

Stakeholder engagement – consultation report

NSW Healthy Floodplains Project –
Engagement Workshops, September 2019

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Environment

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1 Executive Summary

In 2013 the NSW Government introduced the Floodplain Harvesting Policy to stop unconstrained floodplain harvesting and bring it into a licensing framework. The policy is in the process of being implemented in the state's designated floodplains, with implementation occurring first in the five northern NSW valleys.

The intention was to seat floodplain harvesting licenses and approvals in place in the northern valleys by the end of 2019.

In 2018 changes were made to the policy which reflected lessons learnt during its initial implementation. The changes incorporated feedback from stakeholders as part of a formal submission process and a series of workshop engagements conducted in 2018.

In 2019 Elton Consulting was contracted by the Department of Industry, Planning and Environment ('the Department') to assist with the preparation and delivery of engagement workshops, in accordance with the Floodplain Harvesting Stakeholder and Community Engagement Plan.

The objectives of workshop series 2 were to:

- » Reiterate the objectives of the policy to stakeholders, and its benefits to water users, communities and the environment
- » Communicate the results of the work completed by the independent peer reviewers, whose role was to examine the policy's implementation
- » Outline the six priorities and four pillars of the Department's action plan, which formed the response to the peer reviewer's report
- » Detail the Department's approach to floodplain harvesting measurement and the Natural Resource Access Regulator's (NRAR) approach to monitoring and compliance
- » Receive feedback from water users and other stakeholders on the policy's implementation

The principles of the engagement methodology aligned with the Department's requirement to engage in a way that was:

- » Purposeful — undertaken with a clear understanding of what was to be achieved, and delivering on NSW Government priorities and the Department's corporate goals
- » Inclusive — identifying and enabling the participation of all relevant stakeholders
- » Timely — providing sufficient time for meaningful consultation, outlining timeframes up front and conducting engagement activities in an efficient manner
- » Transparent — explaining the engagement process, providing information to enable meaningful participation and setting clear expectations around how participants' input would inform outcomes
- » Respectful — acknowledging the needs, experience, perspective and expertise of participants.

Workshop series 2 involved presentation sessions in Narrabri, Dubbo, Deniliquin, Dareton and Sydney, the latter being telecast as a webinar. Various stakeholders, including irrigators and other water users - and groups representing indigenous people, local government and the environmental community – were engaged during this process.

The feedback gathered at those workshops form the basis of this document – **there are 10 key themes to the feedback received:**

1. There is **general support for the regulation of floodplain harvesting (FPH)** as an activity and agreement that it was important to measure overall water take at a valley and basin level
2. The **work completed by the peer reviewers added significantly to the robustness of the process**
3. **Open and transparent consultation is critical** to building effective relationships with all stakeholders
4. **Stakeholders demand a wholistic approach** to the implementation of FPH policy

5. There are continuing **issues surrounding perceptions of equity**
6. **Rainfall runoff** was subject to significant discussion and a **wide range of views**
7. Stakeholders need **more information about post-rainfall events and their interaction with other extraction methods**, particularly how contamination is to be approached, how take is to be measured in conjunction with other forms of extraction, and water movement
8. Stakeholders need **more information and certainty on trading and entitlements** and how they are to be approached under the new regime
9. Some stakeholders queried **whether the Department and NRAR had the funding & resourcing available** to complete their mission
10. Despite efforts by the Department to inform users, there are many **lingering issues with the policy at a technical level.**

2 Engagement Methodology

The Department recognised the importance of updating stakeholders on the progress of the floodplain harvesting (FPH) modelling and licensing regimes.

Ahead of the presentation sessions, contact was made with stakeholder groups deemed to be most affected by the policy change, to encourage engagement and boost attendance at the events. Details of attendees were captured in workshops conducted in October 2018, and these individuals were invited to also attend additional workshops in September 2019.

Five events were held, in total:

- » Monday, 9 September, 2019: **Narrabri**
- » Tuesday, 10 September, 2019: **Dubbo**
- » Thursday, 12 September, 2019: **Deniliquin**
- » Friday, 13 September, 2019: **Dareton**
- » Wednesday, 18 September: **Sydney** (also telecast as a **webinar**)

Attendance at these events was driven by direct invitations through the Department's contact database and media advertisements.

Extensive notes were taken during the events, capturing stakeholder feedback in detail.

The Department's Healthy Floodplains team indicated to stakeholders it remains committed to ongoing consultation through this process.

3 Engagement Overview

At each of the five stakeholder engagement sessions, a detailed presentation was delivered by:

- » The Department's Floodplains leadership team
- » The Department's technical and policy experts
- » The independent peer reviewers, either Tony Weber or Greg Claydon

In addition, and where possible, attendees heard from experts from NRAR and the Australian Government's Murray Darling Basin Authority (MDBA).

