

# Proposed amendments to the Water Management (General) Regulation 2018



*Rainwater puddles in the dry Barwon River at Walgett 14 December 2020 at the Barwon Inn where paddle steamers used to be loaded. This location is approx. 2km downstream of the newly-raised weir. Photo Dharriwaa Elders Group.*

## Submission from Dharriwaa Elders Group, Walgett

30 December 2020

## **Dharriwaa Elders Group**

Dharriwaa Elders Group is an association of Aboriginal Elders who live in Walgett, a river town of about 2,100 people, the majority Aboriginal. Walgett is where the Baawan (Barwon) and Ngamaay (Namoi) Rivers meet, upstream of the town of Bourke. Walgett is in Gamilaraay Country, close to the borders of Ngiyambaa and Wayilwan Countries, and is now home to Gamilaraay, Yuwaalaraay, Ngiyambaa and Wayilwan Aboriginal Nations, as well other Aboriginal and non-Aboriginal people.

Rivers have always been, and remain central, to Walgett culture and life. Rivers provide drinking water and food (particularly regular fish meals), water for birds and animals, gardens and food security. For Aboriginal people the health of the river and the health of people come first.

In recent times Walgett's Aboriginal community has suffered from drought, climate change and the river drying up. The lack of water and food security is of great concern to Elders. It's our belief that Walgett's current situation is due to the way water is managed, and that irrigators upstream of Walgett have been favoured, over the health of the river and over people downstream. It is a failure of a system that is required by law to manage the rivers to protect the river and in the interests of all Australians.

### **Amendments**

#### **1. Water Management (General) Amendment (Floodplain Harvesting Exemption) Regulation 2020**

##### Summary of DPIE explanation of this amendment

*This will provide an exemption from the need for a water supply work approval for the use of a tailwater drain. It will provide an exemption from the need for a water access licence for the collection of rainfall run-off from an irrigated field into a tailwater drain when no other overland flow is being taken by works on the land, other than a tailwater drain. During times when this exemption does not apply, the volume of water collected in a tailwater drain must be measured and accounted for under a licence.*

##### **Dharriwaa Elders Group response**

Dharriwaa Elders Group objects to this exemption.

No floodplain harvesting should be allowed until all works and water take are licenced, metering is in place and Water Sharing Plans have rules that protect the environment, cultural values and downstream communities.

#### **2. Water Management (General) Amendment (Exemption for Rainfall Run-off Collection) Regulation 2020**

##### Summary of DPIE explanation of this amendment

*This sets out the processes for how actual or proposed floodplain water usage by landholders will be converted it into replacement floodplain harvesting licences. There are several stages in this process. If a landholder meets the requirements of each stage, a floodplain harvesting access licence will be issued, with share components determined in accordance with the process set out in the Regulation.*

### **Dharriwaa Elders Group response**

Dharriwaa Elders Group objects to this exemption.

This exemption allows free unaccounted access to rainfall runoff on irrigation fields when no other access to overland flow is available and above the 10% rainfall runoff harvest rule.

The argument that it is too complex to estimate the volume of rainfall runoff from an irrigated field is not accepted.

### **3. Water Management (General) Amendment (Floodplain Harvesting Measurement) Regulation 2020**

#### *DPIE explanation of this amendment*

*Under this proposal storages used to collect water under a floodplain harvesting access licence must be fitted with compliant metering, data logging and telemetry equipment, and tamper-evident seals. Equipment will need to be installed and signed off by a duly qualified person.*

*The deadline for installing compliant equipment will be 1 July 2021 or 1 July 2022, depending on the size of the storage and its frequency of use. All water taken under a floodplain harvesting licence from 1 July 2021 will need to be measured.*

*The proposed changes also set out requirements for reporting water take during a flood event and processes to follow if metering equipment fails.*

### **Dharriwaa Elders Group response**

Dharriwaa Elders Group supports metering of all floodplain harvesting as a condition of granting an access licence. All eligible works must have a meter installed.

Dharriwaa Elders Group does not support a transition period for small (< 1 GL) or infrequent users.

If meters are faulty, no floodplain harvesting should be allowed.

### **4. Water Management (General) Amendment (Floodplain Harvesting) Regulation 2020**

#### *DPIE explanation of this amendment*

*This amendment is intended to provide clarity on the use of eligible works for floodplain harvesting prior to the licensing and regulatory framework being complete, or 1<sup>st</sup> July 2021, whichever is sooner. It will provide a temporary exemption from the need to hold a water access licence and water supply work approval when undertaking floodplain harvesting using an eligible work.*

*Reporting and measurement requirements are included in this proposed amendment, along with penalties for failing to meet those requirements.*

### **Dharriwaa Elders Group response**

Dharriwaa Elders Group supports licensing of floodplain harvesting.

Dharriwaa Elders Group does not support any exemption, temporary or otherwise, from the need to hold a water access licence or water supply approval.

## General comments

Dharriwaa Elders Group considers that consultation on these amendments has been unsatisfactory. The Department has not provided sufficient time for stakeholders to consider the amendments, their interactions and implications.

The draft regulations continue the Department's position, identified in the recent ICAC report, that the rights of irrigators '*...were given priority over the rights of other stakeholders and that there was a clear alignment between the department's strategies and goals and those of the irrigation industry.*'

Dharriwaa Elders Group is deeply concerned about the health of the Barwon-Darling/Baaka River. The river never dried up and rarely stopped flowing. When it did stop flowing it was only for a short time, even during the Federation and 1940s droughts. Aboriginal science and knowledge of the river tells us that it is dying. This is affirmed by the knowledge we are gathering from scientists who work in the Western scientific tradition.

The Dharriwaa Elders Group believes that the way floodplain harvesting is being managed is opposite to the way it should be. Access to floodplain harvesting should not be granted until the river has flows to the end of the system, and that these flows are maintained so as to protect the life of river and the people living on the river.

Floodplain harvesting must be undertaken consistently with the requirements of the Water Management Act. These requirements include, but are not limited to, the priority of use provisions in the Act. These provisions state that ecosystem, drinking water, stock and native title needs must be met before irrigation. At the moment we can see that these needs are not being met where we are in Walgett.

Licensing floodplain harvesting will be a gift of hundreds of millions of dollars, maybe billions of dollars, to irrigators in the Northern NSW part of the Basin, while Walgett has no water security or drinkable water and while many in our community and other Aboriginal communities in the Northern Basin live in poverty. Dharriwaa Elders Group would like the opportunity to propose alternative industries to irrigation, to benefit from the support of the NSW Govt. They would provide more jobs and greater wellbeing for our community and would protect the rivers. They will not rely on floodplain harvesting.

The floodplain licencing process will have to prove that it enforces the requirements of the Water Management Act. NSW DPIE will have to rebuild our faith that government will conduct the licencing process fairly, that government investments and subsidies will provide value for money, and that the needs of the ecosystem, drinking water, stock and native title are met before irrigation.

Dharriwaa Elders Group believes that there must be a permanent embargo on Floodplain Harvesting until all licences and regulation are in place, and a business case persuades us of the benefit to our community of awarding a multi-million dollar gift in times of increasing water scarcity to the irrigation industry.