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Submission
Consultation Paper
Implementing the NSW Floodplain Harvesting Policy

Introduction

IRN has significant concerns with the approach taken by Department of Industry Water (DoI Water) in the implementation of the NSW Floodplain Harvesting Policy.

The estimated volume eligible for entitlement in the Gwydir and Border Rivers, as outlined in the discussion paper (614 GL and 2011 GL respectively), is alarming.

The Murray-Darling Basin Authority (MDBA) Compliance Review 2017 reports that the estimated volume for all floodplain harvesting in the Northern Basin at 2012 was 210 GL.

There is no explanation in the discussion paper in regard to such a major discrepancy in volumes of extraction from overland flows and rainfall runoff.

There is no discussion of the type of assessment that has occurred to arrive at these much higher levels of eligible entitlement.

IRN is very concerned that the 2014 amendment of the *NSW Water Management Act 2000* granted compensable rights to floodplain harvesting licences that are yet to be issued. This should cause caution in the volume granted in new private property rights.

It is unacceptable that the government should grant new private property rights potentially exposed to compensation claims of the magnitude identified.

There is no discussion about the extent of environmental assessment that has occurred in relation to this vastly increased volume of eligible entitlement.

The allowance for 500% carryover of floodplain harvesting licences is another key issue that does not appear to have been assessed in regard to impacts on downstream water users, environmental assets and groundwater systems.

There is also no discussion about the assessment of Long Term Annual Average Extraction Limits (LTAAEL) or the development of rules in Water Sharing Plans to manage the impacts of floodplain harvesting once licenced.

IRN strongly objects to this proposed granting of new, compensable private property rights, in such a vacuum of publicly available information.

The discussion paper provides no demonstrable commitment by the NSW Government to better manage floodplain harvesting extraction or control growth in use.

Key Issues with Implementation of Floodplain Harvesting Policy

1. Rainfall Runoff

IRN understands that rainfall runoff on developed irrigated land was redefined as overland flow in the 2014 amendment of the *NSW Water Management Act 2000*.

This allows for access to this volume of water over and above the 10% harvestable right.

This water would have been included in the volume of planned environmental in original Water Sharing Plans because it was outside the calculation of Long Term Annual Average Extraction Limits (LTAAEL).

IRN is very concerned about the lack of transparency surrounding this issue. There are implications on the requirement of the Basin Plan that water sharing in Water Resource Plans result in no net reduction in the protection of planned environmental water.

The NSW Government has made a commitment to this principle.

IRN considers that any interception of rainfall runoff on developed irrigated land should be offset through a corresponding reduction in another form of water take.

2. Assessment of eligible entitlements

IRN understands that the estimated eligible entitlements in the Gwydir and Border Rivers (Attachment A1 and B1 Tables A1) were obtained through the capability assessment conducted under the implementation of the Floodplain Harvesting Policy.

While a growth in use has been identified, there is no discussion about how these large volumes of water relate to the LTAAELs estimated for floodplain harvesting in current water sharing plans or in the Basin Plan.

3. Environmental Assessment

There is no discussion about the environmental impacts of these extractions or any assessment of these.

The Floodplain Harvesting Policy states that:

‘Works will be assessed in relation to considerations including, but not limited to, the potential impact of floodplain extractions and changed flood flow distribution on threatened species, fish passage and breeding, groundwater connectivity, floodplain connectivity, wetlands and flood-dependent ecosystems, and other water users. Environmental assessments will consider the contribution of all existing works, whether authorised or not authorised, to the cumulative impact of water management activities. Environmental assessments will also draw upon information relating to floodplain flow paths and environmental assets contained in rural floodplain management plans, where available.’¹

The impacts of 500% carryover has not been assessed. This is of particular importance for significant environmental assets that rely on natural flood events such as the Ramsar listed Gwydir Wetlands and Macquarie Marshes.

It is also significant for downstream water users below the major irrigation areas and in the Barwon-Darling.

4. Rules in Water Sharing Plans

The current process for changes to rules in water sharing plans, as part of the development of Water Resource Plans, has been through Stakeholder Advisory Panels (SAPs) in the major regulated river systems.

Because floodplain harvesting occurs in the five major NSW Northern Basin regulated river systems, it is essential that rules associated with this type of extraction are discussed at the SAP level. Also the water sharing between the various types of water take to maintain the LTAAEL in each water sharing plan and the Sustainable Diversion Limit (SDL) under the Basin Plan.