Content covered by the presentation included:

- » **Introduction and session overview:**
 - > The consultation carried out, to date
 - > The purpose of the session
 - > An introduction to the Department's Floodplains team, the peer reviewers and other agency representatives present
 - > An acknowledgement of the record low inflows and the impacts to water users, communities and the environment
 - > A statement that the NSW Government's focus was on human critical needs, but FPH rules needed to be resolved for when the drought broke
 - > The MDBA's support for the NSW Government's FPH policy, including background on the process to set water recovery targets; the MDBA's objectives to improve public confidence in processes; and the MDBA's commitment that water take be on a 'no more, no less' basis
- » **Context setting:**
 - > The reasons behind the Department's FPH policy and its implementation
 - > The fact NSW Government has been signalling changes to FPH policy for more than 10 years
 - > The importance of bringing clarity to FPH measurement and the benefits it would bring to social licence and the protection of downstream users
 - > The commitment to fairness and equity in delivering the planned reforms and an ambition to complete those reforms within 18 months
- » The **independent peer review** report, including:
 - > The role of the independent peer reviewers in the process
 - > Clarifying that the role of the reviewers was to examine the policy's implementation, not the policy itself
 - > Acknowledgement of the candour with which interviewees discussed the issues
 - > Outlining the steps in the process: understanding the concerns, finalising the review's scope, gathering responses, and completing the review
 - > Identifying key recommendations for the policy's implementation
- » The **Department's action plan in response to the peer review:**
 - > Outlining the six priorities for implementation:
 - Providing stronger clarity around the policy's implementation
 - Better protection for the environment and downstream users
 - Better protection for irrigators legally taking water

- Providing a licensing framework that supports compliance
- Ensuring everyone has a fair say in water sharing rules
- Rebuilding trust and confidence in water management in NSW
- > Detailing the four pillars of the action plan:
 - Using the best available information
 - Setting clear rules
 - Ensuring the rules are followed
 - Committing to adaptive management
- > Outlining the timetable for implementation
- » **Monitoring**, including the status of FPH measurement and the methodology the Department is using to implement the policy:
 - > How the lack of a national standard for FPH measurement shaped the Department's thinking and methodology development
 - > Why the Department focuses primarily on permanent water storages
 - > Outlining the objectives of the FPH methodology:
 - Measuring all floodplain harvesting take
 - Ensuring measurement is accurate, reliable and tamper-evident
 - Ensuring measurement is practical and cost-effective
 - Ensuring data is readily available
 - > A description of the proposed two-phase approach to measurement:
 - Phase 1: users to install an approved device by 30 June, 2021
 - Phase 2: the Department to develop best-practice methodology for measurement; devices applied in phase 1 to be grandfathered into phase 2
 - > NRAR's approach to monitoring and compliance, including:
 - A description of NRAR's core functions
 - NRAR's intent to focus on the high likelihood of non-compliance where its impact is likely to be significant
 - Outlining the resources available to NRAR to conduct its mission
 - NRAR's approach to enforcement: the 'non-compliance pyramid'
 - NRAR's support for the FPH action plan and its commitment to help users with compliance
 - Outlining NRAR's proposed compliance activities, to include physical inspections of infrastructure, audits of FPH storage changes, and remote sensing of storages (using techniques such as LIDAR)
 - Confirming that NRAR expects compliance from water users and would apply discretion when applying its compliance powers
- » **Floodplain harvesting in Water Resource Plans:**
 - > Outlining the requirement to implement an interim step in order to meet accreditation requirements under the Murray Darling Basin Plan (MDBP)
 - > How and why water management models are to be updated and peer-reviewed
 - > A description of the relationships between Water Resource Plans (WRP), Water Sharing Plans (WSP), FPH entitlement and the MDBP

- > A commitment to reflect on water entitlements and the auditing strategy once the Healthy Floodplains project is complete, followed by an update to the Basin Diversion Limits

Following each presentation there were opportunities for facilitated discussion.

4 Stakeholders Engaged

With the intent of ensuring broad and equitable engagement, invitations to the workshops were extended to:

- » Representative groups for:
 - > Irrigators and other peak water users
 - > Indigenous nations
 - > Environmental interests
 - > Business interests
- » NSW Government, Australian Government and other state government agencies
- » Individuals who had made prior submissions or had attended previous engagement sessions
- » Regional councils
- » Local, state and federal politicians

The number of attendees directly engaged was:

- » Narrabri: 114
- » Dubbo: 42
- » Deniliquin: 37
- » Dareton: 26
- » Sydney/webinar: 34 attendees, 37 online participants

5 Key Feedback

While the primary purpose of workshop series 2 was to inform stakeholders about the progress of the FPH policy's implementation, attendees took the opportunity to raise a number of issues.

5.1 What we heard

Frequently heard feedback across the sessions included:

- » **General support for the regulation of FPH as an activity** and agreement that it was important to measure overall water take at a valley and basin level. It was also agreed that the policy should seek to instantiate 1993-1994 extraction levels / cap limits. There were, however, some key qualifications to this general support. These were:
 - > The incorporation of rainfall runoff was not universally accepted, particularly by irrigators in northern areas.
 - > That FPH regulation needs to be established within a whole-of-basin approach that is cognisant of upper and downstream system connectivity.
 - > Balancing the financial challenges and the urgency of undertaking FPH reform in the context of an unprecedented drought.
 - > Some concerns that a state-wide policy is being selectively applied only to the Northern Basin.
- » The **work completed by the peer reviewers was viewed as significantly adding to the robustness of the process**. Many participants were keen to see the ongoing involvement of the peer reviewers in the next stages of implementation (including the rainfall run off study) and both the peer reviewers and the Department indicated this would be the case. (The Department indicated the peer reviewers were to be engaged on an ongoing basis in order to assist in the policy's implementation, including the approach to their recommendations.)
- » **Open and transparent consultation is critical to building effective relationships with all stakeholders:**
 - > Participants were appreciative of the Healthy Floodplains team and other agencies for engaging with them and expressed a desire for the consultation to continue.
 - > Some stakeholders noted frustration with government delays in addressing water reform and implementing FPH. In southern areas views were expressed that Government engagement needs to be more consistent and respond to the significant stake that downstream communities have in good management of upstream catchments.
 - > Within the north it was felt that that rainfall runoff was not explicitly raised for discussion in previous consultation and this change in scope has compromised trust in the project.
 - > While the consultation program in the action plan was welcomed, the importance of involving farmers in testing the "on farm" practicality of measurement technologies/methods and reporting procedures was emphasised.
 - > Some participants noted that, although the approach to modelling had been well explained, a more informed assessment of the policy and its likely outcomes (including water available to irrigators and water available for downstream communities) would be enabled by having actual modelling data and figures available. Stakeholders felt this particularly applied to rainfall runoff and also return flows to rivers.
- » **A wholistic approach should be adopted by the Department:**
 - > Stakeholders - particularly those in the south - noted the policy needs to genuinely embody a whole-of-river focus, and that any water taken under FPH has to be extracted with a view to safeguarding a fair

share of water for downstream communities and environments. This also includes ensuring a proportion of water flow remains available to downstream systems in lower flow events.

- > Acknowledging the connectivity of upstream and downstream systems was seen as critical to restoring faith in government's ability to effectively manage water. This would also require that water flows are measured throughout the system and there is greater understanding of actual water taken under FPH, as well as certainty about the quality of water available downstream.
- » **Issues of equity are felt in both the Northern and Southern Basin regions:**
 - > Northern irrigators felt that the addition of rainfall runoff meant they were being unfairly targeted i.e. rainfall runoff occurs state-wide. They also noted that the current approach had the potential to pit southern communities against those in the north and this was not the way to achieve a sustainable outcome or social licence for irrigation.
 - > Conversely, some in southern areas noted they were enduring the impacts of unconstrained FPH in the north and felt undue pressure was being placed on them due to lack of water reaching downstream communities, in particular that reduced reliability of the Lower Darling was affecting allocations in the Murray.
 - > Within a region some irrigators noted the potential for inequity between irrigated operations and neighbouring unimproved or dryland farms with respect to the inclusion of rainfall runoff. The concern here was that charged irrigated fields would experience greater runoff due to the presence of elevated subsoil moisture that has already been paid for, meaning that irrigators were effectively subsidising the return of higher levels of runoff back into the river system.
- » **Rainfall runoff was subject to a significant discussion and a wide range of views:**
 - > Many noted that if rainfall runoff was not included then the implementation of FPH would be a simpler and quicker process that did not impose a great burden on farmers in either costs or changes to the way they operate.
 - > Particularly in the north, actions to measure rainfall runoff were seen as impractical and would add to the complexity of operations and potentially drive behaviours with perverse outcomes. This was most relevant where:
 - multiple storages were involved
 - a storage contained water from different sources
 - water may need to be pumped just to be measured
 - > Some stakeholders in southern areas and representatives of environmental groups felt that if all rainfall runoff was not included this would present a significant gap in measuring and managing sustainable take at both a valley and system level.
- » **Post-rainfall events and interaction with other extraction methods:** water users wanted more information about:
 - > Whether floodplain water is considered contaminated and how to deal with it while remaining compliant
 - > How to measure floodplain harvesting take when used in conjunction with other forms of extraction
 - > What occurs when an allocated FPH allocation is reached but there is a requirement to store or move water into storages for crop protection purposes?
- » **Trading and entitlements: stakeholders expressed a desire to understand whether water entitlement trading of FPH entitlements would be allowed under the new regime,** particularly:
 - > In the south concerns were expressed that:
 - If FPH rights were shifted from the land this could lead to negative outcomes for downstream communities

- A policy perceived to allow irrigators to carry over FPH entitlements of up to 500 percent were not compatible in a connected river system and would disadvantage downstream communities and ecosystems
- Carryover provisions were described as not workable for FPH, which is an event-based process
- > Conversely, northern farmers noted that trading rights provide:
 - Flexibility in farm management, particularly where a single operator has multiple properties
 - Ability to manage income and budgets
- » **Compliance: some stakeholders queried whether the Department and NRAR had the funding & resourcing available to complete their mission.**
- » **Technical issues: stakeholders raised several issues with the policy at a technical level:**
 - > There was a desire to understand how the new regulation would 'wind back the clock' on extractions and targets for extractions
 - > Irrigators asked for more detail about metering and telemetry, including timing and availability of pattern-approved devices as well as their cost and practicality
 - > Stakeholders asked scenario-based questions designed to tease out the fine detail of the new regime's implementation
 - > Some stakeholders queried the science behind, and robustness of, the Department's modelling and/or expressed a lack of confidence in the model
- » **Representatives of environmental groups suggested that baseline studies should be undertaken now so that the future environmental and social impacts of FPH regulation can be tracked and understood.**

6 Region-specific feedback

In addition to the common themes expressed across most/all engagements, stakeholders offered specific feedback at the information sessions held in Narrabri, Dubbo, Deniliquin, Dareton and Sydney/via webinar.

