

22 November 2024

Landholder Negotiation Scheme Regulation
Water Group
Department of Climate Change, Energy, the Environment and Water
Locked Bag 5022 Parramatta NSW 2124

via email: admin.rrcp@dpie.nsw.gov.au

RE: Submission - Landholder Negotiation Scheme

Our submission is based on the the following:

- Draft Landholder Negotiation Scheme Regulation Consultation Paper (September 2024)
- Negotiation Guidelines: Landholder Negotiation Scheme Regulation 2024 (Draft) (September 2024) (LNS)
- Regulatory Impact Statement for Landholder Negotiation Scheme Proposed (September 2024) and
- Water Management (General) Amendment (Landholder Negotiation Scheme) Regulation 2024 (public consultation draft).

In addition, our submission addresses issues not expressly listed in “The Guidelines” which need to be included as they are inseparable from the Reconnecting River Country Program (RRCP or Program). As such this submission is inclusive of The Department of Climate Change, Energy, the Environment and Water (DCEEW or Department) requests for submissions on:

1. Draft LNS Regulation
2. LNS Negotiation Guidelines
3. LNS Regulatory Impact Statement and
4. “any other feedback you would like to include in your submission”

This submission presents our concerns and issues, and concludes the Program, LNS and other parts of The NSW Water Strategy must be halted and reviewed until the issues we raise are fairly and reasonably dealt with.

Introduction

This submission covers the following inadequacies:

1. inadequate consultation
2. incomplete programs and legislation
3. Inadequate information and disclosure
4. undecided flow regimes
5. inaccurate mapping
6. concurrent programs that are physically connected but separated out in the present consultations and
7. business case secrecy.

Also a clear lack of consultation into, or a lack of consideration of, alternative legal mechanisms to flow water over freehold land other than easements as the Government's preferred option. We have not been provided with the other options that the Department states it has considered.

This paper highlights the lack of Environment, Social and Governance (ESG) assessment publicly available to fully assess the benefits, risks and impacts across these criteria. It raises concerns that the Government has an undisclosed conflict of interest in the Program at both cause and financial benefit.

We will present in this submission an alternative solution that will ensure more cooperative participation by landholders and, therefore, avoid a long drawn out process as landholders resist encroachment of their freehold rights to land ownership.

1. Inadequate Consultation

Consultation has been inadequate and demonstrably so, as agreed by Minister Jackson, *"I absolutely accept as fact, and that is that the process of dialogue up to this point has been suboptimal. There is not a lot of trust and there is a lot of concern from landowners about what the impact on them will be. That is well understood."* (Legislative Council Hansard, 22 October 2024). The Minister goes on to say, *"I will take on notice the costs of some of the previous attempts. I deliberately describe them as "attempts" at negotiation, because they were not real negotiations."* We note, by negotiation, it is assumed The Minister means "consultation".

Our reasons include the following:

- In the course of consultation meetings held with the LLS, supposedly to share information and staff were not able to answer elementary questions about the Program. Questions were taken "on advice", which then took five and a half weeks for a response. Many of the answers provided were inadequate and so further questions were asked for meaningful answers and clarification. These remain largely unaddressed.
- RRCP initially stated that during the consultation period 200 landholders were consulted, which represents less than 5% of landholders impacted. This figure was then changed in public press releases to 900 over several years, which in fact, does not relate to the current round of consultation.
- LLS has the location contact details of all landholders in NSW and all could have been contacted directly. LLS has not once, that we are aware of, included the consultation meetings or submission information in regular newsletters.
- RRCP failed to notify even a small number of landholders about the October meetings online and in Wagga Wagga. After this was brought to their attention, DPIE sent out an email apologising and blaming "technical" problems.
- RRCP then cancelled the Wagga Wagga in-person meeting with just two days notice citing "logistical" issues. A member of the Program staff then rang several people requesting to share the real reason in confidence, which not all agreed to. The claim was made that the real reason for canceling the meeting was concern for the safety of staff. Requests have been made to the Program to substantiate that claim and none has been forthcoming.
- One of the people contacted was told during the conversation that they sounded angry and aggressive when, in fact, they were simply expressing their views strongly, which was appropriate in the circumstances.
- After requests to re-hold an in person meeting in Wagga Wagga, co-chaired with landholders, one was set up at the RSL Club on 30 October 2024, but was not co-chaired. The MC spent the first 12 minutes (timed by one attendee) lecturing the participants on what would be regarded as

acceptable and unacceptable behaviour, and what criteria would terminate the meeting. This was received as puerile and unnecessary.

