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Independent Review of NSW FPH Policy Implementation
Comments on Draft Report

Introduction

The Inland Rivers Network (IRN) is a coalition of environment groups and individuals that has been advocating for healthy rivers, wetlands and groundwater in the Murray-Darling Basin since 1991.

IRN has been concerned about the substantial growth and lack of management of Floodplain Harvesting (FPH) in NSW inland rivers systems for many years. We have been particularly concerned about the growth in use in the Gwydir and Macquarie valleys, in terms of impacts on the Ramsar listed Gwydir Wetlands and Macquarie Marshes.

The various iterations of FPH policy since 2010 have not captured or demonstrated an understanding of the downstream environmental, social and economic impacts.

We congratulate the reviewers on a comprehensive analysis of the implementation of NSW FPH implementation and wish to provide a number of comments on the Draft Report.

Key Comments:

1. IRN gives in principle support to the findings and recommendations in the draft report, particularly in regard to lack of transparency, problems with the modelling and need for clear management rules in Water Sharing Plans.

2. IRN has concerns about the proposed changes to BDLs and SDLs once final volumes of FPH entitlement has been established and how this relates to the management of broad flow impacts and system extraction limits.
3. The Draft Report, in discussion of current modelled losses, does not recognise the definition of Planned Environmental Water (PEW) under the NSW Water Management Act 2000 and the requirement of the Basin Plan that there is to be no net reduction in the protection of PEW.
4. While the Draft Report refers to downstream environmental and social impacts of FPH it does not recognise the need for cumulative impact assessment prior to the granting of new entitlements.
5. The Draft Report does not recognise that FPH entitlements are a new compensable private property right in NSW that will limit adaptive management without public costs.
6. The Draft Report appears to define stakeholders as the irrigation community engaged in FPH and not a broader representation of public interest.

Detailed Submission

1. Key findings of Draft Report

IRN supports the key findings of the draft review in that they mostly highlight long held concerns about the process used to assess and grant new water entitlements in NSW.

1.1 Modelling –

- There is no cross-verification of the volumes required to satisfy the floodplain harvesting volume other than that needed to satisfy the water balance in the model.
- There is no formal assessment of compliance with good modelling practice
- Acceptable limits of model calibrations are not explicitly stated

1.2 Documentation –

- There is a lack of transparency in the steps undertaken to develop the numerical models used in the implementation process
- There is a lack of coherent, complete and up to date documentation outlining the methodologies, calibration, verification and assessment of scenarios

1.3 Stakeholder engagement

Comment: While it is important that a process by which the actual information used to represent a farm or enterprise is communicated back to the land holder, it is also important that the broader community receives information on how the impact of that estimate of individual volumetric entitlement to a particular farm or enterprise has been assessed in regard to downstream environment and social impacts and in association with other FPH extractions from the catchment.

1.4 Water Planning and Management

- The existing floodplain harvesting models do not explicitly represent flood water returns to the river and are consequently not suitable to assess the benefits/impacts of the floodplain harvesting licensing framework.
- The main potential unknown risk is the impact of floodplain diversions on downstream floodplain flows and the downstream floodplain environment.
- Proposed account management rules, per se, do not mitigate event based environmental risks but do provide for broader environmental benefits compared with not having an entitlements and account management rules framework
- Considerations may need to be given for possible future instances where held environmental water is contributing to floodplain flows such that that water is “shepherded” down floodplain and/or down river.

2. Key Recommendations in Draft Report

2.1 Modelling

IRN considers it necessary that the models be updated to not only include cross-verification of likely overbank flows at particular breakout points but also represent return flows and down floodplain flows so that downstream impacts can be better determined.

This information is critical before new entitlements can be granted.

2.2 Documentation

IRN fully supports all recommendations in regard to improving transparency and reporting on the implementation process for FPH

We make an additional recommendation that a further report be provided on how the cumulative impacts of FPH on Ramsar listed wetlands, connectivity flows, groundwater recharge and downstream communities and water users has been assessed.

2.3 Stakeholder engagement

Targeted stakeholder engagement should also be held with other interest groups and downstream communities and water users.

2.4 Water Planning and Management

IRN strongly supports the recommendation to develop flow management/access rules in Water Sharing Plans, in addition to account management rules, to minimise impacts of floodplain harvesting on down floodplain environments and to protect held environmental water.

3. Outstanding Issues

3.1 Changes to BDLs and SDLs

The Draft Report recommends that *‘the Department and the MDBA should publish an updated summary document to succinctly describe how BDLs and SDLs may change with*

updated information, including floodplain harvesting volumes determined in accordance with the Policy.'

