

## Details

**Meeting:** Healthy Floodplains Review Committee Meeting

**Location:** Via Microsoft Teams

**Date/time:** Wednesday 7 April 2021  
8.30am – 12.00pm

**Chairperson:** [REDACTED]

## Apologies

[REDACTED], Project Officer, DPIE-Water Healthy Floodplains

[REDACTED], Principal Project Officer

[REDACTED], Manager Floodplain Harvesting

[REDACTED], Senior Project Officer

## People present

### Committee:

1. [REDACTED], Independent Chair of the Healthy Floodplains Review Committee
2. [REDACTED], NSW Nature Conservation Council representative and landholder, Mudgee
3. [REDACTED], NSW Irrigators Council representative, local irrigator and landholder, Moree
4. [REDACTED] NSW Farmers Association representative
5. [REDACTED], Advisor to Committee, NSW Farmers Association, landholder from Caroon area of the Liverpool Plains

### Guests:

6. [REDACTED], Policy Environment, NSW Farmers Association
7. [REDACTED], Tahlee Consulting Services

### DPIE-Water Healthy Floodplains:

8. [REDACTED], Director Healthy Floodplains
9. [REDACTED], Senior Project Officer
10. [REDACTED], Senior Project Officer (minutes)

## This meeting

No.	Issue	Action	Responsible
1	Meeting open 8:30am		
2	Declaration of conflict of interest	██████ – Standing declaration (no additional items to declare)	
3	Adoption of minutes dated 23 March 2021	Meeting 41 minutes not yet complete, to be endorsed at meeting 43	
4	Presentation by ████████ on methods of identifying irrigated areas for the unregulated and groundwater only submissions	Noted. Recording saved by DPIE for reference.	

No.	Issue	Action	Responsible
5	<p><b>Review of submissions – Groundwater only submissions</b></p> <ul style="list-style-type: none"> <li>• N087 [REDACTED]</li> <li>• N090 [REDACTED]</li> <li>• N095 [REDACTED]</li> <li>• N136 [REDACTED]</li> <li>• N162-N163 [REDACTED]</li> <li>• N218 [REDACTED]</li> <li>• N239 [REDACTED]</li> <li>• N261 [REDACTED]</li> <li>• N011 [REDACTED]</li> <li>• N158 [REDACTED]</li> </ul>	<p>N087 [REDACTED] - Endorsed</p> <p>N090 [REDACTED] - Endorsed. [REDACTED] request for legal advice regarding unsigned ROI</p> <p>N095 [REDACTED] I - Endorsed.</p> <p>N136 [REDACTED] - Endorsed. [REDACTED] noted ‘rounding up’ issue. 209.65ML and entitlement of 1130ML to be used</p> <p>N162-N163 [REDACTED] [REDACTED] - Endorsed</p> <p>N218 [REDACTED] - Endorsed by all members except [REDACTED] (NSW Farmers)</p> <p>N239 [REDACTED] - [REDACTED] by all members except [REDACTED] (NSW Farmers)</p> <p>N261 [REDACTED] - Endorsed by all members except [REDACTED] (NSW Farmers)</p> <p>N011 [REDACTED] - [REDACTED] by all members except [REDACTED] (NSW Farmers)</p> <p>N158 [REDACTED] - Endorsed by all members except [REDACTED] (NSW Farmers)</p>	<p>DPIE to seek legal advice regarding unsigned ROI and provide outcome to committee members for noting</p>

No.	Issue	Action	Responsible
6	<p><b>Review of submissions – Unregulated submissions</b></p> <ul style="list-style-type: none"> <li>• N002 [REDACTED]</li> <li>• N032 [REDACTED]</li> <li>• N083 [REDACTED]</li> <li>• N097 [REDACTED]</li> <li>• N132 [REDACTED]</li> <li>• N219 [REDACTED]</li> <li>• N233 [REDACTED]</li> <li>• N235 [REDACTED]</li> </ul>	<p>N002 [REDACTED] - Endorsed by all members except [REDACTED] (NSW Farmers)</p> <p>N032 [REDACTED] - Endorsed by all members except [REDACTED] (NSW Farmers)</p> <p>N083 [REDACTED] - Endorsed by all members except [REDACTED] (NSW Farmers)</p> <p>N097 [REDACTED] - Endorsed by all members except [REDACTED] (NSW Farmers)</p> <p>N132 [REDACTED] - Endorsed by all members except [REDACTED] (NSW Farmers)</p> <p>N219 [REDACTED] - Endorsed by all members except [REDACTED] (NSW Farmers)</p> <p>N233 [REDACTED] - Endorsed by all members except [REDACTED] (NSW Farmers)</p> <p>N235 [REDACTED] - Endorsed by all members except [REDACTED] (NSW Farmers)</p>	