Clearly the consultation itself has been inadequate in content (see below), contact, consistency, consideration and timing.

The code of conduct is questionable, has not followed due process and cannot be regarded as being carried out in “good faith”.

The program should not proceed further until such time that all landholders have been contacted directly, consulted in “good faith” and in a consistent manner. If all landholders can be contacted for the proposed negotiation of easements and compulsory acquisition, then surely this can happen for consultation.

2. Incomplete Information

The Minister has already acknowledged our serious concerns of being provided inadequate information, saying, *“I do not want to end up in a circumstance where people are saying, ‘We were not asked. No-one talked to us. We did not know about this.’ The Government wants them in the room. It is an all-cards-on-the-table conversation.”* (Legislative Council Hansard, 22 October 2024)

The “Program” itself is still draft, with uncertain flow regimes. The Landholder Negotiation Scheme (LNS), for negotiation on that draft “Program”, is also in draft and the Just Terms Act that underpins it is currently under Governmental review.

Concurrently, Cultural Water (flows and access) is also under development and consultation, which RRCP says is a separate program yet flows down the same river. These flows are likely to impact landholders, and potentially cumulatively to environmental flows, and so this information is required to make informed decisions in the landholder negotiations. There is also a review of unregulated water and a call for submissions on that as well.

All of these parts of the Program, other programs and reviews, overlap either via the river and/or land ownership, and none are finalised. Affected landholders impacted cannot make informed decisions in the absence of adequate levels of information to do so.

We believe that the Government will regret coercing landholders via the threat of compulsory acquisition. As the Government will fail if it tries to bulldoze negotiations on the basis of an incomplete understanding of the risks, conditions and impacts that are not yet finalised, nor made public.

We also refer the reader to the NSW Government's own website, [The NSW Water Strategy](#), which has 3 Horizons covering 7 Priorities which includes the Programs being reviewed, developed and implemented across the State.

We wish to bring to your attention that the RRCP is not even included in any of the Priorities listed. This lack of strategic communication is deficient and requires rectification prior to any further development of the program.

3. Just Terms Act

Farms are not simply businesses. They are imbued with meaning. Farmers work a lifetime to care for the land, improve the environment and develop productivity. Many for generations. It is imperative that these factors are included in any compensation negotiated.

The Just Terms Act, under section 55(b), excludes longevity and emotional attachment under “special value”. These are two of the most valuable components of landholding to farmers. Both of these factors must be included in any landholder negotiations for compensation, if the Government continues to pursue that avenue of implementation.

4. Information Overload

The NSW Water Strategy, as stated above, has 7 Priorities and a number of programs that would appear to fit within those priorities. However, few are listed. Concurrently we are receiving notification of a number of programs all at once requiring understanding, review and submissions. Others we are receiving “via the grapevine”, that appear to have come from no apparent source and we are unaware of their intended use, time frames, implications or relationship to the Program, which we are expected to negotiate on i.e. WSP Wetlands Database.

In our discussions directly with DPIE staff, it is clearly evident, they themselves, as full time employees charged with developing, communicating and implementing programs are not aware of all the programs or their relationships to other programs. One staffer said don't pay attention to The NSW Water Strategy website, it's just there as window dressing.

If Government staff are unable to understand or communicate the programs that we are being asked to review and then live with when implemented, how is it fair and reasonable for landholders to do so? Landholders, have full time jobs operating farming businesses and are just expected to put in significant downtime to understand and comment on programs. Further to this, there clearly is an unreasonable number of programs being communicated for public review at the one time.

