



NSWIC
NEW SOUTH WALES
IRRIGATORS'
COUNCIL

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SUBMISSION

Independent Review of NSW Floodplain Harvesting Policy Implementation

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Introduction

The NSW Irrigators' Council (NSWIC) is the peak body representing irrigators and the irrigation industry in NSW. Our Members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries. Through our members, NSWIC represents 12,000 water access licence holders in NSW who access regulated, unregulated and groundwater systems.

NSWIC engages in advocacy and policy development on behalf of the irrigation sector. As an apolitical entity, the Council provides advice to all stakeholders and decision makers.

This submission represents the views of the Members of NSWIC with respect to the independent review of the Floodplain Harvesting policy implementation; however, each member reserves the right to independent policy on issues that directly relate to their areas of operation, expertise or any other issues that they deem relevant.

Overview

The NSWIC is supportive of the need to licence floodplain harvesting activities and to issue the appropriate water access licences to bring a recognised and accepted practice into line with the requirements of the Water Management Act 2000. The process is therefore about re-estimating the level of take and does not and cannot lead to any increase in extractions.

With the successful implementation Healthy Floodplains Project, which industry agreed to in good faith to honoring the original 'No More No Less' ministerial directive will effectively put a line in the sand on future development, protecting downstream water users and the environment. Therefore, successful implementation of the policy should realise the broader benefits of managing future growth and therefore providing certainty to irrigators and their communities but also downstream users, communities and environment.

We note that industry has been working constructively with respective government agencies since 2008 to implement a floodplain harvesting policy.

The responsible and sustainable harvesting of waters as they cross the floodplain has been a critical part of the irrigation resource mix in the northern NSW valleys since large scale irrigation development commenced in the 1960's and 70's.

Its importance is not limited to the individual farm. Floodplain harvesting is a key economic and social driver for the towns of the Northern Murray-Darling Basin, and to a lesser degree the southern irrigation valleys.

A key factor to successful implementation of the policy is the assessment process to determine how individual entitlements are derived. As mentioned above, the floodplain harvesting policy is a means to regulate historic practice and irrigators need to be assured that they will not 'lose' access to water, which their businesses and their communities rely on. NSWIC is concerned that the constant need to consult and the inability of the department to make a sensible informed decision on this project is adding great uncertainty to the economic viability of our regional communities.



NSWIC is concerned however, that the implementation of the policy must not lead to inequities in water access and use across the State based on whether a landholding is on a declared floodplain or otherwise. Key to this is the late inclusion of rainfall runoff into the policy and how that is then implemented in practice to ensure floodplain landholders are not at a practical disadvantage compared to a neighbour who has a harvestable or rainfall runoff right or both.

As important as the policy is to establish a robust water take and management protocol is the need for the policy to be practically enforceable. It is crucial to both the reputation of the irrigation industry and to the Government that the policy can be practically implemented on the ground to ensure its integrity.

NSWIC supports a staged approach to monitoring of floodplain harvesting that is adaptable to advances in technology that improves accuracy. It is important that monitoring of floodplain harvesting is fit for purpose and cost-effective while being robust, effective and auditable.

Recognition of historic access

As mentioned in the overview, floodplain harvesting has played an important role in irrigation production since large-scale irrigated cropping developments began in the northern valleys in the 1960s and 1970s.

The historical reliance on this resource can be traced to a number of factors including:

1. The relatively low yield of public infrastructure dams;
2. The influence of the sub-tropical climate and the significant rainfall events which produce regular, large, medium and small floods; and
3. The historical switch of water infrastructure investment from public investment to privately funded on-farm investment.

While not volumetrically licenced, the practice has always been approved by governments through Part 2 and Part 8 approvals under the Water Act 1912 and estimates of volume of take through the practice have been included in modelling for the Basin Plan and previous cap management programs. Although it is noted that the quality of those estimates were often disputed by industry at the time, with some valleys not estimated due model limitations.

