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Answers to Supplementary Questions – FPH Inquiry

We thank the Committee for the Supplementary questions and providing the opportunity for us to respond.
I preface our responses with some commentary on the FPH Policy implementation generally.

Firstly, irrigators are seeking to have historic levels of extraction licensed, finally. We are not seeking to increase levels of extraction and are conscious that licensing will reduce overall extracted volumes. The committee must understand that this support has always been contingent on the principle of 'no more – no less' as we have understood since the suggestion of licensing after 1994. It is apparent since the evidence provided by Brett Walker SC to this Inquiry, that licensing is not necessary for the practice to continue as it always has, that many irrigators are now questioning why they would proceed with a process that will disadvantage them so greatly.

Secondly, the committee should understand that licensing FPH, in and of itself, does not guarantee supply and never has. A licence only grants the ability to access volumes up to a limit ***if the opportunity occurs.*** Many submissions seem to misunderstand this detail.

Thirdly, the basis of many arguments raised in submissions is the hysterical claim that FPH and northern basin irrigation industry more generally, was somehow responsible for the 2017-2021 drought. While it might be convenient to promote this line, Bureau of Meteorology data on the drought shows that the depth and extent of the drought was unprecedented with minimum inflows surpassing the previous record period of 1918-1920 by 49%. The claim is followed by the demand that outlawing FPH and severely restricting all irrigation extractions in the northern basin would prevent droughts from ever occurring again and would magically restore Murray River entitlements to their pre-climate change levels of supply. These claims are sadly not accompanied by any credible evidence or realistic solution that will avoid future droughts and the future impacts of climate change. This novel form of climate-denial is inexcusable in this day and age. **There is no regulation or rule, in place or proposed, that could have prevented the impacts of the worst drought in living memory in this region or have any significant impact on future climate variability.** We are conscious of the impacts of climate change more than most and submit that

the committee's response must be more considered and much more targeted than knee-jerk reactions to simplistic, populist campaigns. The scope of this Inquiry, as we understand it, is limited to FPH Regulations and not the Murray Darling Basin Plan, the Murray Darling Agreement, drought measures, first flush rules, cultural flows or settling some old scores.

Another feature of some submissions has been the myth of a windfall gain to irrigators. There will not be a cent added to any irrigators' balance sheet by the licensing of FPH. What the argument fails to take into account is that no irrigator is getting any more water, only less, and the value of FPH water has been embedded in the land values up until now, in the same way as a grazing operation on a floodplain. The difference being that a grazing operation does not need a licence to benefit from the flood on his property, even if it is government-owned water.

One of the notable aspects of this Inquiry has been the almost total absence of any socio-economic analysis on any of the arguments being advanced. We trust that the committee has the capacity to include some consideration of this factor in their deliberations and their eventual report. A report lacking a socio-economic analysis would be incomplete and lack the necessary balance and credibility required for it to be considered seriously in our view.

Lastly, the anti-FPH scare-campaign, reflected in some submissions, contain some wild claims, numerous allegations, conspiracy theories and serious errors in fact. I have no doubt that some beliefs expressed are strongly held, but that does not make them true. The fear and hatred that has been deliberately manufactured for this campaign against decent, hard-working Australians is a blight on this process and those responsible should be ashamed. It has over-shadowed and diminished the legitimate concerns that some people have about FPH that deserve to be addressed. Campaigns deliberately based on falsehoods, allegations or ignorance nullifies the arguments they seek to advance in doing so. We find this Trump-esque, post-truth conspiracy methodology to be dishonest, disrespectful and counterproductive to finding long-term, pragmatic solutions. Any justification of "it's just politics" or "whatever it takes" ignores the downside of their caustic tactics, including the division of some rural communities and the likelihood that a sub-standard Inquiry understanding can only result in a sub-standard outcome.

We hope that the Select Committee can demonstrate the values of leadership in seeking the truth that all stakeholders expect of them, and to disregard the deliberate misinformation that has occurred.

Supplementary Questions

1. In your submission you state that your organisation has had assurances from state and federal ministers that fph would be legalised, can you please provide that correspondence to the committee?

Firstly, we stated that we had assurances that FPH would be *licensed*, not *legalised* as the question states, so the question is in error.
Secondly, our organisation was founded in 1997 and many of these assurances were made before that date. Our records
the evidence lies in the fact that FPH was actively encouraged by all NSW Governments from the 1970s through to now. The policy was first proposed as part of 1994 MDB CAP agreements, drafted in the early 2000's and progressively updated over time. It is also evidenced by the fact that the Commonwealth Government provided nearly $50 million for the Healthy Floodplains Program to be done, culminating in the licensing and formal regulation of FPH under the 2000WMA. All government's intentions for more than 20 years demonstrate the pathway to licensing, even if the ineptitude of successive NSW Governments has taken 20 years and still haven't licensed it.
I also refer the Select Committee to the submission of Peter Millington, the former Director General of the NSW Department who provides some useful historical context from the agency perspective.