For example, we are currently aware of the following, only a few of which are listed in the Priorities of The NSW Water Strategy.

- RRCP Early Works
- Cultural Water
- Water Sharing Plan for the Murrumbidgee Unregulated River Water Sources 2025 (which includes both stock & domestic and harvestable water rights)
- Water Sharing Plan for the NSW Border Rivers Unregulated River Water Sources 2024
- WSP Wetlands Database
- The Floodplain Management Plan for the Murrumbidgee Valley Floodplain (the draft FMP).

5. Mental Health

At the same time, RRCP publicly states funding would be available for caring for the mental health of those impacted. No funding is currently available. We also are led to believe there are Government staff involved in the program taking stress leave. What is the mechanisms available to farmers to take stress leave? Which seems naturally pertinent, given this punitive program is actually being placed on farmers, many of whom have dedicated their lives to the care of their farms, and in many cases this has been done for generations. So it would seem natural that the people who have the most to lose are most likely to experience the highest levels of stress, anxiety and mental health conditions.

6. Business Case

The Final Business Case will not be made public, we have been told by RRCP, it is Cabinet in Confidence and Commercial in Confidence. The reason given for this given at the Wagga meeting on

30 October 2024, was that it will contain private and confidential information of some individuals. If that is the case, then surely those parts can simply be redacted.

It is not fair or transparent to claim secrecy of The Final Business Case, which is of paramount importance for impacted landholders, and the public of NSW, to make informed decisions in “good faith”. This must be made public, with an adequate period of time for consideration, prior to any negotiations with landholders.

The Business Case must include the assessment of all alternative mechanisms considered and rejected, and not just the Governments preferred mechanism of compulsory easements. It must also include how the costs of inundation to all landholders and individuals has been calculated, and made available for review prior to negotiation.

The Business Case needs to show publicly the cost benefit analysis based on Environment, Social and Governance criteria (ESG). While we are told there are environmental factors warranting the program, albeit with inadequate levels of information, there has been no public comment by the Departments involved on any analysis of the Social risks and impacts. Further to this, the completely inadequate consultation, the lack of transparency of information, the number of related parts of the program concurrently in draft, the Just Terms Act in Governmental Review, along with Government interference and potential Governmental conflict of interest (see later comment), indicates that the “Governance” component of ESG is deficient.

7. The Program’s Various Flow Regimes

The Program, we are continually reminded, is still in draft. Yet, we are expected to make submissions on LNS in regard to delivery of that draft program, which is simply unreasonable, unfair and unjust. We have been given a number of different flow regimes of 32,000ML per day, 36,000ML per day and 40,000ML per day, with a 5,000ML per day buffer.

The mapping done does not show the flows, in the event the upper level buffer is reached. The slide presented at the Wagga meeting shows the river height would increase from 6.1m to 6.5m, if the flow rate was 45,000ML per day e.g including the buffer. This makes a significant difference to landholder impacts.

Several landholders have stated that the inundation mapping is not accurate on their properties. We have also been told that mapping is combination of topographical and lidR imaging. Given these two methodologies used, how can we be sure they are both accurate and also equally accurate. We have previously requested details of mapping and modelling used, which the Department has failed to provide.

Landholders need to be provided with accurate flow/flood/inundation mapping with which to make informed decisions prior to any negotiation. This must include all flow modelling, data used and scenarios analysed.

8. The Program’s Unknown Delivery

There is a lack of transparency and information about why, when and how “design flooding” would occur. Specifically, the following are deficient.

8.1. Criteria

What are the criteria used to define when “design floods” are required e.g. are they designed to mimic natural flows prior to the construction of Blowering and Burrinjuck Dams? In other words, is there a clear plan and justification for when these flows would be required?

Are there criteria in place to prevent overwatering? Australian flora has evolved and adapted to survive and thrive in a highly variable climate with extended dry periods. No scientific evidence has been provided to ensure that damage will not be done by over-watering from “design floods”.

