

INQUIRY INTO FLOODPLAIN HARVESTING

Organisation: Coleambally Irrigation Co-operative Limited

Date Received: 11 October 2021

11 October 2021

Select Committee Floodplain Harvesting

floodplainharvesting@parliament.nsw.gov.au

Dear Committee Members

Supplementary submission

Thank you for your work with this important Committee. This submission provides further information which Coleambally Irrigation Co-operative Limited (CICL) believes is important to your deliberations.

CICL has listened to most of the hearings and notes the majority of the evidence and questions focus on floodplain harvesting (FPH) in northern NSW, its impacts, and the NSW government's processes for implementing its FPH policy, through the Healthy Floodplains Project.

This submission draws attention to the importance of the Committee's recommendations for rainfall runoff in order to ensure that they allow for the collection of rainfall runoff in irrigation tail water systems without the need for the requirement to hold a licence or work approval.

CICL's area of operation is an off river constructed channel and drainage system, and the farms in our irrigation district are generally only 220ha (i.e. small). CICL believes it unlikely that irrigation tail water systems which are widespread on irrigation farms in the southern basin are captured by the [Harvestable Rights Order](#).

Brett Walker's legal opinion¹ and also the opinion provided to NSWIC by Peter Holt² supports this view. Both opinions say that dams for the capture, containment and recirculation of drainage and/or effluent cannot be constructed relying on a harvestable rights order.

CICL's view, as expressed in our submission to the Committee, remains that the legal uncertainty for irrigators implementing 'best management practices on farm', which involves capturing rainfall runoff from irrigation layouts in their tail water systems, needs to be resolved.

The rainfall runoff exemption regulation previously made is required for the southern basin to clarify that its existing and best management practices can continue under the new regulatory framework.

1

<https://www.parliament.nsw.gov.au/lcdocs/other/15987/Advice%20from%20Mr%20Bret%20Walker%20AO%20SC%20-%20Legality%20of%20Floodplain%20Harvesting%20-%20dated%2015%20September%202021.pdf>

² [Advice-in-relation-to-the-Rainfall-Run-off-Regulation-15-August-2021-....pdf](#)
(nswic.org.au)

CICL is also concerned with the lack of clarity or agreement in evidence on the process for including FPH in the legal limits established by the Murray-Darling Basin Ministerial Council, Cap on diversions, the Basin Plan baseline diversion limit (BDL) and the Basin Plan sustainable diversion limit (SDL).

NSW needs to follow the agreed process for determining each of these limits, consistent with the requirements of the Basin Plan 2012 and the Cap as expressed in the Murray-Darling Basin Agreement.

The Basin Plan (Schedule 2) expresses the SDL for surface water units as:

$SDL = BDL - \text{local reduction amount} - \text{shared reduction amount} + \text{SDL adjustment amount}$.

This means that the SDL is a function of the BDL minus a set volume for environmental recovery, and the set volume remains unchanged.³

This approach makes the BDL the relevant number to the debate. Noting the BDL is a modelled outcome, as new improved information becomes available this means both the BDL and consequently the SDL will change, but the volume to be recovered remains fixed.

CICL believes NSW should have the same opportunity to revise its FPH estimates included in its BDL as the other states, in particular Queensland. This should not be about increasing take, but recognising and better quantifying the volume historically taken.

It is disappointing the Murray-Darling Basin Authority (MDBA) did not provide evidence at the hearings. The MDBA is the primary architect of the Basin Plan and is the obvious organisation to clearly explain the approach and requirements when a state seeks to update the BDL. In addition, the MDBA would also have been able to verify how FPH was included in the long-term Cap estimates for each valley.

CICL encourages the Committee to seek advice directly from the MDBA on this important matter, as having confidence in the rigour of the processes being followed is essential to progressing this important reform.

If you require any further information please do not hesitate to contact Jenny McLeod at CICL via reception on

Yours sincerely

Clifford Ashby
Chief Executive Officer

³ Note, the sustainable diversion limit adjustment mechanism allows the SDL to change in the southern Basin, where the SDL is the BDL less the environmental water recovery amounts, plus the SDL adjustment amount.