

MEETING	Healthy Floodplains Review Committee		
MEETING NO.	5	DATE	10-11 May 2018
LOCATION	Sustainable Farming Training Centre Tamworth Agricultural Institute 4 Marsden Park Rd, Calala	TIME	10 May – 9.00m to 5.00pm - Boardroom 11 May – 9.00am – 2.00pm - Boardroom
ATTENDEES	[REDACTED]		
APOLOGIES			
PREPARED BY	[REDACTED]		

DAY 1 – THURSDAY 10 MAY 2018

Purpose of Day 1

DoI Water has received 9 submissions in respect of determinations of floodplain harvesting ineligibility for the Namoi Valley. In accordance with the NSW Floodplain Harvesting Policy these submissions have been referred for the committee to review and make recommendations to the Department about resolution of these matters. These cases have been analysed by the Department and recommendations made to the committee about the issues raised.

The policy also provides for disaffected registrants and/or their representatives to make oral presentations to the committee. Accordingly all the parties who have made submissions have been invited to attend this meeting.

Item	Time	Agenda Item	Invitee(s)
1	9.00	Discussion regarding the outcomes for the day	Chair
2	9.30	ROI N091	[REDACTED]
3	9.45	ROI N095	[REDACTED] (consultant) and/or [REDACTED]
4	10.30	ROI N142	[REDACTED] and/or [REDACTED]
	11.15	Morning Tea	
5	11.30	ROIs N149, N150	[REDACTED]
6	12:15	ROI N072	[REDACTED] (consultant [REDACTED]) and/or [REDACTED]
	13:00	Lunch	
7	14:00	ROI N226	[REDACTED] (consultant [REDACTED]) and/or representative of [REDACTED]
8	14:45	ROI N 227	[REDACTED] and/or [REDACTED]
	15:30	Afternoon Tea	
9	15:45	ROI N 230	[REDACTED] and/or [REDACTED]
10	16:30	ROI BD021	[REDACTED] and/or [REDACTED]
11	17:00	Wrap up/close	Chair

DAY 2 – FRIDAY 11 MAY 2018

Item	Time	Item	Papers	Lead
	8.30	Morning tea on arrival		
1	9.00	Welcome & confirmation of agenda	N	██████████
2	9.15	Review of previous minutes/actions	Y	██████████
3	9.30	Declaring conflicts of interest	N	██████████
4	9.45	Project and progress update	Y	██████████
5	11.00	Water Infrastructure Plan (WIPs) - Gwydir & Border Rivers	Y	██████████
6	11.30	Revised Gwydir FPH entitlement modelling	Y	██████████
	12.15	Lunch		
7	12.45	Revised Border Rivers FPH entitlement modelling	Y	██████████
8	13.30	Other Business	N	██████████
9	13.50	Next Meeting	N	██████████
10	14.00	Close	N	██████████

Meeting 5 - Notes from review committee meeting regarding actions for each submission.

Name/Property/Registration of Interest number	Notes from meeting
[REDACTED]/N072	<p>A flood protection levee was constructed in May 2013 after an application in 1991 ([REDACTED]). Approval was only given for part of the levee.</p> <p>My notes indicate that we thought they have a clear intention to harvest water from the floodplain and that the committee recommended that the works be inspected and the applicant be moved to an IBQ to determine entitlements.</p>
[REDACTED]/N091	<p>Committee thought that this ROI should be ineligible but follow up the application and the assertions that a department employee said that his application would be reinstated.</p>
[REDACTED]/N095	<p>Committee recommended that there be further assessment and IBQ</p>
[REDACTED]/N142	<p>Committee asked for a review of policy (outside a designated floodplain but harvesting floodplain water) to determine what could be done in this situation. Letter of eligibility/ineligibility to be held until then.</p>
[REDACTED]/N149 & N150	<p>As there is no ability to intercept, capture, manage or store floodplain water this submission was deemed ineligible.</p>
[REDACTED]/N226	<p>[REDACTED] only eligible as a [REDACTED] aggregation not as a stand-alone entity. Check with applicants and also identify whether this was allocated in the Gwydir FMP.</p>
[REDACTED]/ N227	<p>No eligibility on [REDACTED], harvesting on [REDACTED] is captured on [REDACTED]? In the process of purchasing [REDACTED]. Leave until properties are aggregated.</p>
[REDACTED]N230	<p>No floodplain harvesting infrastructure. Not eligible.</p>



Meeting details and action list for review

MEETING	Review of actions from Review Committee meeting 10 th – 11 th May 2018		
MEETING NO.		DATE	17 th May 2018
LOCATION	Teleconference Call: [REDACTED] Guest: [REDACTED] Chair [REDACTED]	TIME 12PM	
INVITEES	[REDACTED]		
PREPARED BY	[REDACTED]		

Actions arising from Review Committee meeting 10th and 11th May 2018

Item #	Action	Owner	Date	Status
1.	N091 – [REDACTED] Further investigate in the file/system re Part 8 application being denied, search for any notes as to why it was not re-instated.	[REDACTED]	10/05/2018	
2.	N227 – [REDACTED] – [REDACTED] Check modelling for [REDACTED] to see if it includes overland flow capture from [REDACTED]. Feedback to clients and clarify that Part 2 licence provides eligibility for FPH on [REDACTED] but volume is already allocated through the VolCon process. No additional FPH is required.	[REDACTED]	10/05/2018	
3.	BD021 – [REDACTED] – [REDACTED] Check with Licensing staff (and other staff) to substantiate historical Part 8 approvals process in Western Division.	[REDACTED]	10/05/2018	
4.	BD021 – [REDACTED] – File Note [REDACTED] to amend the incorrect authorised and developed irrigation figures in the file note.	[REDACTED]	10/05/2018	
5.	BD021 – [REDACTED] Organise site inspection of FPH works on [REDACTED] and verify if points of take are in the river or not.	[REDACTED]	10/05/2018	
6.	Undertake further research to determine if 198GL Cap for the Barwon-Darling does/does not include FPH.	[REDACTED]	10/05/2018	
7.	N230 [REDACTED] Feedback to clients and clarify that Part 2 licence provides eligibility for FPH on [REDACTED] but volume is already allocated through the VolCon process. No additional FPH is required.	[REDACTED]	10/05/2018	
8.	Collate meeting outcomes, actions, discussion and prepare responses to submissions for board to review in a teleconference prior to distributing determination letters. Letter to all ineligible submitters to include a timeline and	[REDACTED] to coordinate	10/05/2018	

	next steps.			
9.	Provide policy advice to the review committee on the status of FPH outside of designated floodplains and how Plan Limits will be adjusted in the future if implementation of the policy was expanded to cover these areas.	██████	10/05/2018	
10.	Investigate where the Cap for the B-D of 198GL includes or excludes FPH and therefore how entitlements will be determined in this valley.	██████	10/05/2018	
11.	Circulate approach re determining unreg vs FPH to review committee prior to telecon	██████	10/05/2018	
12.	Draft letter to ED Water, re policy gaps to be addressed.	██████ to coordinate	10/05/2018	
13.	Further investigate options to optimise impacts between FPH individuals through individual scaling of proposed entitlements	██████	10/05/2018	

Healthy Floodplains Review Committee – minutes of teleconference

Date and time

Friday 10 August 2018
4pm

Participants

██████████ (Chair)
██████████ (NSW Nature Conservation Council)
██████████ (NSW Farmers)
██████████ (NSW Irrigators Council)
██████████ (Department of Industry [NRAR] and minute taker)

Purpose of teleconference

1. To confirm the committee's recommendation that the departments initial determination of ineligibility in respect of Barwon-Darling floodplain harvesting registration of interest B-D021 (██████████) should be reversed.
2. To review documents proposed to be submitted to the Department of Industry in respect of the ██████████ submission.

Agenda Items

1. ██████████ requested that the department provide the committee with details of the environmental assessment that floodplain harvesting water supply work approval applications will required to undergo. (This was emailed to committee members on 13.8.18). She also questioned whether the ██████████ ROI would be granted an approval regardless of the outcome of the environmental assessment. ██████████ explained that each ROI would be assessed on its merits and there would be no rubber stamping of work approval applications.

There is provision for refusal or modification of works in the NSW Floodplain Harvesting Policy, which states that:

Not all works that are currently engaged in or capable of floodplain harvesting will necessarily be authorised for floodplain harvesting activities. For example some works without existing approvals may be refused or required to be modified on environmental grounds.

2. ██████████ said that at the meeting held in Tamworth on 10-11 May 2018 the Healthy Floodplains Project Lead Stage 1, ██████████, agreed to provide the committee with a briefing on Cap issues. This matter will be further investigated and followed up with ██████████

3. The committee considered a memorandum from [REDACTED] to the committee which summarised the [REDACTED] case and recommended that the Chair write to the Chief Regulatory Office recommending that the Lansdown ineligibility determination be reversed.

Motion 1

That the memo be adopted subject to an amendment to correct the name of [REDACTED] [REDACTED] incorrectly recorded in the memo as [REDACTED].

Moved [REDACTED], seconded [REDACTED].

Motion carried (revised paper to be sent to the committee members).

4. The committee considered a letter proposed to be sent to the Chief Regulatory Officer explaining the background of the [REDACTED] submission and recommending the initial determination of ineligibility be reversed.

Motion 2

That the letter be adopted.

Moved [REDACTED], seconded [REDACTED].

Motion carried.

5. The committee considered a letter proposed to be sent from the Chief Regulatory Officer to the [REDACTED] registrant advising of the reversal of the department's original determination from ineligible to eligible.

Motion 3

That the letter be adopted.

Moved [REDACTED], seconded [REDACTED]

Motion carried.

6. **Motion 4**

That the Chair sign the letter for transmission to the Chief Regulatory Officer (see motion 2).

Moved [REDACTED], seconded [REDACTED]

7. Close

The meeting closed at 4.15pm

[REDACTED]



Memorandum

TO	<p>[REDACTED] Chief Regulatory Officer Department of Industry [REDACTED] Director Regional Water Regulatory Operations West Department of Industry</p>
FROM	<p>[REDACTED] Licensing Coordinator Healthy Floodplains Project</p>
DATE	5 June 2018
SUBJECT	Recommendations from the Healthy Floodplains Review Committee

Issue

Approval of the recommendations from the meeting of the Healthy Floodplains Review Committee held at Tamworth Agricultural Institute on 10-11 May 2018.

Background

The NSW Floodplain Harvesting Policy was released by NSW Cabinet in May 2013. The policy establishes a framework for licensing of floodplain extractions. It applies across NSW but at this stage it is only being implemented within the designated floodplains of the Border Rivers, Gwydir, Namoi, Barwon-Darling and Macquarie valleys under the banner of the Healthy Floodplains Project.

The policy requires an independent review process to be established to ensure there is procedural fairness for floodplain harvesting registrants in regard to the department's pre-licensing determinations which are not subject to legislation and hence have no statutory right of appeal. These determinations fall into two main areas:

1. Review of submissions from registrants who dispute the department's decision that they are ineligible for floodplain harvesting consideration.
2. Review of submissions from eligible registrants who dispute the floodplain harvesting entitlements that they have been assigned.

The committee's role is to consider such submissions and to make recommendations to the department about their resolution. It operates on a consensus decision making basis under comprehensive terms of reference. Members are paid a meeting attendance fee and are reimbursed for any associated expenses. The committee has been operative since 2014 and its members are:

[REDACTED] (chair) representing North West Local Land Services
 [REDACTED] representing the NSW Irrigators Council
 [REDACTED] representing the NSW Farmers Association
 [REDACTED] representing the NSW Nature Conservation Council

Current Position

Nine submissions have been received from registrants who dispute the ineligibility decisions the department has made in respect of their floodplain harvesting registrations of interest. The committee considered these matters at its recent meeting. Its recommendations are attached together with appropriate letters to the registrants concerning the outcomes of the submissions.

Recommendation

That you approve the recommendations of the committee and sign the attached letters.

5 June 2018

*Approved
6-6-18*

[REDACTED]

*Chief Regulator
Other*

[REDACTED]
Chief Regulatory Officer
Department of Industry
[REDACTED]

Dear [REDACTED]

Re: Healthy Floodplains Review Committee Recommendations

The Healthy Floodplains Review Committee was formed under the provisions of the NSW Floodplain Harvesting Policy. Membership of the committee is set out in Attachment 3.

Inter alia, the committee's role is to make recommendations to the Department of Industry concerning the department's preliminary decisions in regard to the following categories of determinations¹:

1. Whether certain floodplain works are eligible for assessment under the policy.
2. Calculation of the share component of a floodplain harvesting access licence.

At the request of the department the committee convened at Tamworth Agricultural Institute on 10-11 May 2018 to inquire into nine category 1 submissions. In each instance the department's initial investigation had found the floodplain harvesting registration of interest to be ineligible for further consideration and as a consequence, the affected registrants had made submissions disputing the department's decisions.

The department provided the committee with background information and an analysis of each submission. The committee also had the benefit of presentations by the ineligible floodplain harvesting registrants and their representatives.

After hearing the presentations the committee requested the Department to provide additional information in respect of several of the submissions. We have now considered this extra material and we have reached a consensus on each case. A summary of the committee's recommendations is contained in Attachment 1 and a detailed analysis is contained in attachment 2.

Also attached for your signature, if approved, are letters to the affected floodplain harvesting registrants advising them of the results of their submissions.

Yours sincerely

[REDACTED]
[REDACTED]
Chair
Healthy Floodplains Review Committee

5 JUNE 2018

¹ These are pre licensing matters that are not covered by legislation. Accordingly, there are no statutory appeal rights in respect of the department's preliminary determinations.

Summary of Healthy Floodplains Review Committee Recommendations

ROI No.	Registrant	Property	Recommendation
N072	[REDACTED]	[REDACTED]	That the original determination be overturned and that the ROI be deemed to be eligible for floodplain harvesting consideration.
N091	[REDACTED]	[REDACTED]	That the original determination of ineligibility be confirmed.
N095	[REDACTED]	[REDACTED]	That the original determination be overturned and that the ROI be deemed to be eligible for floodplain harvesting consideration.
N142	[REDACTED]	[REDACTED]	<ol style="list-style-type: none"> 1. That the original determination of ineligibility be confirmed. 2. That the department develop policy for licensing of the take of overland flow in locations other than the designated floodplains of the Border Rivers, Gwydir, Upper Namoi, Lower Namoi, Barwon-Darling and Macquarie Valleys. 3. That the Department advice D & M Holland of the Department's licensing requirements in respect of capture and use of overland flow on [REDACTED]
N149 N150	[REDACTED]	[REDACTED]	That the original determination of ineligibility be confirmed.
N226	[REDACTED]	[REDACTED]	That the original determination of ineligibility be confirmed.
N227	[REDACTED]	[REDACTED]	That the original determination of ineligibility be confirmed.
N230	[REDACTED]	[REDACTED]	That the original determination of ineligibility be confirmed.
B-D021	[REDACTED]	[REDACTED]	The committee has unanimously decided that it needs to undertake an inspection of [REDACTED] before it can make an informed recommendation concerning resolution of this submission. A site visit has been organised for 31.7.18. An appropriate response will be formulated after the inspection has been completed.