No.	Issue	Action	Responsible
7	<b>Review of contested submissions – Returning submissions</b> <ul style="list-style-type: none"> <li>N056 [REDACTED]</li> <li>N140 [REDACTED]</li> </ul>	<p>N056 [REDACTED] - Endorsed, ineligible.</p> <p>N140 [REDACTED] - Deferred to next meeting, photo evidence to be provided and analysis of inundated fields</p>	<p>[REDACTED] to locate and provide any images of inundation and location of storage on property for N140 [REDACTED].</p> <p>[REDACTED] to provide images to committee as part of submission for N140 [REDACTED]</p>
8	Other Business Next Meeting – TBC (via Microsoft Teams)	Noted	
9	Meeting close 12:00pm		

## Next meeting

21 April 2021 via Microsoft Teams

## Appendix

### Discussions recorded during review of unregulated submissions

[REDACTED]

#### 1. Remote sensing data

Where landholders have contested the methods used to calculate their draft entitlement, they have, in most cases, provided remote sensing data to show that they have grown crops in excess of their authorised area during the 1993-99 period. Analysis and advice from the Department indicates that this data is the best available evidence on which to base our determinations and the amended entitlement.

[REDACTED], who were engaged by most landholders, provided an overview of their method of determining irrigated crop areas from 1993-99. I have no reason to question the validity of their data noting that the period in question is over 25 years ago.

Also note, that a submission in the Gwydir Valley used remote sensing data as evidence of irrigated crop area. The committee has recommended that their draft entitlement be amended to reflect this. This has set a precedent for future submissions using this type of evidence.

#### 2. Statutory declaration regarding highest irrigated crop area

On the basis of a committee member questioning the inclusion of dryland cropping areas in the irrigated crop area, a request was made to landholders to confirm that the year with the highest irrigated crop area did not include dryland areas and that irrigation infrastructure was in place on these fields. All landholders provided this statutory declaration.

Due to changes in ownership and lack of intimate knowledge of their property from 1993-99, some landholders could only respond with the provision 'to the best of my knowledge'.

A committee member requested that another request for a Statutory Declaration be made so that the words 'and the fields were irrigated' could be included. All other members felt that the wording of the Statutory Declaration was appropriate and no further requests would be made.

The role of the HFPRC is to ensure that the policy is being applied consistently and equitably across eligible floodplain harvesting properties. I feel that the use of remote sensing data, and the subsequent request for a Statutory Declaration, are sufficient evidence to amend the draft (unregulated) entitlements.

Key concerns regarding the review of the unregulated submissions are as follows:

- the lack of data that was available from that period of time (1993-99) that we are now making decisions on in regard to a floodplain harvesting entitlement,
- lack of evidence that it was captured floodplain harvesting water that was used to irrigate crop areas in the year indicated or whether there was high rainfall in that year (e.g. 1998 was a high rainfall year) that is influencing the remote sensing results,
- no 'capability assessment' has been completed for unregulated properties. Storage volumes on some properties are well below the draft unregulated entitlement that is being provided,
- lack of consistency in the responses to Statutory Declarations. I am happy with some of the Statutory Declarations received, but not all of them. I agree with the need to get consistency across the Statutory Declarations, and
- the original method of assessing submissions was based on the premise that the volumetric conversion process covered floodplains harvesting, but the presentation by Bernie Martin (TCS) clearly shows that that was not the case.

I have previously endorsed the advice provided by the Department for all unregulated submissions by applying the policy, but I have reservations that I have consistently raised regarding the process for determining unregulated entitlements.

My views regarding the review of the unregulated submissions are as follows:

- the remote sensing evidence provided with the submissions is the only real evidence we have to make a recommendation to the Department. It is not the committee's role to reinvent or change the policy because that would create inconsistency between these submissions and earlier submissions
- the remote sensing evidence has been thoroughly checked by the Department and by the consultant involved, so we need to only look at the evidence that has been provided to us
- the committee needs to create consistency in regard to the implementation of the policy and bringing evidence from outside of this process creates inconsistency
- I am happy with the wording of the Statutory Declaration as it asks about the irrigated crop area and that the hectares quoted doesn't include dryland cropping areas. Asking about the irrigation infrastructure in place also provided a double-check of this, and
- asking for another Statutory Declaration would be going too far and would create inconsistency

I have previously endorsed the advice provided by the Department for all unregulated submissions by applying the policy, and I maintain my position based on the evidence provided.

Key concerns regarding the review of the unregulated submissions are as follows:

- Remote sensing imagery is not adequate to delineate between irrigated and dryland fields.
- The wording on the Statutory Declaration wording was flawed and I have a conviction that some of the fields claimed in submissions were dryland fields and were not irrigated
- The Statutory Declaration needed to declare that that the hectares claimed were actually irrigated in the highest crop year, not only that they had irrigation infrastructure in place
- Most Statutory Declarations are simply declaring their confidence in their consultant's report
- Some inspection reports refer to compliance issues or works that are unapproved, but they are still receiving a draft floodplain harvesting entitlement
- Landholders that submitted unsigned Registration of Interest forms are still regarded as eligible to participate in the Healthy Floodplains Project
- Dealing with returning 'errors' on a regular basis
- A storage on one particular property appears to be outside the floodplain
- DPIE's legal adviser could not be present (noting that I requested his presence the day before the meeting)

I will not be endorsing any further unregulated submissions and refer these to you for your decision