2. If irrigators understood that 1994 was a cap on development, why did they then proceed to massively increase storages in the northern basin?

The premise of this question is one rooted in popular myth forming the basis of one of the key conspiracy theories about FPH. This particular conspiracy implies that all development should have ceased in 1994 but ignores history.
Firstly, the 94 CAP agreement was not a cap on development, it was an agreement on levels of extractions, and it was *not* universal. The NSW Border Rivers CAP is specified under the Murray Darling Basin Cap Agreement and codified in a 2000 IGA between NSW and QLD who share the resource, as the 1999-2000 level of development, not 93-94. It also ignores the fact that the date for FPH extractions is July 2008, when Minister Nathan Rees formally announced the FPH Policy. This important and fairly basic detail would have been evident with some rudimentary research of the history of water policy in NSW and in establishing the basic facts of the subject.
Secondly, state water sharing plans are already based on those historic levels, as are the MDB SDL's that supersede the CAP. FPH licensing won't give anyone any more water but will (finally) license the last bit of water that they have historically taken.
We would dispute that a "massive increase" in storages actually occurred and have seen no evidence to support this popular claim. It is misleading that the question refers to "the northern basin" when the inquiry is concerned with northern NSW only and we can speak only for the NSW Border Rivers in this context of a NSW Government Inquiry. This inaccuracy of context is observed frequently in some of the submissions made to the Inquiry and seeks to lay the responsibility for all of "the northern basin" at the feet of the NSW Government, which is plainly ludicrous. Certainly, there was some construction in the NSW Border Rivers in that period, but this was in line with the development that was occurring and the optimisation of storage capacity for the water resource that was in use at the time. We remain to be convinced about a "massive increase" as the popular myth implies and wait to see the evidence to back up the claim.
Thirdly, we observe an allegation in the question that constructing private infrastructure is in some way, wrong. In reality, investing in storage infrastructure is a legitimate business risk that someone takes,

particularly in the NSW Border Rivers where NSW Governments undertook to build headwater storages and then failed to do so. It must be remembered that the building of private storage capacity and access to river flows was actively encouraged by NSW Governments during that period, partly so that they did not need to build publicly funded headwater storages as they had previously committed to do. This was a time in which regional development was a priority for state governments and the development of irrigation industries was proving to be very successful in building regional, state, and national GDP. Again, the popular myth that irrigators can just start their pumps and fill their storages whenever they like, are unregulated and unmeasured is invoked here and is plainly untrue.

Lastly, the fact that storage capacity exists does not automatically mean that they are all 'active' in the current 2021 context and able to be filled when the opportunity arises. Farmers can legitimately have more storage capacity than they own entitlements as they have the option of trading water in either seasonally or permanently. Such trades can also occur between states in the NSW Border Rivers. There are also examples of 'stranded assets' following the buyback of water entitlements by the Commonwealth, some of which may be sensibly utilised to store the Commonwealth's water assets for later release into the river for environmental use. Water storage is a means to better manage the water resources farmers have access to and not the licence under which it is regulated. More capacity does not automatically mean more extraction.

It is also worth noting that Pindari Dam in the NSW Border Rivers was a joint public/private investment, with the local irrigation industry paying a major portion for the building of the dam project and is almost unique in Australia for such an arrangement. By doing so we have taken responsibility for our industry and invested our own capital into our communities with the blessing and encouragement of successive NSW Governments.

3. How many megalitres of water does it take to grow a hectare of cotton, on average?

There is no single answer to this question as the amount varies greatly depending on a range of variables, including soil type, in-crop rainfall, plant population, crop variety, row-spacings, seasonal climate and ultimate yield of the crop, to name a few. Farmers will observe a wide variation even within the same paddock as well as across the farm. Similar levels of variation exist across valleys and regions. It is important to understand that crops may be grown as dryland (no irrigation applied), partially irrigated (some water applied) and fully irrigated (grown entirely on applied water) and this will vary from year to year across farms and districts. Also, the water used can come from multiple sources, both surface and groundwater.

It is more accurate to look at possible ranges of water requirements and they could be between 0ML/Ha and 15ML/Ha in extreme circumstances.

Again, the conspiracy theory advanced by this question ignores the fact that the amount of water extracted is somehow dependent on the crop grown with it. The most basic of understandings about agriculture and water use recognise that extractions would not change by farmers growing other crops. It is a popular false narrative to blame a single crop type to create the comic-book villain so that those inclined have someone to hate. If the common crop grown in this valley were citrus or winegrapes or hemp, the amount of water used would stay the same and such changes may well occur in the future if business circumstances around these crops improve.

4. How regular are flood events in the Northern Basin?

I would refer this to the climatic records kept by the Bureau of Meteorology for accurate records.

