southern NSW rice region to 30 June 2029:
 - a. The economic benefits of excluding the Northern region were estimated during the 2021 Review to be between \$33 million and \$47 million in Net Present Value terms over six years and is expected to support a small uplift in employment in the Northern rice growing region.^{xii}
 - b. Deregulating the Northern region rice industry will permit rice growers to capitalise on specific attributes of rice growing practices in the region (such as sustainable water practices), and capture greater profit for their products.
 - c. This option acknowledges that the Northern rice industry faces different challenges to the Southern rice industry, which justifies the need for a separate response.
 - d. Given the recent and significant changes to key Southern region stakeholders' positions on the continuation of the rice vesting arrangements since, and in response to, the publication of the Government Response to the ABARES Report on Rice vesting, retaining and extending vesting would not be in the industry's best interest.
3. Full deregulation: Accept the ABARES Report's main recommendation to cease vesting:
 - a. Economic modelling submitted to the 2021 Review concluded that ceasing vesting would facilitate the greatest net economic benefits, estimated between \$80 million to \$133 million in the value of NSW rice sales over six years in Net Present Value terms.^{xiii}
 - b. Full deregulation would enable rice growers in the Northern and Southern regions to access alternate marketing and export arrangements which may be more convenient, cheaper, and yield more profit.
 - c. Although some Southern region rice growers have indicated that they benefit from the ease of centralised marketing arrangements for their products, key stakeholder feedback provided to the Minister since the release of the ABARES report indicates that strong support of rice vesting has faded in the Southern region and that these stakeholders no longer support the continuation of vesting.^{xiv}
 - d. The key stakeholder groupings within the NSW rice industry are now aligned on the view that rice vesting should be ceased.
 - e. Deregulating rice grown in the rest of NSW on 1 July 2025 will allow for an orderly transition.

COMMENT

The analysis provided on the policy options in the Government SPI was exemplary—it presented a thorough analysis of policy options with reference to their evidenced benefits and costs and effectively compared the options with depth and insight. As such, the Analysis remains largely unchanged from what was written in the Government SPI, with minor additions made to provide specific examples of how different stakeholders would be impacted by the options.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

From the assent of the Bill, the Northern region will be excluded from the application of the *Rice Marketing Act 1983*, meaning that the RMB will no longer control rice grown in the Northern Rivers region. All rice harvested before 1 September 2024 in the Northern region will remain vested to provide a clear separation between rice that is vested and that which is not, prior to the start of the 2024/25 rice season.

On 1 July 2025, the RMB will no longer control the production of rice in NSW, and the RMB will commence reasonable steps to wind up its affairs prior to 1 July 2026—such as collecting its receivables, disposing of any other assets, paying its debts and distributing any surplus funds to the determined New South Wales public authority. At this point, all NSW rice growers will be able to sell their rice overseas, irrespective of SunRice involvement.

On 1 July 2026, the Minister will by order dissolve the RMB once its affairs are wound up, and assets, rights and liabilities may be transferred to an appropriate New South Wales public authority.^{xv} The Governor will subsequently repeal the *Rice Marketing Act 1983* by proclamation. If the RMB is not dissolved before 1 July 2026, the Minister must table a report on the dissolution in each house of Parliament within 3 months of that date.^{xvi}

The NSW Government is committed to providing support to industry as they navigate and manage these changes. The New South Wales Department of Primary Industries will lead a Rice Transition Group, the primary role of which will be to provide advice to the Minister of Agriculture on the winding up of the affairs of the RMB. The Rice Transition Group will also set up and chair a Stakeholder Consultation Group to seek the views of stakeholders to support the advice given to the Minister on:

- R&D opportunities to support new markets and address emerging crop disease issues;
- ensuring seed supply is maintained for all rice growers; and
- investigating regional development opportunities to support the industry during the transition.

The New South Wales Government is also committed to and has begun consultation with the current exclusive export license holder, SunRice, to remedy issues raised by stakeholders regarding appropriate distribution and access to seed.^{xvii}

The Bill does not contain an established plan for review or evaluation of the policy.

COMMENT

The Government SPI contains a clear implementation plan with defined milestones, timelines, and the parties responsible for carrying out the necessary steps to policy implementation. The inclusion and explanation of the Rice Transition Group was appropriate to this section and provides useful information to policymakers on implementation considerations in the transition to a deregulated rice market. This section could be improved by indicating any plans for reviewing or evaluating the Bill's policy and detailing the nature and detail of any such plans.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The actions outlined in the Bill were informed by rigorous consultation conducted during the 2021 Review and in the ABARES Report, which both called for public submissions, involved regional stakeholder consultation, and further targeted stakeholder consultation.

The Minister for Agriculture met separately with key industry stakeholders representing the interests of Northern region and Southern region rice growers, the statutory marketing authority, the exclusive export license holder, throughout 2023 and 2024. These included:

- The Rice Marketing Board;
- SunRice;
- The Rice Growers Association in Australia;
- The Northern Rivers Rice Growers Association; and
- The Natural Rice Company.