However, it is IRN understanding that the BDL and SDL should not be automatically linked to accommodate newly estimated FPH extraction. We consider that the proposal to do this is unlawful under the *Water Act 2007*.

The SDL in each WRP area has been calculated in terms of an adjustment to over-allocation through the provision of water returned to the environment. If the BDL is found to be greater than first estimated in the making of the Basin Plan, then the SDL should be proportionally decreased, not automatically increased.

The estimated volumes of FPH should result in an equivalent reduction of all other licence holdings in the WRP area.

3.2 Modelled losses moved to FPH extraction

The Executive Summary of the Draft Report describes how FPH has currently been modelled as system losses.

However, some Regulated Water Sharing Plans gazetted in 2004 and subsequent Unregulated include estimated volumes of FPH:

- Border Rivers – 3 GL and 12.2 GL across the valley
- Gwydir - 79 GL plus 14.7 GL not recorded as take
- Namoi – 21 GL plus 56 GL not recorded as take
- Macquarie – Nil
- Barwon-Darling – 16.5 GL

The NSW Water Management Act 2000 defines planned environmental water (PEW) as:

- the physical presence of water in the water source
- the long-term average annual commitment of water as planned environmental water
- water that is not committed after the commitments to basic landholder rights and for sharing and extraction under any other rights have been met

A management plan is to commit water as planned environmental water by reference to at least 2 of these ways.

Modelled losses are water that is not committed to basic landholder rights and extraction under any other rights and also make up the long-term average annual commitment of water as PEW.

The Basin Plan has a requirement for no net reduction in the protection of PEW in the making of Water Resource Plans.

IRN considers that the relabelling of system losses as FPH extraction in the models, above the volume identified in current Water Sharing Plans, equates to a net reduction of PEW.

We are also concerned about the proposal to include rainfall runoff in the estimation for new FPH entitlements. This is also PEW because it is currently not extracted under any other rights.

This issue has not been addressed in the Draft Report.

3.3 Cumulative impact assessment

IRN considers it imperative to assess the cumulative impact of all FPH extraction, not just development by development, as currently required under NSW policy.

The Draft Report recognises that the models for the floodplain flows and the determination of floodplain harvesting volumes do not adequately represent return flows to the rivers and cannot be used to specifically assess the impact of floodplain harvesting per se on specific downstream flows. Further research is required to support this type of analysis.

It is critical that this analysis is undertaken prior to the granting of new compensable private property rights in the form of FPH licenses.

Understanding the impact of FPH extraction on downstream environments, particularly the the Ramsar listed Gwydir Wetlands and Macquarie Marshes, is a responsibility of the NSW Government as Ramsar and wetland managers.

Many threatened species rely on flood flows for breeding and foraging resources. The loss of these resources through upstream flood extraction must be better understood.

While IRN fully supports the need to better manage FPH activities, assessment of its cumulative impact must be undertaken before entitlements are granted.

3.4 FPH entitlements

IRN agrees with the Draft Report that there is still a substantial amount of work to be done to improve the modelling undertaken to estimate volumes of FPH.

We are concerned the findings see the work to date as an important step that sets the levers for future adaptive management through monitoring, evaluation and reporting.

However, the Draft Report fails to recognize that the FPH entitlements, under amendments to the NSW Water Management Act in 2014, are now compensable private property rights.

This limits any future adaptability, without cost to the public, if it is found that the volumetric estimates converted to entitlement continue to cause over-allocation of a water source.

The Draft Report also suggests that the Department, in consultation with stakeholders, should review and evaluate the successes and opportunities for improvement in the development and implementation of the Policy after the current implementation work in the northern NSW valleys has been completed.

The northern NSW valleys are the source of the majority of FPH extraction in the state. The impact of this extraction on flows to the highly stressed Barwon-Darling River system has not been adequately assessed under the current implementation approach.

Once the entitlements have been granted, it will be very difficult to improve the implementation of the policy.

3.5 Definition of stakeholders

IRN is concerned that the term ‘stakeholder engagement’ appears to be limited to the irrigation industry that extracts water through FPH activities. It is important that downstream communities and water users, ecological experts and environment groups are also included in any engagement processes, so that all knowledge and impacted communities are included in the decision-making before new entitlements are granted.

Conclusion

IRN appreciates the opportunity to provide comments on this significant review of the implementation of FPH policy in NSW.

We look forward to the final report and the uptake of the key recommendations by the NSW Government.

Yours sincerely

A handwritten signature in black ink, appearing to read 'AR Reeves', followed by a small horizontal line.

Anne Reeves
Secretary
Inland Rivers Network