6.1.1 Narrabri workshop

Query/comment	Response
» Clarify the limits of water take in the northern vs the southern Basin.	The Department provided additional information to clarify the issue, including that existing legal limits reflected floodplain harvesting that was occurring at a period in time, commonly 1999/00. The Department also explained that the same messaging was being applied to community engagements in the south.
» The water reform process began in 1997, but there was no intention at the beginning to incorporate rainfall runoff into the policy.	The Department clarified that the process had been underway for more than 10 years. The action plan outlined the steps already taken and to be taken.
» There was little/no community consultation re: rainfall runoff.	The Department outlined an extensive consultation program from April 2018 which incorporated at least 20 face-to-face sessions in various locations around the state, plus a consultation paper which was available online. Furthermore, additional work is underway to review additional runoff due to irrigation.
» The policy to incorporate rainfall runoff into the policy is punishing farmers, promoting inefficiency and will create stranded assets. Further, the policy represents 'maladministration from government'.	The Department clarified that its role is to implement NSW Government policy and currently this includes rainfall runoff as floodplain harvesting.
» The policy does not work at a practical level, on-farm. It is only when rainfall runoff is excluded that the policy works.	The Department acknowledged the comment.
» Baseline Diversion Limits (BDL) should be updated after the policy is implemented, will the MDBA accept these changes?	The MDBA confirmed that this process will see a BDL update and that it is attending the workshops to affirm their support for the independent peer review process.
» There is inequity in how the policy is applied because of the inclusion of rainfall runoff, and irrigators in five valleys are being unfairly targeted.	The Department clarified that the policy was state-wide, and was being implemented in the northern valleys as a priority, based upon risk. Further, implementation is not a simple exercise, and required six years of work to obtain adequate data. Entitlements would be issued once the model was complete.
» Did the peer reviewers have input into the terms of reference?	Peer reviewer Tony Weber clarified the peer reviewers did not have specific input into the terms of reference, but background discussions informed the process.
» How can the process ensure rights are not eroded and runoff is not counted towards floodplain harvesting?	The Department detailed how it documents the models, including model build reporting at a valley scale and scenario

Query/comment	Response
	<p>reporting. The Department is committed to implementing the peer reviewers' 48 recommendations into the policy.</p> <p>The Department further clarified that limits for surface water take have existed for some time, and the objective was to introduce a licensing regime to apply those limits to water take.</p>
<p>» There was a request for clarification of temporary restrictions under section 324 of the WMA 2000, and expression of concern that its blanket application to floodplain harvesting (including rainfall runoff) would result in contaminated water flowing.</p>	<p>The Department clarified that a section 324 order could be imposed on any water take either licensed or exempt. Further, the Department took the comment about contaminated water flow on notice.</p>
<p>» The Department was encouraged to provide a mechanism for one-on-one sessions with licence holders to discuss entitlements.</p>	<p>The Department clarified it would write to users regarding the modelling results for their property; users had the opportunity to make a written submission; and that the advice from the review committee would be sought on submissions.</p> <p>The Department's objective is to make the process fair and equitable, and it is committed to releasing model sensitivity reports during Q3 and Q4 2020.</p>
<p>» Irrigation is being unfairly targeted, there are other significant forms of take across the state which are not being regulated i.e. farm dams. More transparency about the drivers for the regulation of rainfall runoff as FPH is required.</p>	<p>The MDBA explained that it is not practical to regulate individual farm dams but reassured attendees that the Basin Plan requires all significant unregulated water take to be managed as an interception activity.</p>
<p>» One participant detailed frustration with metering compliance. Another expressed frustration that timetables for metering implementation were unachievable.</p>	<p>The Departmental team indicated the specific issue was not the subject of the engagement, but responded generically: metering devices need to be pattern-approved and connected to a telemetry device. Further, the list of approved sensors, data loggers and telemetry devices would be made available in November 2019. The Healthy Floodplains team offered assistance in connecting to the Department's appropriate team.</p>
<p>» Can you break down the 773 breaches that had occurred across the state?</p>	<p>NRAR indicated it did not have a breakdown to hand.</p>
<p>» How can a water user discharge into the floodway if the level of water was higher than a flooded field?</p>	<p>The Department responded that the 2018 monitoring strategy recognised that the first flush of runoff following a rain event could be contaminated, and thus, retained. That policy has changed: users can now retain 100% of rainfall onto a property once the allocation has reached zero. The Department has a general expectation that users would only take the water they have a right to take.</p>
<p>» Are there available meters to differentiate between floodplain harvesting and rain runoff?</p>	<p>The Department indicated it had moved away from direct measurement, recognising that flood waters can enter a property in ways that are impractical to measure. The Department is committed to working with industry to develop ways to measure efficiently.</p>
<p>» What is the definition of 'floodplain harvesting'?</p>	<p>The Department's response was: "The definition of a FPH event is when the water is collected and held on farm."</p>