Colloquially, farmers observe that prior to 2000 they could bank on a flood event every 2 or 3 years. Since 2000 they have observed a change in rainfall and flooding frequency and distribution to about every 5 years. This is attributed entirely to Climate Change. No regulation the government can devise will change the frequency or extent of flooding in the NSW Border Rivers.
It is instructive to see the BOM 121 Years of Australian Rainfall graphic.

5. What would prevent an irrigator from wanting to take 500% of their allocation in a single flood year?

This question is confusing as it refers to what someone might *want,* which seems to be outside the Terms of Reference for this Inquiry. I will address this as 'what might prevent an irrigator from taking 500% of their allocation in a single flood year?'.
Simply, the rules that have been disallowed to date. As we understand the proposed regulations, the only time that anyone could ever take 500% of their FPH account in a single year would be if they had taken zero for the previous 5 years (or longer) and the flood event was large enough and lasted long enough for that to occur. The rule is based on a rolling average of the account and any licence-holder only receives 100% allocation credited to their account in any year, thereby preserving the long-term average for the individual and the valley. It is important to note that these annual allocations of 100% only apply to the account limit and in no way guarantee access to water. When an FPH event occurs, an account holder can only access the maximum volume in their account at that time up to the maximum amount, limited to 500% even if they take nothing for more than 5 years.
We are aware that the Select Committee has been briefed by department staff on the working of this rule and they designed it to meet the long-term volumes to be licensed. Again, the popular conspiracy theory is that farmers will be able to take 500% of their long-term average volume each and every year. Again, 500% is the total possible account limit, even if they take nothing for more than 5 years. This rule is designed to ***reduce*** the long-term average level of take and everyone will only be able to take their reduced amount.
This concept seems to be challenging for some people to understand, many appear to be unable or unwilling to grasp it, but it is pretty simple. Some appear to be hung-up on the 500% because it is a big number and making wild claims that it could be taken each and every event, which is plainly untrue, but it makes for a cheap headline easily believed by those with no understanding of the facts.

6. Have you modelled the impacts of climate change in your valley? a. What do those models say about the reduction in flood events due to climate change? b. What do those models say about the reduction of inflows due to climate change?

No, we are farmers and not climate-modellers. We rely on the work of the CSIRO who have completed such studies as the **2007 Sustainable Yields Project which projected an average 1% reduction in mean annual rainfall and 9% reduction in runoff (water availability) by 2030 in the NSW Border Rivers. (CSIRO, 2007)** Interestingly, the northern MDB had a much lower level of projected impact than the rest of the MDB with decreases in water availability being projected to be larger as you move further south.
We have been working with the NSW Government on the NSW Regional Water Strategies and numerous other state and Federal policy initiatives on how these impacts could be best managed for everyone's benefit and banning FPH has not yet featured as a means appropriate to manage them.
Those possessing a basic understanding of NSW water sharing arrangements will know that water is prioritised first for critical human needs, then environmental and cultural requirements and finally, if there is any left over, for productive use. All rules in place already are based on these priorities. These

rules were designed to allow for the greatly variable levels of water availability that exist in the northern basin historically and would work equally in the future.
Water reform, since 1993, has always been about finding a suitable balance between environmental health and economic and social values to the state of NSW and the nation. The Basin Plan proposed volumes of water to be recovered across the MDB and the NSW Border Rivers was included in that target, but the volumes to be recovered were relatively small as it was recognised by the experts in the field, that there was little value in recovering water in a region which had such highly variable water availability already and could not be easily actively managed due to the lack of water management infrastructure downstream from the regulated reaches. Our main environmental asset is the river itself and was found in 2008 Sustainable Rivers Audit to be the healthiest 'working river' in the basin.

The advent of the Commonwealth water reforms in 2007 created the 'adjustment tool' that states had been lacking prior to then – the commitment for the Commonwealth to recover water from willing sellers. This is now established as the means by which any 're-balancing' of water extractions is to be carried out. It is wrongly thought by some to mean that if allocations are reduced by climate change or droughts that compensation must be paid, which is untrue. If the Commonwealth decides that water recovery is necessary, they have a means to do it which treats everyone fairly and communities are not destroyed by the sudden cancellation of extractions as occurred previously under state policies.

Added to this, it is the state's responsibility, under its agreements with the Commonwealth, to encompass all existing water sources into its licensing and regulation framework. FPH has been a water source for more than 40 years in the NSW Border Rivers but is yet to be licensed. We have always been in favour of the licensing and regulation of all water sources which will complete the process to bring them under the WMA 2000 and create the confidence in the NSW water management regime that many seem so afraid of finalising. As mentioned previously, this support for licensing is wavering as impatience with the NSW Government increases and frustration at the politically driven disallowances of FPH regulations, builds.

References

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