Submission No 280

INQUIRY INTO FLOODPLAIN HARVESTING

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Chair, NSW Legislative Council Select Committee
Inquiry into Floodplain Harvesting
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Re: Submission into Inquiry into Floodplain Harvesting

Dear Chair,

I am an irrigator, who is considered an eligible floodplain harvester in the Gwydir Valley in north-west NSW. Our farm is uniquely situated at the bottom of the Lower Gingham floodplain, 100km west of Moree. Our family-owned farming enterprise started in 1961 and continues today. We have a strong commitment to sustainable cropping practices, employ staff to work in our region, buy locally and promote events to support the future and enrich of our local community.

I support the need to regulate floodplain harvesting, not because I want it, but because it's the right thing to do to secure certainty. While I don't think Government's need to do much managing of this form of take, the Government and the community should know how much water is accessed and when, just like all other forms of take. This will prove to people, we only use our small share, infrequently and the environment and others, get theirs.

I am frustrated, at the injustice that my supplementary licence has been reduced because NSW Parliament rejected rules to licence, manage and meter floodplain harvesting in May 2021.

I have followed the rules as have other irrigators. We have worked hard through all our isolation, limited facilities, floods and droughts and added bureaucracy pressures to offer a reasonable pathway forward. Now I feel, our politicians are taking the easier, not the most sustainable approach and listening to people who have the luxuries of a permanent job, with secure water and plenty of Wi-Fi. Let's work harder to find a way. Not take routes that will make it unsustainable for families to run their farms. Once people leave the bush they rarely come back!

All we want is a clear set of rules, so our historical practices can continue with clarity, certainty, and accountability.

Floodwater is a very important source of water in our region during times of plenty, when it floods. It makes sense to capture a fraction of a flood (just a share) to keep us and our communities in business during droughts? This isn't about me or our industry, capturing all floodwater. We cannot. It is about having a clear framework, that means we can continue to access a share.

This reform has been a long process and I have worked with it, since 2012, after I initially registered by expression of interest. During this time, this has meant:

- My farm details were checked, including my existing approvals to ensure I meet the eligibility criteria.

- I completed an irrigator behaviour questionnaire which included personal farm information dating back to 1993 and 10-years of model calibration data, including estimated volumes of take and cropping records.
- I have opened my farm to multiple inspections by project staff and by Natural Resources Access Regulator to inspect, map and record all my farm infrastructure.
- My farm has been surveyed by LiDAR to measure my storages and levees. This was cross checked against my own on-ground surveys at my own cost.
- My farm has been checked by aerial photographs and satellites for changes in infrastructure as well as cropping records at each of the key dates.
- I have received my individual farm water balance produced from the model, I provided detailed submission on this again using data to help calibrate the model.
- I have been provided two draft entitlements, the last set on the day of the last disallowance in May.
- I have provided a submission into my draft entitlements back to the NSW DPIE W.

This process means my farm and all other eligible floodplain harvesters in the five-northern valleys, have the most scrutinised, measured, and recorded farms in NSW. The valley-based model has the most current information. It is broken down to the farm-scale which is a finer scale than any other model in NSW or the Murray Darling Basin.

This effort has come at great expense to the government, and also significant personal expense in both time and resources. Due to a requirement to engage contractors, lawyers, on-farm measurements and allow for time to provide input and engage with the process it cost in excess of $100,000 so far.

My question is, has this effort of time and money been for nothing?

Some major frustrations to date include:

- Record keeping and tracking corrections by the various departments has been grossly inadequate. Enormous amounts of time have gone into our submissions to correct mistakes on our farms only for those corrections to be lost at some future date.
- There does not seem to be a database within NRAR or DPIE that is available to all employees.
- Some inexperienced staff come out to check one thing, only for someone else to arrive at some stage in the future to check another. It appears very disjointed, expensive and inefficient bureaucracy.
- Some staff at times can be condescending and after interactions leave me feeling pressured and intimidated. Many of these interactions leave me demoralised and confused. I receive different interpretations of policy depending on which staff member I am interacting with.
- Staff appear fatigued by the process (just like me).
- The independent review committee process was far from independent. Individual irrigators were excluded from the meetings but department personnel were present.
- It appears that submissions were in fact not even read.

In regard to the question of legality of my historical practice. I am not a lawyer, but if floodplain harvesting was illegal as some people claim, why are the Natural Resources Access Regulator telling irrigators they cannot let water out of their farms and why has the Minister reduced my supplementary water, to offset overall growth in water use?

As I have outlined, myself and many others, have participated in what is now an 8-year Commonwealth funded project to determine licence volumes. The Commonwealth stepped

in because the original 1993/94 Cap still included floodplain harvesting as an estimated take and despite having principles for implementation of licencing established, in our first water sharing plan for the Gwydir Regulated River in 2002, NSW failed to make progress.

Clearly, there is evidence to support floodplain harvesting as a historical, legal form of take.

Yet without clear rules in place, that are consistent and transparent I will continually and wrongly, be called a thief for capturing rainfall that falls on my farm or some of the floodwater that has broken out of a river and is flowing across my land.

I've also heard that there needs more work before licences are issued. How much work/ studies/time or expense is enough?

The reality is there will always be new information or new technology to consider. Just as there will always be people who will never support irrigation or floodplain harvesting, regardless of how much work is done.

I do not see the need to wait to see whether additional work on downstream triggers are needed or not. Supplementary rules in our valley already have triggers for connectivity for in-river flows, which in all but rare occasions, occur prior to floodplain harvesting anyway. Secondly, you don't use a flood policy such as this to address issues raised about droughts. They are two separate issues at opposite ends of the climate spectrum. It also must be accepted that when in extreme droughts, like we just experienced there may not be any river flows or water to share. That impacts me, our community, and the environment equally.