Query/comment	Response
» How would the Department account for a supply channel being used as storage in a small flood event?	The Department indicated it would simulate the use of temporary storages, primarily based on data provided in surveys.
» Will licenses for FPH be issued after 2012?	The Department indicated they would be not. However, the policy intends for the historic practice of FPH to be incorporated into the licensing regime. Take of overland flow that is beyond maximum harvestable rights would need to be obtained through a licence via the market.
» What happens if a storage meter fails – will a gauge board be required as a backup?	The Department indicated that, in such an event, the use of section 91M under the <i>Water Management Act 2000</i> would be utilised. The Minister also had a discretionary ability to accept alternative forms of measurement.
» The majority of water users are trying to do the right thing. Water users are being treated like criminals.	The Department acknowledged that 98-99% of water users were trying to comply and, further, it understood that the implementation of metering policy was unpopular. The function of compliance was transferred from WaterNSW to NRAR to address recognised shortcomings.
» Dryland country can store water in the ground, which is not recognised.	The Department clarified that under existing legislation, rainfall that infiltrates soils is not 'take' whilst rainfall runoff is. Models represent irrigated and non-irrigated areas separately.
» What happens if a property which is not on a floodplain - nor with access to external water nor with a licence – experiences rainfall?	The Department explained that the policy intended that a temporary exemption would be put in place to allow FPH to continue until the policy is implemented in that area.
» The Department is trying to implement a policy where metering devices may be stranded for 7-10 years, which is impractical.	The Department indicated that telemetry devices would send users a notification of failure. Further, previous feedback indicated that gauge boards were unsafe during a flooding event, and the Department did not want to create a work health and safety risk.
» How will the use of telemetry alleviate issues, and make sense to NRAR?	The Department indicated that telemetry negated the need for daily readings to be taken manually. It also provides an accurate and verifiable data source. Landholders would need to report usage following each FPH event.
» What environmental outcomes are anticipated from the implementation of the policy?	The Department indicated the primary focus was on sustainable diversion limits (SDL): it was imperative to ensure the environment was getting its fair share. The Department was committed to developing valley-based reports that described the environmental benefits of implementing the policy.
» A water user queried how the growth of floodplain harvesting would be dealt with from a regulated and unregulated perspective.	<p>The Department indicated that, once metering policy is rolled out, compliance monitoring on unregulated users could be applied also. It should be understood that 95% of eligible properties are associated with a regulated water source. Each property is to be assessed on a case-by-case basis. Users were encouraged to review the implementation guidelines.</p> <p>In general terms, any water flowing across the surface of the land is considered the state's water, under current legislation. To access that water, users need to do so under a basic right, a licence or an exemption. The state's water rights do not extend to water that seeps through soil moisture profiles.</p>

Query/comment	Response
» How are baseline diversion limits described in water sharing plans?	The Department indicated that these limits are not described in water sharing plans, they are a limit described in the Basin Plan.
» In an unregulated situation, is there interchangeability between FPH take and an unregulated stream?	The Department indicated unregulated water sources are not just rivers or creeks. An unregulated licence could be used to take FPH.
» A stakeholder raised concerns that the Department was justifying the costs of metering floodplain harvesting would be offset by the value of the new rights, and commented it was outrageous.	The Department acknowledged the fact that no entitlement exists. The ongoing process creates entitlements, which creates certainty. The Government weighed up many issues in the application of the policy, including costs.
» The Government is threatening to remove supplementary licenses.	The Department responded that there was not a threat, and it was trying to be open and honest with users about challenges, constraints and implications.
» What happens if there is a floodplain event this Summer? Does the policy revert back to the Water Management Act?	The Department indicated implementation would take place over the next 18 months, and would seek clarity from the Government about the response to that issue.

Industry groups were highly engaged at the Narrabri event, with one water user group attempting to move a motion of no-confidence in the Department to 'deliver reform per community expectations'. The Department acknowledged a show of hands of attendees.

The water user group later thanked the Healthy Floodplains team for attending.

6.1.2 Dubbo workshop

Query/comment	Response
» Will the presentations be made available?	The Department committed to emailing the presentation used to those who had registered to attend.
» A participant indicated they agreed with the requirement for a robust licensing framework and measuring system, but objected to the inclusion of rainfall runoff.	The Department acknowledged the challenges involved in implementing rainfall runoff into the policy, and indicated it would continue working through issues and publish its findings. It clarified that the inclusion of rainfall runoff in models would be an evidence-based process.
» How will environmental changes be monitored?	The Department indicated that bringing water extraction back to legal limits was expected to bring environmental benefits, but acknowledged its tools were imperfect. It would examine how diversions change and how that impacted environmental assets. Data, and how changes to diversions impact environmental benefits, will be reviewed on a valley-by-valley basis to ensure transparency.
» Does the policy impact non-irrigating water users, and what is considered 'irrigation'?	The Department indicated the policy was being implemented state-wide, although it was being implemented in the five northern valleys as a priority. Exemptions may apply to allow some activities to continue, however at this point in time no