Again there is a lack of specificity as to the implementation of the strategy, particularly when to flood and when not to flood.

8.2. Triggers

Based on the criteria, what are the triggers to initiate a design flood? For example, are their hydrogeological measuring devices installed in benchmarked wetlands that will trigger an event, and so provide a clear mandate and justification for a “design flood”?

We have not seen any such justification. Again, these have only been provided in vague, broad and loose terms based on statements like “it will depend on a number of factors”.

8.3. Measures of Success

What will be the measures of success? Are these measures in place and where will they be objectively and publicly provided. For example, will hydrogeological devices installed in benchmarked wetlands be used to show improved conditions and to halt design flooding until triggered again?

8.4. Flows versus Levels

How has the Program modelled the flows versus river levels? We have been provided one set of data translating flows to levels e.g 40,000ML/day equals 6.1m at the Wagga gauge. This implies that this is a consistent measure and conversion when the community knows it is not. For example, on 27 November 2021, the Murrumbidgee River downstream of the Tarcutta Creek was flowing at a higher level than it was on 31 November 2021. Yet the gauge reading at Gundagai on 27 November was 4.6m and on 31 November it was 5.5m

Given that, how can delivery be safely made, when so many other factors come into play e.g. flows from other tributaries, level of lagoons etc. The modelling of the flows under different scenarios needs to be made available so landholders, communities and councils can fully understand the risks, impacts and variability.

Further to that, if and when flows exceed the levels advised, plus or minus the buffer, what remedy will be available to those unreasonably impacted? Is there a mechanism in place to compensate beyond any long term fixed level of compensation agreed, when flows extend beyond agreed level limits?

8.5. Airspace

If environmental water is a percentage of dam holdings, it would seem only naturally logical that any water released in environmental flows or “design floods” remains as airspace in the dams. Will this be the case?

9. Constraint Relaxation Inconsistency

The notion of “relaxing” constraints simply acknowledges and underscores the limited effect these measures will have. By far the greatest constraints are native trees, logs and timber debris that form banks and blockages throughout the lagoons and billabongs that environmental flows are designed to flood.

In communication with Government representatives they have stated these natural constraints are not “constraints”. This convenient approach to redefine what are constraints to flows indicates the inconsistency to the outcomes of the program and the likely low level of gain in any cost benefit analysis.

If “man made constraints” are removed, and natural constraints left in place, what is the modelled improvement to flows? Any heuristic assessment would suggest minimal and, at best, a poor rate of return on any cost/benefit via limited beneficial contribution.

The Governments cost/benefit assessment in the Business Case, must be made publicly available.

10. Components of Compensation

Compensation needs to be inclusive of land directly flooded, as well as severed land. The heads of compensation must include the following, and be in perpetuity.

10.1. Financial loss

- Loss of asset value
- Direct loss of income
- Delayed loss of income due to time lag required to rebuild herds/flocks as is the nature of livestock breeding
- Extended losses when programmed flooding comes on the back of recovery years from other natural environmental impacts such as drought or flood i.e the number of good years available for recovery, given the cyclic nature of agriculture, is reduced
- Compounded losses as every loss reduces assets/income to invest and grow our business, so these losses compound over time
- Business interruption during events and any physical works etc.
- Down time interacting and responding to RRCP

10.2. Decrease in Equity

- Easements lower land value, therefore reduce owner equity
- Equity percentage impact on ability to borrow, loan amounts, bank risk and interest rates charged

10.3. Risks

- OH&S
- Mental health
- Stress and physical health
- Animal welfare
- Biosecurity (noxious weeds, as well as animal and human disease risks)

10.4. Costs

- Crop and pasture losses
- Weed control
- Debris removal
- Rubbish removal
- Roads/tracks/crossings damage
- Erosion
- Fencing
- Destocking/restocking ie selling costs and market price differences
- Freight of stock out/in
- Fodder required for feeding
- Freight fodder in
- Project management for all of the above

Overheads for all the above eg labour, fuel

Opportunity cost ie when working to recover from flood events other farm activities are not happening

10.5. Losses (non pecuniary)

Environmental damage ie river bank erosion and tree losses on river banks, lagoons and billabongs

10.6. Increased Flood Risks

Compounded damage when coinciding with and exacerbating a larger flood event and/or local storm cell events

11. Government Inconsistency

As businesses we are subject to regulations by a number of Government Departments, each placing various requirements on how we undertake and conduct the management of our land and businesses. This program substantially compounds the regulatory burden on landholders. Those requirements need unifying with other Government Departments before proceeding.

11.1. Work Health & Safety (WH&S)

These “design floods” increase the risk and dangers to the workplace on impacted farms for employees, owners and family members. It does so by increasing the frequency of events and therefore the number of dangerous activities required to be undertaken both before and after events. The removal of pumps, letting down fences, moving livestock, moving machinery etc. prior to events. Post event activities include reinstalling pumps, rebuilding fences, re-introducing livestock, removing debris.

If farmers are responsible for WH&S on their own specific farms, the Government needs to be responsible for the WH&S impacts generally across all farms and the industry. No assessment by the program of these risks and impacts have been provided, nor the Governments planned management of those risks. Furthermore, these WH&S risks need to be considered in the Business Case in relation to each of the flow regimes being examined, as they will vary accordingly.

11.2. Biosecurity

Increased frequency of flooding directly increases the vector of biosecurity risk for weeds, animal disease and human disease (i.e. Japanese Encephalitis). When asked, Program representatives stated this is the responsibility of landholders. This is inadequate and irresponsible. Again we require to see where this has been assessed in the Business Case and where relevant agencies have been consulted, such as DPI Agriculture and NSW Health.

11.3. Industrial Development

When we asked for the Departmental Hierarchy of each of the Government departments involved, NSW Infrastructure was omitted, later included as requested, as well as Department of Planning and Environment.

The Department of Planning Environment is responsible for major developments in the State and for setting SEARs requirements for major and integrated developments etc. As such it is the leading Department for sustainable development in NSW and, yet, is still enabling industrial developments on or close to the River system and wetlands. The very environs that the Program is claiming is in poor health and needs protecting and sustaining via “design flooding”. For example:

- a) Tumblong Non-Putrescible Waste Disposal Facility - this toxic waste treatment site was purpose built to take toxic waste from the Visy plant at Adelong. We understand that it has been expanded and is now taking toxic waste from Canberra, as well as Adelong. This site is under ongoing investigation by NSW EPA for odour impacts and potential breach of licensing requirements (<https://www.epa.nsw.gov.au/working-together/community-engagement/updates-on-issues/odour-investigations/tumblong-odours>). The site is upslope from the Murrumbidgee River and the drainage line to the river is visible (see attached photo).
- b) The number of existing or proposed industrial type developments on or close by the Murrumbidgee River and it's protected wetlands between Gundagai and Wagga (see attached image).

These industrial developments are continuing to be approved and built despite the policy of this Program to protect the environment. It appears no assessment of the contamination risks to the river and wetlands (from their operation, or from the design flooding) has been undertaken to identify contaminants downstream to landholders and water authorities supplying drinking water to towns in the Riverina from the proposed environmental flows.

The Business Case needs to clearly demonstrate an assessment of these risks with the EPA and consultation with relevant water authorities such as Riverina Water. Again, this proves inadequate communication between Government departments.

11.4. Forestry Corporation of NSW

State Forests is at both the cause for diminished natural river flows and a beneficiary of the Program. This is via afforestation in the upper catchment causing rainfall interception and timber production in the lower Murrumbidgee.

The upper Murrumbidgee has 155,949 hectares (Forestry Corporation of NSW, 2024) of pine forest that intercepts about 1,500mm of cumulative runoff compared to pasture (Response of streamflow to afforestation and thinning at Red Hill, Murray Darling Basin, Australia, 2011) (see graph attached).

In the lower Murrumbidgee the Forestry Corporation of NSW is paid royalties for harvesting as per the Saw Log Harvest Plans for Riverina Red Gum (see Strategic Planning Region, Riverina Red Gum image). The Corporation states, "*River Red Gum (Eucalyptus camaldulensis) is relatively fast growing where access to water is not restricted. Regeneration occurs mainly from seed, whenever sufficient light, space and moisture exist. Flooding provides the best stimulus for regeneration*". (Forest Management Plan of the Western Forests of NSW, 2019)

Does this mean that the those who live on the Mid-Murrumbidgee will pay the price of receiving "design flooding" to make up for the water intercepted by the Government in the Upper-Murrumbidgee, so the forest harvested by the Government in the Lower-Murrumbidgee can be watered, increasing timber production and profits to State Forests.

This potential conflict of interest is very concerning and requires inclusion in the Business Case. Specially the amount of impact to natural environmental flows via Government rainfall interception, as well as the quantification of financial benefit accruing to the Government from increased timber production in the red gum forests it controls, harvests and sells.

12. Future Government Plans

The NSW Water Strategy, under Priority 2, the first dot point states: "*Cultural flow access - while there are some provisions for accessing water for cultural purposes in NSW, these do not currently meet the needs and obligations of First Nations/ Aboriginal People to care for Country*".

This begs the question of how this stated need for “access” will be met. This is not stated and, in all communication we have had with Government representatives, no one is willing to answer that question. Instead, the response is along the lines of, ‘don’t worry that’s only small and will have no impact’.

Clearly, there is a future agenda without any public information available on the plans to meet that agenda. This is just one example that highlights why the Government must include all other programs related to water and/or the rivers in the Business Case, so that all landholders, communities and councils impacted, from proposed plans and future agendas, are made fully aware in “good faith”.

13. Easements are Unacceptable

We have clearly communicated to the Government via the various Departments and during the inadequate Consultation process, in particular the Wagga Wagga meeting on 30 October 2024, that we will not accept easements.

We particularly note that Victoria remains adamant it will not compulsorily acquire flood easements, *“My constituents will be glad to hear that I have secured from the Water Minister a promise by the Victorian government not to infringe on their property rights by forcing through compulsory flood easements.”* (Wendy Lovell, MLC)

Dr Joe McGirr, has also stated he is “adamant there are no easements”. His staff told Michelle Cavallaro at the Wagga meeting that if you take easements off the table, most of your problems will go away. Also DPIE staff have stated it is clear to them that landholders do not want easements.

Furthermore, NSW Irrigators Council clearly communicated in their submission, April 2022, stating:

“NSWIC is unequivocally opposed to compulsory acquisition, or any planned inundation of private property without landholders’ consent. Relaxing constraints without the necessary landholder permission is inconsistent with the Basin Plan, the Constraints Management Strategy, and Reconnecting River Country Program objectives, and does not demonstrate good faith.”

Clearly, the Department has been well aware of this position for quite some time from previous consultations and continues to demand compulsory acquisition of easements. Landholders, including ourselves, are wholly opposed to any attempt by the Government to compulsorily acquire easements to deliver “design flooding”.

We guarantee that if this path is taken, large numbers of landholders will frustrate the Departments attempt to move to its “Delivery” stage at every step of the way, potentially drawing out the process for years, at great cost and potentially causing the State Government to miss the Federal Governments funding milestones.

14. Fee for Flow Solution

We note that Minister Jackson’s position is, *“I once again indicate to the member that the Government takes this very seriously and is hopeful of landing a positive outcome with landowners.”* (Legislative Council Hansard, 22 October 2024)

We do propose a positive outcome of a ‘fee for flow’ mechanism to meet the needs of all stakeholders and improve delivery of the Program, as described in the following.

14.1. Economically

The Government is taking GDP out of regional areas via water buybacks and the costs of inundation.

This idea provides a replacement income via provisions of environmental services (flow delivery) for the direct loss of agricultural income, as well as indirectly via service industries.

This will be valuable for the economies of regional communities, their survival and vibrancy, and also politically valuable.

This strategic model has been successfully implemented in Europe where payments to landholders for environmental services has maintained the economies and social fabric of local communities.

14.2. Communities

Payment for environmental service delivery will be socially and culturally very important for the vibrancy of regional communities. To enable them to survive, and perhaps even thrive, in changing circumstances with changing government policy. There is ongoing attrition of regional communities. Easements and buy-backs will only add to that, whereas fee for flow can restore social capital in regional areas.

As one drives around small country towns, you can see beautiful verandaed main streets full of empty shops as evidence of the ongoing social attrition. Next to be impacted by loss of GDP will be larger communities e.g those in the Riverina and MIA, once proudly considered a remarkable achievement as the “food bowl of Australia”.

Ricegrowers stated the program could be *“delivered in a much more respectful way, through environmental watering actions that are co-designed and have community support”*.

14.3. Individually

This would be valuable for all individuals involved, for morale and personal worth, as it changes the dynamic from victimhood, powerlessness and compensation for being brushed aside to one of empowerment via payment for a meaningful roll in the Governments program.

As it is, most landholders are living in hope that the program can be sensibly implemented without ownership impacts, that will be on top of the physical impacts from “design flooding”. We worry what might happen as that hope turns to despair, if a sensible resolution to the programs implementation is not reached.

Psychologically this changes the dynamic for many of us. We go from a depressive feeling of hopeless/helpless and of being used, to one of optimism for being valued and rewarded for our contribution.

14.4. Land Values

A one off compensation payment stays with the landholder and, consequently, when they sell the property, the compensation goes with them. As a result land values will be revised downwards commensurately to the decreased value associated with easements. This naturally will have a flow on effect to all land values via comparable sales analysis and collateral of bank loans. It will also ultimately reduce rateable values to councils.

The alternative fee for flow mechanism means the the payment for this environmental service will stay with the land, helping to maintain land values, collateral and rates.

14.5. The Win Win

This could change the dynamic completely.

The Government could turn this to a politically good news sell, to help and develop communities, while still meeting their end goal of environmental flows.

Communities retain their GDP, value and economic vibrancy for the people who live there, as well as for those who visit.

Individual landholders can get paid for a service that offsets the loss of income and additional costs from design flooding, and potentially regain some meaningful purpose to our lives and properties. Rather than simply being downtrodden and resenting the government every single time we receive a “design flood”.

Ultimately, this will naturally encourage responsible flow management by Government, who will need to pay every time they send a “design flood” down the river and for the volume of each of those floods (which naturally can incorporate any over-flow payment).

14.6. Bureaucratically

The Government can get the program delivered, potentially with the support of landholders, enabling a smooth implementation with less cost and more ease e.g in project management terms, exceeding performance measures of time, quality and cost. It will be simpler for Government to implement as well.

If the Department sticks to easements it will be a slow, difficult and long drawn out process, as a majority of farmers will fight it every step of the way and will contest in the courts, if required.

Ultimately, the Government risks missing the Federal funding deadlines if it continues to pursue easements.

14.7. Implementation

No easement is required, just a payment and agreement for service delivery of flows. Legislation currently enables environmental flows and can include mechanisms to remove any legal liability of nuisance or trespass arising in the future.

Like WaterNSW, it could be based on a fixed charge for holding the right to deliver and then a payment for flows based on the ML delivered over our land, as well as severed land.

The fixed charge component makes it enduring for Government, for as long as it wants to run the program.

The value for fee for flow could be worked out by iPART, as well as indexing for CPI over time.

Conclusion

It is clearly evident that the program at this stage is not ready for finalisation or to move to the delivery phase. For all the reasons stated, including the following.

- Inadequate and inaccurate consultation which leaves the majority (up to 95%) of landholders in the dark as to the program, what it entails and the possible risk and impacts to them, their land, lives and businesses.
- Deficient information provision, which makes it impossible for landholders to assess impacts and costs, let alone negotiate any kind of compensation.
- A lack of clarity and accuracy for delivery of criteria, triggers and frequency, again making it impossible for landholders to assess risks and impacts.
- Inadequate assessment of risks and impacts in the Business Case.
- A lack of public transparency in the Business Case, including ESG to ensure a warranted cost/benefit.
- As well as Government conflicts of interest that have not been reported.