For example, during the recent drought in our region it was only because of public irrigation infrastructure that we had river flows from 2017, when inflows stopped. Dam deliveries from Copeton Dam kept the river flowing, although in 2019-20, it was only high security and environmental water that was allowed to be delivered. I had no access to carry over allocation and with 0% allocation and no delivery reserve, water was stranded. This meant I could not irrigate (or could only irrigated with groundwater).

As an irrigator, I fully respect that the volume of water available to me must be within legal limits. What frustrates me, is the constant winding down of these legal limits and ongoing erosion of our rights and assets. This directly impacts my business and my community. We need certainty to operate with as much confidence as possible in what is already a very uncertain occupation.

We need rules which ensure a share of future floods that remains sustainable, within long-term legal limits but that also balances the highly variable nature of these flows in these ephemeral systems. Floods and floodplain harvesting, only occur when our rivers are full and spilling and water is most abundant. Using averages in this way must allow for peak use at these rare times when we are in flood, to provide our region and its economy the opportunity to access water to store for future use, when it is most plentiful.

An accounting approach in this manner provides our community and the industry certainty around water availability for irrigation but ensures overall limits can be achieved in the long-term. This is the approach the NSW Government has proposed in our region, with 5-year accounting and carryover provisions.

However, it still astounds me that back in May 2021, the NSW Legislative Council rejected the proposal by Government to restrict, licence and meter floodplain harvesting which would ensure I could operate within those limits. For me, that meant the minimum 30% reduction that my draft floodplain harvesting entitlements represented, were not enforced. Worse still

these new rules and restrictions have been removed in a time when our rivers are full and flowing and we are at more chance of a flood, than a drought.

Given the concerns for why the rules were rejected, it seems illogical. The disallowance means I am back up to 100% of my current use, unrestricted, if it floods again.

This stands until such time that regulations can be remade and are supported. Until then, the discussion about accounting rules, metering requirements and the volume taken are academic.

This inaction means this form of take remains unmanaged but since July 1, other licences are being punished for another form of take.

While I wouldn't mind the opportunity for full access to a flood, I don't want to be wrongly accused of being a water thief nor do I want that perceived or actual accusation to be levelled at others. As a consequence of the restrictions in supplementary water and the uncertainty around future access, I have had to rethink my plans for this year and reduce (adjust) my summer planting due to this debacle. The uncertainty is affecting my business decisions at a crucial time when I should be able to get back to my maximum production after 3 years of drought. The current situation greatly impacts my businesses recovery from the drought and will make me less prepared for the next one.

The above reasons outline why my business and our farming community cannot wait years to organise new rules or another set of targets or to try to satisfy the naysayers.

I am not suggesting that my business, or my community is more important than any other. However, nor do I think that every one of the concerns raised, in objecting to the regulations should be ignored.

I just think this process has been hijacked for too long by people politicising their views and it is causing skewed outcomes. It's impacting industry, businesses, communities and the environment.

I am encouraged by the Inquiries term of reference seeking "how floodplain harvesting can be licenced, regulated, metered and monitored". The discussion should be about recognising the benefits from a rather straightforward reform of establishing a volumetric licence for floodplain harvesting and what that means for water users, the environment, and communities everywhere. Then working out a process to step through any other concerns. This process should be completed with the benefit of actual data from the licencing of floodplain harvesting.

Licencing of floodplain harvesting with the regulation of rainfall runoff, also ensures consistency of policy across NSW. Because of the way the Water Management Act is written, to continue to operate my farm as I have historically, even if I didn't intercept flood water, but captured rainfall runoff, I am classified as a floodplain harvester.

To be clear – I am required by a condition on my work approval to use my land for irrigation and infrastructure approvals, to not allow water which can be potentially contaminated from within my irrigation development to leave my farm. My farm has been professionally designed and precision developed irrigated land, for this purpose and encouraged through industry best practice irrigation. The rainfall runoff regulation would have enabled me to continue that historical practice and provide legal clarity, consistently around NSW for this activity, which is a requirement of my work approvals.

The rainfall runoff regulation meant that I could continue to operate my farm as designed for best practice, to meet these largely environmental obligations without the need for a licence that has fees and charges attached. However, as an eligible floodplain harvester, the exemption would not apply all the time. For example, the rainfall runoff exemption does not apply when I take floodwater under my licence. At this time, all water taken would be considered floodplain harvesting and deducted from my license. This ensures an ease of accounting and measurement against my floodplain harvesting licence.

There is a logical and simple solution, licence, reduce and meter those who floodplain harvest consistently throughout NSW. Plus enable those who don't, to irrigate as they have historically with the same certainty. This restores equity around NSW, ensures all major forms of water take is metered and accounted.

It's time to do the right thing. Enough time and money have already been invested, more than any other water licencing reform.

I strongly encourage you to recognise the benefits of the licensing reform and appreciate that it is a long-overdue improvement in water management.

For separate issues raised throughout this debate, I encourage you to focus on establishing processes to work through those issues in an open, factually informed and robust way outside of licencing floodplain harvesting so the benefits of the reform can be realised now, not in another 2 or 20-years.

Thank you for the opportunity to provide this confidential submission.

I would be more than happy to address the committee in person at a hearing.

Yours sincerely,

Gwydir Eligible Floodplain Harvester
Title, Wongwie
Guy Boland