

To: Cate Faehrmann
Chairperson, Select Committee on Floodplain Harvesting
Delivered by email to floodplainharvesting@parliament.nsw.gov.au

2 November 2021

Response to Supplementary questions asked by the Select Committee Inquiry into Floodplain Harvesting

Dear Ms Faehrmann

Thank you for requesting further information. We would always be very happy to host yourself and committee members in Walgett and in the meantime provide answers below to your supplementary questions:

1. What do you believe should be done with illegal works on floodplains?

Illegal works should be dismantled. The proceeds of the crime of harvesting water with the illegal structures should be determined to a market value (as of 2021 and 2022 harvests) and seized. In addition, fines should be issued if an offence has occurred that allows fines to be issued.

2. In your submission you call for greater penalties to be applied in the water management framework. What would be appropriate?

We propose that the NSW Crown Solicitor provide options for greater penalties which we will then revise with our legal advisors to then provide you with an opinion.

We would look for penalties that are greater than the sale value of the commodity produced and sold using the harvested / extracted water that includes amounts appropriate that reflect the damage to downstream Aboriginal communities and their enjoyment of their rights under the Human Rights Act and international agreements to which Australia is a party, in addition to the value of the loss of habitat of native aquatic and riverine dependent species. The penalty would also include confiscation of any water licences as the benefitting company or individual has demonstrated that they don't respect law.

3. Do you have any representation on the Northern Basin Aboriginal Nations (NBAN)?

No.

4. Do you think local Aboriginal Community controlled organisations should have representation on NBAN?

DEG would consider involvement if NBAN provided a safe working environment, skilled facilitators and secretariat and NBAN's advice to government and the MDBA is valued which we don't believe is the case currently.

5. Do you agree with NBAN's view that the NSW Government should not discuss water management with the NSW Aboriginal Land Councils?

NSW Government should be negotiating water management with Aboriginal leadership in each community so that truly place-based local decision-making occurs. In Walgett we have what we call the Local ACCO group that meets to progress advocacy and service planning for Walgett. It is made up of local Aboriginal community controlled incorporated companies Walgett Aboriginal Medical Service and Dharriwaa Elders Group with invitation to Aboriginal Education Consultative Group and Walgett Local Aboriginal Land Council which operates under the NSW ALR Act. Native title group members who live in Walgett would have the opportunity to speak through the membership and leadership of these organisations. NBAN members may have a role to give advice to the Local ACCO group regarding NSW water management as they have accessed years of information and western science expertise and have considered water policy issues in their NBAN roles but would have no authority beyond their rights as company members of local, place based Aboriginal-controlled representative groups.

We are working towards Aboriginal people managing water with the support of knowledgeable public servants of integrity and scientists of our choice. In this scenario for the future Aboriginal communities would have a right to veto water licences with all their decisions made with a high degree of transparency and appropriate anti-corruption measures in place. We're not greedy.

Sincerely

Virginia Robinson
Secretary for the Dharriwaa Elders Group