The views of these stakeholders were integral to several elements of the Bill's policy. For example, the removal of Northern region rice growers from rice vesting reflects their comparatively stronger opposition to rice vesting arrangements. Concerns about seed availability and crop disease were also considered—the Rice Transition Group will be established to continually consult stakeholders in the rice growing industry to inform the Minister of Agriculture on how best to manage these issues.

COMMENT

The Government SPI appropriately details the extent of stakeholder consultations held in the lead-up to and the creation of the Bill, including stakeholders consulted for the 2021 Review and the ABARES report. Further information on the nature of stakeholder consultations as well as how these consultations impacted the Bill—as is evident in the process and content of this particular Bill—would serve to demonstrate sound policymaking to Members and better inform Members on how to treat the Bill.

ASSESSMENT

BLUEPRINT INSTITUTE COMMENT:

On the whole, the Government SPI demonstrates good practice by successfully fulfilling its purpose to provide Members with information that will assist them to make an informed decision as to how to deal with the bill, and to demonstrate sound policymaking.

To this end, the Government's SPI provides the necessary context for the Bill and outlines the need for action, supported by evidence from a range of sources. The Government SPI compares distinct policy options with reference to their costs and benefits, and considers the implications of maintaining the status quo. The Government SPI also clearly identifies the necessary steps for the Bill's implementation (including timelines and responsible parties) and names stakeholders consulted in the making of the Bill.

This SPI could be improved, however, with the inclusion of key details throughout its drafting, such as the explicit identification of parties impacted by the Bill; the justification for each policy option and the consideration of only legislative options; and whether the Bill indicated plans for review and evaluation of the policy. Critically, the Government SPI only stated the action of the Bill in the Objectives section and did not—as it should have—frame the objectives of the Bill with regard to its need and how addressing this need would serve the public interest.

PER CAPITA COMMENT:

Per Capita broadly agrees with Blueprint's assessment of the Government SPI. This Government SPI demonstrates good practice. It provides necessary context, outlines the need for action supported by evidence from several sources, describes the pathway for implementation, and provides a thorough analysis of policy options considered including their benefits and costs to aid members in making an informed decision as to how to deal with the Bill. We agree with Blueprint's comments regarding areas for improvement and their assessment of this SPI as representing good practice.

Assessment of the tabled Statement of Public Interest

Exemplary

Good Practice

Adequate

Insufficient

ⁱ Travis Hoffman and Andrew Lawson, 'Throw the Bathwater; Keep the Baby: Reform of the Statutory Marketing Arrangement for Australian Rice' (2023) 10(1) *International Journal of Regional, Rural and Remote (RRR) Law and Policy*.

ⁱⁱ Productivity Commission, *Regulation of Australian Agriculture* (No. 79, 15 November 2016) 31.

ⁱⁱⁱ New South Wales, *Parliamentary Debates*, Legislative Council, 6 June 2024 (Tara Moriarty, Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales).

^{iv} AITHER, *Expanding the New South Wales Rice Industry – Independent review of the viability of developing the rice industry outside the Murray and Riverina regions* (Final Report, 31 May 2018) 16–20.

^v New South Wales, *Parliamentary Debates*, Legislative Council, 6 June 2024 (Tara Moriarty, Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales).

^{vi} Travis Hoffman and Andrew Lawson, 'Throw the Bathwater; Keep the Baby: Reform of the Statutory Marketing Arrangement for Australian Rice' (2023) 10(1) *International Journal of Regional, Rural and Remote (RRR) Law and Policy*.

^{vii} Australian Bureau of Agriculture and Resource Economies and Sciences, *Independent Report into NSW Rice Vesting Arrangements* (Final Report, 16 May 2023) 43–44.

^{viii} *Ibid.*

^{ix} AAP Newswire 2022, 'La Nina headache for NSW rice farmers' *The Cowra Free Press* (online at 14 October 2022)

^x Australian Bureau of Agriculture and Resource Economies and Sciences, *Independent Report into NSW Rice Vesting Arrangements* (Final Report, 16 May 2023)

^{xi} *Ibid.* 14.

^{xii} NSW Department of Primary Industries, *Rice Vesting Review 2021* (Report, April 2022) 122.

^{xiii} *Ibid.* 6.

^{xiv} Faith Tabalujan and Kim Honan, 'SunRice monopoly set to end, Australian growers eye new markets' *ABC News* (online at 29 May 2024); Australian Bureau of Agriculture and Resource Economies and Sciences, *Independent Report into NSW Rice Vesting Arrangements* (Final Report, 16 May 2023) 12.

^{xv} Rice Marketing Amendment Bill 2024 (NSW) sch 1 item 3.

^{xvi} *Ibid.* sch 1 item 1.

^{xvii} New South Wales, *Parliamentary Debates*, Legislative Council, 6 June 2024 (Tara Moriarty, Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales).