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FLOODPLAIN HARVESTING LICENSING AND MEASUREMENT FRAMEWORK

Gwydir and Border Rivers Landholder Workshops
August 2nd and 3rd 2022

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Contents

1 Introduction.....	3
2 Workshop process	4
3 Key issues.....	5
3.2 Flexibility between water accounts	6
3.3 Real time access to data	6
3.4 Storage meter data display.....	7
3.5 Timing of secondary device approval.....	7
3.6 Compliance pathway	7
3.7 Complexity as an irrigator	8
4 Actions from workshops.....	9

1 Introduction

Water taken through floodplain harvesting activities is the last major form of water take to be integrated into the licensing framework. Integration into this framework provides a mechanism to regulate the activity and ensure water take occurs within sustainable limits.

The complexity of regulating floodplain harvesting is recognised. The process of regulation has been under way for some time and has reached a critical point in 2022 with the passage of amendments to the [Water Management \(General\) Regulation 2018](#) through the NSW Parliament.

To assist with compliance, the NSW Department of Planning and Environment (DPE) Healthy Floodplains Project will be conducting workshops throughout New South Wales to provide both general and specific information that landholders and water users require to meet their obligations under the New South Wales Floodplain Harvesting Measurement Policy. The policy enables floodplain harvesting to be accurately measured and water taken in accordance with the individual licensed volumes and legal limits prescribed in [NSW Water Sharing Plans](#) and the [Murray-Darling Basin Plan 2012](#).

For compliance with the [licensing framework for floodplain harvesting](#), landholders have 12 months from the commencement of their water sharing plans to install primary metering equipment. For landholders in the Gwydir and Border Rivers this date is August 15, 2023.

This report summarises the outcomes of two landholder workshops:

- Gwydir Valley, Moree - 2 August 2022
- Border Rivers Valley, Goondiwindi - 3 August 2022.

2 Workshop process

Both workshops followed a similar agenda, although smaller numbers for Border Rivers enabled a less structured and more interactive discussion.

The key topics addressed at each of the workshops included:

- update of Floodplain Harvesting Licensing and Measurement Framework
- overview of Floodplain Harvesting implementation including:
 - licences and approvals
 - billings
 - measurement systems
- overview of approach to Floodplain Harvesting rule compliance
- measurement methods and metering equipment including:
 - overview of measurement framework
 - floodplain Harvesting Demonstration Project
- nomination of measurement period including:
 - case study presentations
- approvals, dealings and billings
- question and answer sessions throughout
- review and wrap up including key dates.

Each presentation or topic was interspersed with a period of facilitated questions and answers.

Landholders were also provided a further opportunity to liaise with representatives from the Department of Planning and Environment - Water (DPE-Water), Water NSW and the Natural Resources Access Regulator (NRAR) and ask additional questions over lunch, which was provided following each workshop.

Landholders received individual information packs specific to their properties following the sessions, and had the opportunity to register for follow-up support on questions specific to their circumstances to further assist implementation.

ATX Consulting facilitated the meetings and was responsible for recording and reporting.

3 Key issues

Although dealing with a complex and often emotional issue, landowners engaged in the workshop sessions with goodwill and a constructive mindset. The focus of most participants was on understanding what was required of them for compliance. Landholders provided constructive feedback through the workshop process about aspects of the regulations that could be improved and some elements that may have unintended consequences.

Workshops highlighted the complexity of applying the regulations in some specific circumstances. Concerns were raised that certain common farm practices are not currently accommodated within the regulations. Concerns were also expressed about the ability to achieve compliance, despite a willingness to do so. DPE Water and Natural Resources Access Regulator (NRAR) staff acknowledged these concerns, and gave assurances they would work together, and with, landholders to ensure a fair and reasonable approach.

Key issues identified in the two workshops are summarised in this section of the report.

3.1 Use of water during a measurement period

The regulations currently state that during a measurement period the use of water from a storage or other water supply work is only permitted when water take has been measured using the point-of-intake method. Use of floodplain harvested water during the measurement period is not currently permitted when using storage metering equipment, as this relies on measuring changes in storage water levels. If water is removed from a storage while water is being put into the same storage, total take cannot be accurately measured.

Workshop participants were adamant that irrigating while capturing floodplain water was a common practice and is essential to effective land management. Participants felt that after commencement, DPE Water would be inundated with requests for exemptions as the need to irrigate during a measurement period was considered more of a necessity, than an anomaly.

It was acknowledged that landowners require some flexibility around the ability to irrigate during a flood event. Several practical situations were identified during the workshop process where this restriction posed a significant and unintended disadvantage for some landowners. Detailed review of some of these on-farm circumstances during the workshop process also identified that some intended solutions, such as subdivision of works approvals, wouldn't be possible in some cases.

DPE Water committed to take this issue away for further consideration and investigate how this issue could be better managed within the regulations without compromising the requirement for accurate measurement.

3.2 Flexibility between water accounts

Landowners wanted greater flexibility within the system. A key aspect of this was enabling debiting against different accounts where one account was fully drawn but another had capacity.

A common scenario identified is whether a water user had options if they exhausted all of their floodplain water but still had supplementary water capacity in their account. Could that person then take floodplain water, within the limits of their existing licences, and debit it against a supplementary or general security account? Landowners identified an undesirable situation, of having to blow floodplain water out where they had an existing balance on another account.

This issue is one DPE Water will consider for action. It was noted that allowing flexible debiting between accounts, has implications for compliance with rules for different categories of water and is a policy decision that would likely require some regulatory change.

A different but related issue identified, was the restrictive nature of some of the trading rules, specifically temporary trades. It was recognised that a review of the trading rules is likely to be required in the future.

3.3 Real time access to data

Concerns were raised about the availability of floodplain harvesting data for landowners. It was noted that government agencies would receive hourly updates, while landholders would only receive daily updates. It was made clear that having access to data on their floodplain storage only once daily was considered insufficient, and an impediment to both effective farm management and compliance with the regulations.

For on-farm management, particularly during a flood event, real time or 15-minute interval data was viewed as a minimum requirement to effectively manage capture, storage volumes and water movement. Concerns were also expressed that the infrequency of data access may place landowners at risk of non-compliance as they may exceed their licence limits by the time the data is conveyed to them and they can act on it.

It was recognised that DPE Water was seeking to implement a measuring system that was at the lowest possible cost, and longest battery life with minimal maintenance. However, landowners felt that without options for greater frequency of data access the regulations were 'a step backwards.'

DPE Water has committed to investigate the availability of upgraded packages where more frequent transmission of data to the farm was an option.

3.4 Storage meter data display

In a point related to the previous one on real time storage data access, participants stressed the utility of metering devices being equipped with a data display, to provide immediate on-ground readings of storage levels. Participants suggested the lack of a display on meters may be a hindrance to on-farm management and compliance and asked if this could be considered as an available option to landholders.

3.5 Timing of secondary device approval

For compliance with the licensing framework, landholders have 12 months from the commencement of water sharing plans to install primary metering equipment. With this 12-month requirement, and commencement of the licensing framework in August 2022, landholders expressed concern about validation and options for secondary devices.

Many landowners are reportedly using a tape measure as their secondary device, but there was some uncertainty as to whether this would be considered sufficient as a 'Minister approved secondary measurement device'. Landowners were concerned they may be considered non-compliant, and subject to enforcement, if there was no certainty on what constituted an approved secondary device.

DPE Water committed to investigate this issue further and provide advice back to landowners as soon as possible.

3.6 Compliance pathway

The challenge of landholders being fully compliant, in terms of measuring equipment, before August 15, 2023, was acknowledged. However, a key message from DPE Water and NRAR at both workshops was that it is critical for landowners to get the process under way.

Agency staff stressed that the expectation is that landowners will need to be compliant by the deadline. However, it was recognised that this may be challenging in some circumstances. The overarching message was that landowners should commence the process, including the engagement of a duly qualified person (DQP), as soon as possible.

It is understood, that in some circumstances full compliance by the required date may not be possible. However, in all situations a landowner must be able to demonstrate, with documented evidence, that they have made all reasonable efforts to comply within the specified time. At a minimum this would likely include

active steps such as engaging a DQP, having or booking a site visit/assessment, purchasing or ordering equipment etc.

A key message from DPE Water was that they will continue to work with landowners to identify barriers to compliance, and where possible identify solutions. The second part of the message was that it is critical for landowners to be able to demonstrate that all reasonable efforts to comply have been made.

3.7 Complexity as an irrigator

The workshop process and the detailed discussions about a wide variety of on-farm circumstances reinforced the complexity of regulation in floodplain harvesting. Participants stressed the multitude of complex issues that needed to be managed in a viable farming enterprise, with the 'myriad of rules' around water use being just one of many considerations.

The agencies acknowledged the complexity, and re-enforced their commitment to continued engagement with landholders, communities and organisations to find the right balance between accountability, flexibility and sustainability.

4 Actions from workshops

As a summary the key actions that DPE Water and other agencies have agreed to investigate further are below.

Issue	Further Action/Response
Clarification of 'Minister-approved secondary measurement devices'.	<p>Secondary measurement devices must be approved by the minister or delegate, and the department must maintain a list of approved devices on the website.</p> <p>It is anticipated that information will be available on the department's website by early September 2022 and an email with a link will be sent to participants when the information is available.</p>
Option to upgrade access to real time data.	DPE Water is working with WaterNSW to investigate how landowners can get more regular updates from iWAS.
Starting and stopping an event and linking this with the NSW Government's data acquisition service DAS. Without having that data immediately available, sometimes even the next day, it is difficult for landholders to make quick decisions. How is this going to work in practical terms?	DPE Water to model different situations and conduct further engagement with landowners through webinars or other means.
Enabling debiting against different accounts if one account was fully drawn but another had capacity.	DPE Water to investigate and respond.
Does the magazine re-set from the reservoir after sending the water to the environment or after a dam failing?	<p>If water take is measured using point-of-take equipment, all take will be debited.</p> <p>If using storage measurement equipment, water take is measured based on changes in water levels. If water is returned to the environment (or a dam fails):</p> <ul style="list-style-type: none"> • during a measurement period, it will not be debited against the FPH licence • after a measurement period, the total take will remain debited against the FPH licence.
Increase ways to improve the user-friendliness and ease of operation of the system - iWAS etc.	WaterNSW will be seeking volunteers for some user testing.

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Issue	Further Action/Response
<p>Clarify what information landowners are required to collect and in what form? Confirm what NRAR will require.</p>	<p>Mandatory recording and reporting requirements are imposed through conditions on work approvals. A 'plain English' version of these requirements have been supplied to approval holders.</p> <p>Property Measurement Plans (PMPs) can also be used to demonstrate how water is taken and measured on a property, however PMPs are not a mandatory requirement. DPE Water and NRAR are collaborating on a PMP template, which will be distributed and made available online.</p>
<p>Provide an option to include a display screen on storage metering equipment.</p>	<p>Storage metering equipment standards do not preclude equipment from having a display screen. The intention of the standards was to be inclusive of minimal cost and maintenance products, for water users.</p>
<p>Use of soil moisture probes as alternative measurement method.</p>	<p>The regulation only provides two options for primary metering equipment - storage and point-of-take.</p> <p>If it is not physically possible to comply with the primary metering equipment requirements as specified in the regulation, water users can apply for an exemption under cl238c.</p> <p>Generally exemptions under cl238c will still require water take to be measured by a method that aligns as closely as possible to the requirements specified in the regulation.</p>
<p>Accounting implications and practicality for using floodways/channels to transfer stored FPH water to irrigate a field during an event. Regulations state that landholders can't mix flow, but where storage and a field are separated by floodway/channel, there is no other way to transfer water to the field.</p>	<p>DPE Water to investigate and respond.</p>