The purpose of the NSW Healthy Floodplains Program is to convert this historic and legitimate form of take to a regulated volumetric licence.

As such, implementation of the policy, including the method of determining the individual's entitlement share, will be fundamental to ensure there is no reduction in access as a result.

Irrigators must be confident that the assessment process is fair and robust. NSWIC recommends the reviewers assess all remote data sources as well as the need to incorporate historic and observed practices such as crop application, irrigation efficiency and floodplain opportunities.

NSWIC recommends providing farm-scale information to everyone as part of the process for issuing licences. There must also be an anomalies process available to applicants with concerns about modelling input data.



Equity of access

We have previously highlighted that industry has been working with Government on developing a robust and enforceable floodplain harvesting policy since 2008. Since then the policy has evolved, however, a late change in that has implications for equity was the September 2018 change in definition to now include rainfall runoff.

We understand that the decision to include rainfall runoff in the definition was due to difficulties in:

- Separating rainfall runoff from floodplain flows in the model;
- Measuring and monitoring rainfall runoff from irrigation fields;
- Consistency with national reform agenda principles; and
- Feedback from some stakeholders.

However, the inclusion of rainfall runoff in the definition of floodplain harvesting creates equity and enforcement issues for the policy that have state-wide implications.

Landholders in NSW are entitled to harvest up to 10% of the rainfall that falls on their property as a harvestable right. Furthermore, irrigators have a right to the rainfall that may run-off their irrigation development if and when it has been pre-watered as it can be considered water already measured. It is also a requirement for irrigators to prevent runoff flows from returning to the water course to avoid contamination of waterways from agricultural activity.

It is our understanding that the intention is to allow exemptions in the floodplain harvesting policy to account for harvestable rights and the capture of contaminated flows. However, it is yet to be determined how this is to be achieved in practice.

The issue of equity arises when landholders that are not on a designated floodplain have a harvestable right and the right to run-off from irrigation developments while those on a floodplain will be accountable for what they capture.

The NSW Government must provide clarity about how they will address the issue of equity. They must also clarify what precedent the floodplain harvesting policy sets for other valleys. While the current policy is aimed at the five northern valleys, there is nothing to preclude its rollout across the state to cover any declared floodplain.

Monitoring and enforcement

A policy is only as strong as its ability to be monitored and enforced.

Recent events and media coverage show how important it is for the reputation of both Government and industry to ensure that policy is accountable, and compliance can be enforced through robust processes equitably applied across all water users.

Irrigators have agreed to report annually on floodplain harvesting take through agreed methods, maintain records and have all floodplain harvesting structures assessed for volume storage capacity by the most appropriate agreed mechanism.

Irrigators need clarity around the process for assessment and accreditation of structures and calibration methodology prior to receiving their draft entitlements so they can properly assess



the impact of the policy on their operations. Further evidence of how the model estimates crop production compared to historic data is also key to assessing the ability of the model to estimate floodplain access.

In saying that, NSWIC supports the inclusion of advances in technology for monitoring processes that will improve accuracy and increase public confidence in the policy. Any new or additional monitoring must be fit for purpose, cost effective and produce data through methodology that is repeatable and auditable.

Conclusion

NSWIC supports the implementation of the floodplain harvesting policy to recognise historic practice. In establishing volumetric entitlements, irrigators must be no worse off under the policy than they were in practice.

Implementation of the policy must be done in a way to ensure equity and fairness across all water users. It is a concern that the inclusion of rainfall runoff places landholders on a designated floodplain at a disadvantage to their neighbours.

In finalising the implementation plan for the policy, NSWIC strongly recommends the reviewers talk to NSWIC members from the impacted valleys being:

- Barwon Darling Water
- Border Rivers Food and Fibre
- Gwydir Valley Irrigators Association
- Macquarie River Food and Fibre
- Namoi Water
- Cotton Australia

Jim Cush
Chairman