Query/comment	Response
	exemptions were in place. Further, the Department did not have a stand-alone definition for 'irrigation': users eligible for FPH had a capacity for floodplain storage but not another capture licence.
<p>» Please provide more information about the review and the need to be measured as part of the cap.</p>	<p>The MDBA replied that Plan limits within water sharing plans (akin to BDL) are set at or below 'cap' development levels. The BDL can be updated when new information about different forms of take become available, but the BDL does not change legal allowances or limits. FPH reform is important because it can adjust the accounting system based on new information.</p> <p>The Department clarified that rainfall runoff is a type of surface diversion that is recognised in the cap. Water sharing plans and the cap agreement represent surface diversions. If there is a growth in risk, it needs to be identified.</p>
<p>» Who would cover the cost of a lost crop if it rains? Is there consideration for acts of God?</p>	<p>The Department indicated all surface water is vested in the Crown. Water take needs to be done under a licence or legislative right. The intention of the policy is to bring legitimate floodplain harvesting into the water licensing framework.</p> <p>Further, the Department will be developing accounting rules for floodplain harvesting that provide landholders with flexibility to manage the variable nature of floodplain harvesting.</p>
<p>» The Department's action plan identifies proposed improvements but does not assess the impact of FPH on downstream environments.</p>	<p>The Department acknowledged the challenges presented by available data and the limitations of modelling. It should be understood that the SDL effectively sets the limits for sustainable use so that the environment gets what it needs. Our objective is to ensure FPH is within the SDL.</p> <p>The MDBA added that the water recovery targets were designed to bring the system back to sustainability.</p>
<p>» Will new entitlements be tradeable? Will the Government buy back entitlements?</p>	<p>The Department indicated FPH policy foreshadows permanent trading of FPH licenses, with limitations. There are benefits for having a trading market, which need to be balanced against potential third party and environmental impacts. There will be a public consultation process.</p> <p>Further, the Department indicated that water buybacks were an issue for the Commonwealth Government. The peer review process recommended investigating whether it was possible to bring active management arrangements to FPH, and that is part of the action plan.</p> <p>The MDBA indicated the Commonwealth Government did not propose to take water recovery targets further.</p>
<p>» Why can't FPH be measured with meters?</p>	<p>The Department clarified that it was proposing measuring floodplain harvesting through storage devices and that directly metering all intake points for floodplain harvesting was in most cases impractical.</p>
<p>» How would FPH volumes be carried over into subsequent years?</p>	<p>The Department indicated that proposed entitlements and carryover rules would be designed to bring the system back to diversion limits and manage access as equitably as possible.</p>
<p>» As licenses are sold, will they be tied to infrastructure?</p>	<p>The Department indicated that for a trade to occur an individual must be able to demonstrate that they will no longer be taking this water, which may involve decommissioning works. The</p>

Query/comment	Response
	Department noted that there are similar rules already in place through WSP for river dams.
» Will FPH regimes be reported to local governments to adapt flood regimes?	Floodplain management plans in rural areas complement urban areas. Assessment and mitigation through the floodplain network is implicit in the modelling and assessment.
» How do you assess what water is contaminated?	<p>The Department indicated that all rainfall runoff from developed areas will be considered contaminated. There is flexibility to go into 100% debit to take contaminated rainfall runoff. There is an option to retain contaminated runoff water, although releasing that water risks contamination and sedimentation. There is no mandate for a user to take water if they do not need to take it. If a user would normally release the water, they can do so.</p> <p>It was further clarified that the obligation is on the water user not to pollute, which is unchanged from current policy.</p>
» Does NRAR feel it is adequately resourced?	NRAR responded that it had been in a growth phase over the past year - employing staff, building capability and conducting training. It understood the challenge of monitoring and auditing, and would use remote sensors and other techniques to do so. It was expected an upcoming IPART determination would provide additional resources.
» Will NRAR police irrigators who have not applied for a FPH licence?	NRAR responded that it undertook extensive checks to identify properties with an ability to capture FPH, and approached them to apply for a licence. For those who declined, the outcomes were explained.
» Is compliance under the 2006 plan acceptable, or does it fall under 'Part 8'?	NRAR indicated that acceptance of Part 8 applications ceased in 2015. It was not possible to receive a Part 8 approval unless the application had been submitted before the cut-off date. Currently, a water user would need to apply to WaterNSW for a flood work approval (replaced part 8 approvals).
» How would a user with a reservoir implemented after 2008 comply with the policy?	The Department responded: the policy has been clear that only 'eligible works' (generally those approved and constructed prior to 2008) would be eligible for a floodplain harvesting licence. The trading market will allow for permanent trading of FPH licences.
» Does every irrigator need a licence?	The Department indicated that only those irrigators on the designated floodplains where the policy is being implemented would require a licence at this stage.
» Is there confidence enough in the models to issue licenses?	<p>The peer reviewers responded they found no fundamental flaws in the modelling approach. The challenge was that some elements were undocumented, and a requirement for additional data was outlined.</p> <p>The Department clarified it was committed to providing the information outlined as required by the peer reviewers, and was confident in its information sources.</p>
» For the purposes of safety certificates, is NRAR a contractor to the NSW Government? Will it provide paperwork?	NRAR indicated it assumed liability and risk for its employees. In the main, NRAR staff would call to access a property, but the agency retained the right to gain access otherwise. In terms of biosecurity management, NRAR had procedures and protocols in place.

