

# *Namoi Water*

## **Namoi Water Submission to the draft NSW Floodplain Harvesting Policy May 2010**

Namoi Water welcomes the opportunity to provide our view on the draft NSW Floodplain Harvesting Policy. We find the policy as written and discussed at the Moree workshop on the 30th April 2010 to be an inherently practical policy. The MDBC/A cap issue is our number one concern given the Namoi has an arbitrary figure plugged into the IQQM to establish the model run for the regulated system WSP. The unregulated users also express concern that during the volumetric conversion for unregulated water access licenses, overland flows were not in their view included.

Access to floodplain activity is associated with high levels of infrastructure expenditure and security of employment in the Lower Namoi. Floodplain harvesting has kept several Lower Namoi farming businesses financially viable as they have struggled with drought and cutbacks to other water access.

Namoi Water is the peak representative irrigation and water entitlement group in the Namoi Catchment. We represent over 800 voluntary members, many of whom financially depend on access to floodplain flows. The history of this access extends back over 45 years. As irrigation properties were developed in floodplains fields were protected from flooding and the practice of utilising the diverted water has grown. As water access to river sources became more limited floodplain flows have been targeted as a dedicated water source with dedicated infrastructure. These activities have been recognised by the relevant state agencies and there has been no attempt to avoid transparency on the part of landholders.

Namoi Water welcomes the formalising of access arrangements to this important water source in the Namoi. The extent of floodplain access and associated development is not limited to the Lower Namoi. We have members between Mullaley and Tambar Springs as well as on the Liverpool Plains who have infrastructure dedicated to harvesting these flows. The Lower Namoi features the most infrastructure and a higher level of reliability given the episodic nature of this resource.

The issues we intend to address in this paper are licensing and complaints issues, MDBC/A Cap measurement and growth in use issues, anomalies processes and water account issues.

## **Namoi Regulated system MDBC/A Cap on diversions**

The Cap issue is crucial to the licensing of floodplain access licence being conducted in a fair and reasonable manner that reflects the intent of the **Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003**.

Our regulated WSP in section 70 states that the Minister may amend the plan to include floodplain harvesting; we draw the Office of Water's attention to sect 70 (b). This issue was discussed at Moree and has been the subject of correspondence to previous Ministers. We are pleased that the response at Moree clearly indicated that the department recognises that the Namoi regulated plan makes no specific recognition of the floodplain activity and we request, as matter of urgency, that we commence a discussion on reviewing schedule F to include the request and consideration of floodplain licensing in the Namoi.

We provide some figures to show cause for our concerns; the gap between our regulated Cap and licensed access to regulated water is already large. Plan limit 238,000 Megs or cap baseline 256,000 Megs against 377,843 of licensed access to the regulated system.

### **From Regulated WSP:**

*Regulated Plan limit Namoi IQQM run number 9078. This indicates a long-term average annual extraction volume of 238,000 megalitres.*

*Cap baseline regulated*

*Cap baseline conditions in subclause (1) (b) has been made using the Namoi IQQM run number namo3414. This indicates a long-term average annual extraction volume of 256,000 megalitres.*

*Total megalitres entitled under high security general security, supplementary access and local water utility licences for the upper and lower Namoi equals 377,843 megalitres*

## **Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003:**

### **Section 70 Amendment of Plan relating to floodplain harvesting**

The Minister may amend this Plan so as to provide for the floodplain harvesting of water by amending the waters or water sources to which this Plan applies and by consequential amendments so long as the amendments:

- (a) if the Plan has already taken into consideration floodplain harvesting extractions, do not affect the outcomes of the long-term extraction limit specified in the Plan, or
- (b) if the Plan has not already taken into consideration floodplain harvesting extractions, do not allow more water being taken pursuant to access licences for floodplain harvesting than**

**permitted under Schedule F to the Agreement within the meaning of the Murray–Darling Basin Act 1992.**

We endorse the ring fencing of regulated WSP floodplain growth in use impacts within the regulated WSP; specifically that any growth in use of the final licensed floodplain access will not be mitigated by reduction of the supplementary water access.

### **MDBC/A Cap Diversions from the unregulated Namoi Catchment System**

Namoi Water accepts that diversion from the unregulated streams be accounted for in the WSP for these water sources. Again our concern is that the MDBC Cap on extraction numbers for the Unregulated Namoi streams do not currently include diversions due to Floodplain Harvesting activities. Our members that were involved in the unregulated system volumetric conversion process are emphatic that overland flow was specifically excluded from the unregulated cap discussions. Discussion on this issue needs to be commenced immediately as well as included in the engagement programme as the potential unregulated diversion numbers become better understood.

### **Recommendations**

- That discussions on a review of schedule F in accordance with section 70 (b) of the Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003 commence immediately.
- That growth in use issues for floodplain access licenses is dealt with by reductions on floodplain harvesting access and not through reductions in Supplementary water access.
- That discussions be commenced immediately regarding Namoi Water objections to unregulated floodplain diversions not being accounted for in the current unregulated MDBC/A Cap.
- As the potential unregulated diversion volume is understood through the EOI licensing process, that discussion with unregulated water users is entered into to deal with any growth in use issues caused if there is a greater demand for floodplain licensing than anticipated during the unregulated volumetric conversion process.

### **Licensing establishment, volumetric conversion, tenure and compliance issues**

Floodplain harvesting activities are principally carried out through ground works that divert or impound floodwater. This water may be stockpiled into a storage through pumping, gravity fill or simply remain impounded on or near the floodplain.

## **Establishing the volume to be recognised**

Floodplain harvesting is currently not required to be metered and Namoi Water supports the concepts discussed and tentatively agreed to in the meeting with agency staff at Moree on the 30<sup>th</sup> April 2010. A history of use through metered readings is not possible and as such a combination of the capacity of the works, potential yield and any anecdotal or 'harder' measurements of access history will have to be constructed. These numbers should be kept as 'hard' as possible as they will have a direct bearing on MDBC/A Cap on extraction adjustment and measurements. Numbers that lead to establishing inactive licenses must be avoided; the department and industry have learnt through bitter experience that licensing inactive access component leads to financial hardship and emotive negotiations if ever reductions are required in the future. Namoi Water commits to an active engagement process between members and the department to keep these numbers as realistic as possible.

It is crucial to establishing accurate entitlements that water account rules and cap assessment rolling averages be assessed over at least five year periods. This will allow fair volumetric conversion that allows utilisation of infrastructure to the capacity it was designed for.

## **Recommendations**

- A call for expressions of interest should be issued to all Namoi Catchment landholders.
- This EOI should include a request for a description of the works or activity and a request for a volumetric license.
- Engagement programmes to be enacted after the EOIs are received.

## **Compliance**

Compliance testing will not be possible through metering as floodplain harvesting works are typically incorporated with other works that control field runoff and allow general security and supplementary river water to be accessed at the same time. Typically a rain event that would trigger floodplain harvesting will trigger field run off and possibly a supplementary river event. The cost of duplicating the infrastructure to segregate these three water sources would be incredibly costly. Namoi Water suggests a water balance system as discussed at Moree. A water balance system adding up metered river water and field runoff estimates to be deducted of increases in storage volumes. Impounded water on the flood plain would be measured by a formula of the area covered and the depth of water in that area.

## **Recommendations**

- That a water balance accounting system be used to measure diversion of water from the floodplain.
- That harvesting works be identified and attached as conditions to the licence.

## **Tenure of license**

Namoi Water requests that floodplain licenses be granted in perpetuity and be linked to the Section 87 compensation provision within the NSW Water Management Act 2000. This is consistent with our request that supplementary water be granted these same levels of recognition. Both these water access activities incur considerable capital investment and underpin financial security and employment in our region.

## **Recommendation**

- That Floodplain harvesting access licenses be issued in perpetuity and be linked to section 87 compensation clauses in the NSW Water Management Act 2000.

## **Licensing Floodplain Harvesting under the Namoi Regulated River Water Sharing Plan**

Namoi Water understands that the current State / Commonwealth water agreements encourage the volumetric recognition of floodplain harvesting (deemed to be a diversion from the Namoi River) be gazetted within the Namoi Regulated River WSP. We endorse the ring fencing of floodplain growth in use impacts within the regulated WSP; specifically that any growth in use of the final licensed floodplain access will not be mitigated by reduction of the supplementary water access. Any growth in use for floodplain harvesting should be mitigated within the floodplain license access arrangements. This will also allow for the establishment of a five year rolling average for water accounts and MDBA Cap on extraction assessment within the floodplain category of usage. We will deal further with the reasons we support a five year averaging arrangement for water accounts and Cap assessment later in this paper.

## **Licensing Floodplain Harvesting within the Namoi Unregulated system**

Namoi Water accepts that diversion from the unregulated streams be accounted for in the WSP for these water sources. It should be noted that with the exception of the Mooki system the Namoi unregulated water sources are without Water Sharing Plans at this stage. Namoi Water would not want delays in these WSP to exclude floodplain harvesting from Commonwealth recognition. In the section on MDBC/A Cap on extraction issues we rose concerns that floodplain harvesting is not accurately accounted for in the CAP calculations for the unregulated system.

## **Recommendations for regulated & unregulated systems**

- That the access licenses and arrangements be gazetted under the relevant Water Sharing Plan.
- That the unregulated plans be made to allow unregulated and associated overland flow access to be recognised under Commonwealth /NSW compensation arrangements.
- That the Namoi regulated schedule F cap be adjusted to include the new licenses for pre-existing practices.
- That a review of the unregulated CAP agreement and numbers be carried out when the EOI is completed. This review to include unregulated water users and floodplain license applicants.

## **Is a part 8 or part 2 1912 Water Act works approval the gateway for licensing?**

The ground works should be licensed under the NSW 1912 Water Act principally under part 8 or part 2. There is a significant problem with using a part 8 and/or part 2 approval as the gateway for licensing under the NSW Water Management Act 2000 Water Sharing Plan process. Namoi Water has members who have waited over twenty years for part 8 and part 2 applications to be processed. In the course of waiting, requests have been made by the state agency to vary the application and then these variations are simply returned to the queue with a new (later) application date. These problems and the waiting list are widely known and have led to people failing to lodge applications. Additionally, there are anomalies where people, including subsequent property owners, have acted in good faith yet may not have licensed works. There are other instances of applications not being able to be located. These problems with the application process should not become a blame issue. They are a problem of under resourcing of the department and a sensible anomalies process should be developed.

### **Recommendation**

- That an anomalies process be constructed through consultation with the irrigation industry. We would suggest a terms of reference and independence in the assessing committee. Possibly the Namoi CMA could carry the administration.

## **Water accounts and Rolling average assessment for Cap compliance processes**

Floodplain harvesting investment is predicated on a capacity to capture large quantities of water during occasional events. Any water account rules that draw a line through the peaks and troughs will effectively create stranded assets. A sensible entitlement combined with a five year average water accounting and cap assessment will allow the infrastructure to work at its invested capacity as well as allowing the NSW government the capacity to ensure extractions are in keeping with the licensed quantities over time.

### **Recommendation**

- That the water accounts and cap assessment be monitored through a five year rolling average.

## **Commonwealth risk assignment compensation recognition**

Namoi Water would like clarification from the NSW Office of Water as to the standing of new floodplain access licenses for risk assignment / compensation eligibility within the current State and Commonwealth agreements on water.

### **Recommendation**

- That the NSW government clarify through discussion with the Commonwealth the status of floodplain licensed water in regard of risk assignment / compensation rules.

## **Trading rules**

Namoi Water supports permanent trade where clear proximity / connectivity can be shown so that there is no reduction to other licence holders' reliability of access. Decommissioning or disabling of floodplain harvesting works should be a requirement of any permanent trade.

Namoi Water supports temporary trade again where clear proximity / connectivity can be shown so that there is no reduction to other licence holders' reliability of access. In addition to this requirement Namoi Water would only support a temporary trade where it can be proved that traded water will not also be accessed at the source of the temporary trade.

## **Recommendations**

- Permanent and temporary trade is allowed where clear proximity / connectivity can be shown so that there is no reduction to other licence holders' reliability of access.
- That temporary trade should only be allowed where it can be proved that traded water will not also be accessed at the source of the temporary trade.

# RECOMMENDATIONS SUMMARY

## **MDBC/A Cap Diversions from the unregulated Namoi Catchment System:**

### **Recommendations**

- That discussions on a review of schedule F in accordance with section 70 (b) of the Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2003 commence immediately.
- That growth in use issues for floodplain access licenses is dealt with by reductions on floodplain harvesting access and not through reductions in Supplementary water access.
- That discussions be commenced immediately regarding Namoi Water objections to unregulated floodplain diversions not being accounted for in the current unregulated MDBC/A Cap.
- As the potential unregulated diversion volume is understood through the EOI licensing process, that discussion with unregulated water users is entered into to deal with any growth in use issues caused if there is a greater demand for floodplain licensing than anticipated during the unregulated volumetric conversion process.

## **Establishing the volume to be recognised:**

### **Recommendations**

- A call for expressions of interest should be issued to all Namoi Catchment landholders.
- This EOI should include a request for a description of the works or activity and a request for a volumetric license.
- Engagement programmes to be enacted after the EOIs are received.

## **Compliance:**

### **Recommendations**

- That a water balance accounting system be used to measure diversion of water from the floodplain.
- That harvesting works be identified and attached as conditions to the licence.

## **Tenure of license:**

### **Recommendation**

- That Floodplain harvesting access licenses be issued in perpetuity and be linked to section 87 compensation clauses in the NSW Water Management Act 2000.

## **Licensing Floodplain Harvesting under the Namoi Regulated River WSP and**

### **Licensing Floodplain Harvesting within the Namoi Unregulated system:**

#### **Recommendations for regulated & unregulated systems**

- That the access licenses and arrangements be gazetted under the relevant Water Sharing Plan.
- That the unregulated plans be made to allow unregulated and associated overland flow access to be recognised under Commonwealth /NSW compensation arrangements.
- That the Namoi regulated schedule F cap be adjusted to include the new licenses for pre-existing practices.
- That a review of the unregulated CAP agreement and numbers be carried out when the EOI is completed. This review to include unregulated water users and floodplain license applicants.

### **Is a part 8 or part 2 1912 Water Act works approval the gateway for licensing?:**

#### **Recommendation**

- That an anomalies process be constructed through consultation with the irrigation industry. We would suggest a terms of reference and independence in the assessing committee. Possibly the Namoi CMA could carry the administration.

### **Water accounts and Rolling average assessment for Cap compliance processes:**

#### **Recommendation**

- That the water accounts and cap assessment be monitored through a five year rolling average.

### **Commonwealth risk assignment compensation recognition:**

#### **Recommendation**

- That the NSW government clarify through discussion with the Commonwealth the status of floodplain licensed water in regard of risk assignment / compensation rules.

### **Trading rules:**

#### **Recommendations**

- Permanent and temporary trade is allowed where clear proximity / connectivity can be shown so that there is no reduction to other licence holders' reliability of access.
- That temporary trade should only be allowed where it can be proved that traded water will not also be accessed at the source of the temporary trade.