The Floodplain Harvesting Policy states that:

‘In developing the floodplain harvesting provisions for water sharing plans, consideration will be given to the ecological benefits of flooding in the area, with particular regard to wetlands and other floodplain ecosystems. Plan amendments, or floodplain harvesting provisions in new plans, may include clauses establishing environmental water rules relating to floodplain harvesting, including event management rules such as commence-to-pump rules. For existing plans, such rules

¹ NSW Floodplain Harvesting Policy 2013 p 7

*will be considered to the extent that the outcomes of the overall long-term extraction limit specified in the Plan are not affected.*²

These issues have not been raised during any form of community consultation process during the development of Water Resource Plans.

5. New compensable private property rights

The taxpayers of NSW have an interest in the NSW Government getting the assessment of new floodplain harvesting entitlements right. This will be the largest new granting of water rights in NSW since the implementation of National Water Initiative. These rights must also have responsibilities for fair and sustainable water sharing.

Response to Consultation Paper Issues and Options:

1. Rainfall runoff

IRN does not support granting compensable property rights to rainfall runoff as part of the Floodplain Harvesting licencing process.

The calculation of this volume is very unreliable and should not be formalised in a compensable property right.

IRN supports that all rainfall interception above the 10% harvestable right, including any increase from calculated volumes, should be offset by a reduction in another form of take.

The fact that the current IPART water pricing determination is based on rainfall runoff being excluded reinforces that lack of formal recognition of this water take.

IRN considers that the issue of separating overland flow from rainfall runoff does not cause a compliance and enforceability issue.

Any volume of water extracted above the calculated and licenced overland flow should result in an offset from another form of take.

It is very unclear how the use of rainfall runoff is managed under existing NSW water sharing plan limits or Basin Plan SDLs.

The issue of managing contaminated rainfall runoff has not been resolved and is an additional reason for not supporting Option 1.

2. Monitoring

IRN considers that the ‘no meter, no pump’ rule is equally relevant to floodplain harvesting extraction. The capture of overland flows generally occurs through levee

² Ibid p 10

bank diversions into channels that connect to on farm storages. The inflow into on farm storages should be able to be metered through a pipe.

Floodplain harvesting licences should only be granted to works that have established this form of monitoring system.

The proposed staged approach using gauge boards and calibrated storage curves will be too difficult to regulate and ensure compliance with licence conditions.

NSW Government management of water extraction in the Northern Basin has been highly criticized. The granting of floodplain harvesting licences was aimed at controlling this form of water extraction and preventing growth in use.

The consultation paper has not demonstrated a strong commitment to establishing measurable and mandated compliance requirements for this new form of compensable private property right.

3. Account management

IRN does not support the proposal to refine the policy to provide the flexibility for different floodplain harvesting account management rules to be developed and established on a valley by valley basis through the water sharing planning process.

The rationale for using either a shorter term period of use, or long term average (whichever is the greater) is that it minimises impacts and results in fairer outcomes for irrigators.

It is unclear whether in applying the ‘new’ approach (ie using short term averages) it is intended to mean that the total diversions being closer to 100%³ refers to current useage or some reduction in useage back to the Plan Limit.

There needs to be much more information provided before the rationale for this ‘flexibility’ in account management is fully understood, let alone adopted.

The development of water sharing plans, to date, has been completely silent on rules relating to floodplain harvesting management.

IRN expects a greater level of transparency and community consultation on this issue before draft water sharing plans are placed on public exhibition.

It is essential that account limits be placed on the entitlement. IRN considers that 500% usage of entitlement in any year is far too high and has not been assessed for environmental impact. A rolling average of 500% usage over five years would be better management of accounts.

4. Environmental assessment

The consultation paper outlines that the new proposed approach will have environmental benefits.

³ Discussion paper pp 10, 20

However, it is not clear how the new approach will address the growth in total floodplain harvesting and growth in total diversions between the Plan Limit and current conditions in the Gwydir catchment (13% and 3.2% respectively) and the Border Rivers (8% and 1.4% respectively).

There is no discussion of how this growth in use has impacted or will impact on the environment and downstream water users and how these impacts will be addressed.

While there is discussion of the volume of held environmental water licences in the Gwydir and Border Rivers, there is no discussion in regard to no net loss of protection for planned environmental water.

Conclusion

IRN has taken a long interest in the issue of flood water interception in the Northern Basin and the impacts on downstream environmental assets and recharge of groundwater systems.

We are very concerned about the approach being taken by the NSW Government in relation to the management of this water take.

The introduction of new compensable private property rights is a key consideration that requires rigorous assessment and application of clear regulation and compliance rules.

For more information about this submission please contact:

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