Query/comment	Response
	Further, as is the policy of emergency services agencies, paperwork is not provided. Issues of liability are dealt with via the courts.
» How would the Department differentiate between water used straight away versus water put into storage?	The Department indicated it proposed two types of accounting – simple and complex. Using complex accounting, individuals would need to provide evidence of non-FPH water going into storages. General security water would be metered.
» A user indicated scepticism at NRAR’s ability to differentiate between different types of water flows going into storages.	NRAR indicated it would be conducting risk assessments on an ongoing basis and would address them from the highest risks downwards.
» Complaints made to NRAR about illegal water extraction are vexatious and make water users look bad.	NRAR indicated it publicises its enforcement data because it has a commitment to be a transparent regulator. It had confidence it responded appropriately.
» What future trading rights will be available?	The Department indicated a component of FPH was linked to the property. Total trading would not be permitted unless there was decommissioning of structures.
» How does the policy apply to users not on a floodplain?	The Department responded: the policy is a state policy, and is being applied on the major designated floodplains in the Northern Basin first.
» A stakeholder requested all the alternative definitions of BDL and SDL (referencing the Royal Commission) be released.	The MDBA indicated the Commonwealth Government’s position was not to release legal advice, but it was clear about BDL, water recovery targets and SDL, which can be accessed on the MDBA website.
» A user indicated they were not convinced the BDL was linked to SDL. It is important the MDBA meets with affected users to remove confusion – will you commit to that?	The MDBA indicated that BDL and water recovery targets are linked. It indicated that communication in this area in the past could have been better, and committed to improvement.
» Is there a protocol for telemetry devices?	The Department indicated Manly Hydraulics Lab would assess storage sensors that met the Department’s criteria. Once its review is complete, that list would be aligned with approved data loggers and telemetry units. Further, the Department would ensure the sensors it recommends were compatible with data units and that duly qualified persons would be able to install them.
» There is a mismatch in timing: water resource plans have been extended to the end of the year, but entitlements and BDL numbers won’t be reflected in water resource plans.	The Department indicated that water resource plans would be updated after the water sharing plans were updated. BDL were based on the best modelling available. There is an interim step to bring the Department to the point where monitoring infrastructure is in place. The MDBA process allows a couple of years to process a situation where a floodplain event occurs before entitlements are in place.
» How will rainfall runoff be applied in the Lachlan/southern valleys?	The Department indicated the priority for policy implementation was for the northern valleys. The Department also indicated the first step in the process was to update floodplain management plans.
» Why are FPH limits being brought back down?	The Department responded: FPH extractions have been rising, the implementation of the policy will bring a reduction down to SDL.

Query/comment	Response
	The MDBA added that the Murray Darling Basin Plan is to be reviewed in 2026, by which time there will be more data, which will impact the understanding of BDL and SDL. The BDL and SDL are fixed over a climate sequence.
» Users expressed frustration with the consultation process and indicated they wanted more confidence in the modelling used by the Department.	The Department acknowledged the comments.

At the end of the Dubbo session, a water user group thanked the Healthy Floodplains team for attending and indicated it had “done a good job”.

6.1.3 Deniliquin workshop

Query/comment	Response
» What is the current estimate on FPH in the northern Basin, and why would the MDBA not make revisions to the MBDP based on information available when the Plan was made?	The MDBA indicated the process improves the estimates of what was taken before and after the implementation of the MDBP. It clarified the target for recovery remains unchanged and is written into the MDBP, even though the estimates of consumptive and environmental use may change. Further, the process of updating estimates does not change the volume of water that can be legally taken.
» The information on take in the northern Basin is not accurate, and the science of the modelling is in question.	The MDBA supports the work of the Healthy Floodplains team and the independent reviewers, because it is fundamental to have the best estimates available in order to set limits. The MDBA clarified that updating estimates does not change the water recovery volume. The Department clarified that existing models did not accurately estimate floodplain harvesting because the purpose of these models was to represent river flows and diversions, not floodplains. The updated models have been built to more accurately reflect floodplain diversions using best available information. i.e. to quantify what was previously unquantified.
» What is the MDBA doing to ensure 39% flows down the Darling River?	The MDBA indicated the question was very specific to a water user’s own experience and took that as a question on notice.
» Have the extraction limits been re-set? Are southern water users being pitched against northern users?	The Department indicated this process will result in a better estimate of the BDL. The BDL is not a number, it is a set of conditions. Models are used to estimate the volume of water that can be taken under these limits using the best available info, this means that they can be re-estimated as information improves. BDLs for all valleys in NSW are set equal to or lower than the cap (93/94 levels of development and management).
» How long until rainfall runoff is factored into the southern valleys?	The Department indicated the policy was state-wide, based upon risk. At this stage the risk (to the environment and other water users) of not regulating FPH in the south is low. It is proposed that an exemption for certain works will allow FPH to continue in the south. The Government will continue to monitor risk.