Given all of these factors, the Program and LNS (and any other water program being developed) need to be put on hold until such time there is adequate consultation, complete and transparent information,

and a public Business Case (including ESG assessment), along with full disclosure of any Governmental conflict of interest.

Finally, and most importantly, we would like to make it patently clear that there is a groundswell of landholders, communities and councils who are now disenfranchised by the Program and will be diametrically opposed to any attempt by the Government to compulsory acquire easements to deliver “design flooding”.

We promise that if this path is taken, large numbers of people will frustrate the Departments attempt to move to its “Delivery” stage at every step of the way, potentially drawing the process out for years, at great cost to taxpayers and potentially ensuring the State Government misses the Federal Governments funding milestones.

Yours Sincerely,

Murray Shaw
Chairman, Save Our River Dwellers Inc. (SORD)
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Attachments

1. Tumblong Non-Putrescible Waste Disposal Facility (photo)
2. Industrial type developments on or near the Murrumbidgee River between Gundagai and Wagga Wagga (image)
3. Redhill study cumulative runoff graph (image)
4. Strategic Planning Regions, Riverina Red Gum, Forestry Corporation of NSW (image)

1. Tumblong Non-Putrescible Waste Disposal Facility (photo)



2. Industrial type developments on or near the River between Gundagai and Wagga Wagga (image)



3. Redhill study cumulative runoff graph (image)

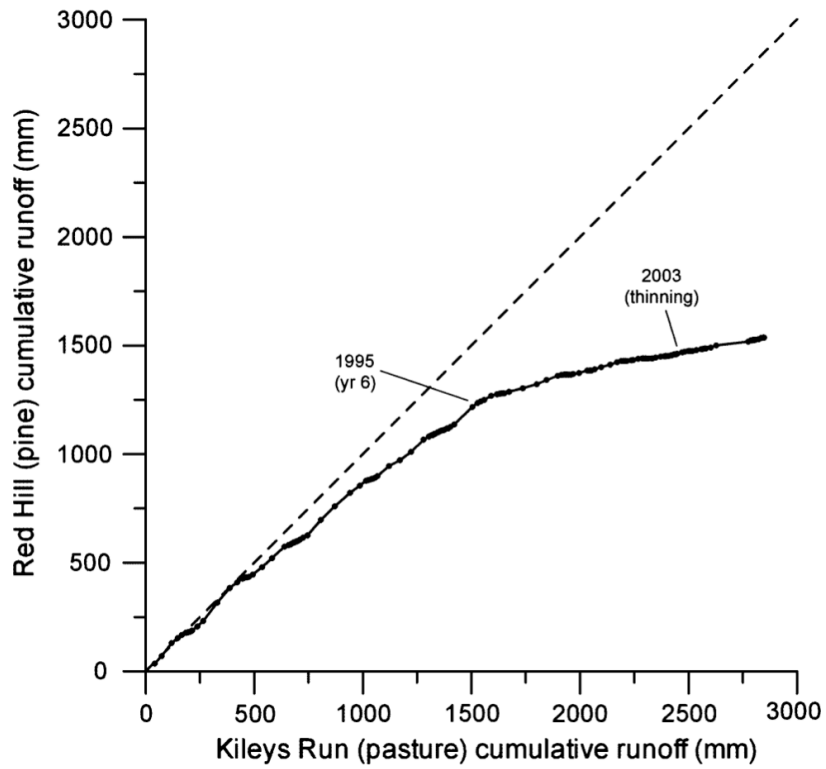


Fig. 5. Double mass plot of cumulative monthly Q at Red Hill against cumulative monthly Q at Kileys Run for the period June 1989 to November 2009. Note data are missing for the periods October 1999 to December 2000 and October 2006 to February 2008.

4. Strategic Planning Regions, Riverina Red Gum, Forestry Corporation of NSW (image)