Query/comment	Response
<p>» There should be an independent umpire. River system connectivity and end-of-system flows need to be clarified in order to inject trust and confidence. What credibility can be placed on the figures used?</p>	<p>The Department indicated the independent peer reviewers were engaged in order to build confidence, and they have made recommendations for improvements. The Department will review the models, take the best information available, and continue to utilise independent reviewers in the process.</p>
<p>» Are estimates available for pre- and post-regulation? Can users access data on system flows and connectivity between systems?</p>	<p>The Department indicated that it would release development data for different periods of time as part of the modelling reports being completed for each valley. It also noted that some data is already in the public domain and not all of it is accurate. It was noted that the Department is not the only one that puts this sort of info in the public domain.</p>
<p>» Will storages implemented pre-July 2008 be licensed?</p>	<p>The Department indicated the policy sets out the eligibility criteria for works – generally, this is works that were approved and constructed prior to 3 July 2008. Detailed surveys have been undertaken at the property scale to understand all floodplain harvesting works currently in place.</p>
<p>» Can you comment on the Natural Resources Commission's (NRC) report?</p>	<p>The Department indicated that, as the NRC's report was only issued the week prior, it had not had the opportunity to fully review it. Further, it was not the Healthy Floodplains team's place to respond, that was a responsibility for the Government.</p>
<p>» A user referred to crop production statistics and suggested less water was used than was stated publicly.</p>	<p>The Department responded that it understood stakeholders were demanding statistics, but it asked for patience so that it could introduce accurate figures into the public domain.</p>
<p>» MACE meters are non-compliant, what is the Department's position?</p>	<p>The Healthy Floodplains team indicated that was an issue being addressed by another team in the Department. The query was taken as a question on notice to be followed up by the appropriate Departmental team.</p>
<p>» A user from a northern valley indicated he believed the northern valleys were being pitched against the southern valleys. The user also objected to the incorporation of rainfall runoff into the policy.</p>	<p>The Department responded: the Healthy Floodplains team is travelling around the state and is intent in engaging with all stakeholders. The Department is intent on delivering fair and equitable outcomes. Further, it was committed to using evidence, analysing it and responding.</p> <p>The issue of rainfall runoff was mentioned in the report by the independent peer reviewers, and the Department accepted more work needed to be done in that space.</p>
<p>» How will FPH impact water extraction rules in the south?</p>	<p>The Department clarified that the process was to licence a form of historic water use that had not yet been licensed and that this would occur within legal limits. Implementing the policy will restrict floodplain harvesting in the North that will provide benefits to the South.</p>
<p>» How does the Department approach contaminated water vs non-contaminated water? If there is a reset and it rains, what should users do with the water?</p>	<p>The Department indicated that the proposed contaminated water provisions allow water users to retain runoff from developed land when there is no account balance left. Any water taken under these provisions would be deducted from account when the next available water determination is made to FPH licences.</p>

Query/comment	Response
» If a town drainage runs into a water user's creek, how is that to be measured?	The Department indicated it would have 18 months to issue licenses for entitlements, and more work was being done on transitions. It further clarified that all water taken needs to be either licensed or exempt from requiring licensing.
» Are meters required to be installed on channels?	The Department clarified that the current policy states water needed to be measured when transferred to a permanent storage. The Healthy Floodplains team took that scenario as a question on notice for consideration during future implementation.
» How does the policy accommodate a scenario in which a field is watered the day before it rains?	The Department accepted it was an issue of concern and indicated it had commissioned additional work from an independent consultant to address that issue. The results would be published and the Department's 18-month action plan included consultation and engagement points.
» Why is the Department focusing on rainfall runoff rather than critical issues?	The MDBA responded: the MDBP indicates areas of highest risk should be measured. The Department acknowledged it was hard to differentiate between rainfall runoff and overland flows. Licensing allows FPH measurement to be based upon on-farm storages. The MDBP and state regulation are complementary.
» Do stock and domestic supplies need to be measured?	The Department indicated that risk assessments are underway for all interception activities. If stock and domestic extraction was at high risk of growth, it would need to be set within a compliance regime.
» Has transferability been addressed? Water transfer between states should have been addressed.	The Department indicated that for a trade to occur an individual must be able to demonstrate that they will no longer be taking this water, which may involve decommissioning works. The Department noted that there are similar rules already in place through WSP for in-river dams.
» Farmers can't pay for meters in a drought.	The Department acknowledged the comment.
» What right does a landowner have to fill the profile before it is considered runoff? How does the modelling account for unpredictability?	The Department indicated it understood the policy needs to be implementable, and it has signalled a process to account for the issues raised. Further, the Department clarified that, while the data available to calibrate models and understand nuances in farm conditions was sparse, it believed there was a sound basis for understanding. A soil's storage of water from rainfall was not measured.
» The Department is hiding behind Manly Hydraulics Lab. There appears to be a conspiracy (to stop metering in the north).	The Department explained that Manly Hydraulics Lab was contracted to evaluate storage sensors and determine the best meters to use for the needs outlined.
» How will end-of-valley measurement occur?	The MDBA responded that end-of-system flows are usually gauged flows. COAG signed an inter-governmental agreement for better sharing of information across borders. The MDBP applies everywhere and is enforced everywhere – there is no favouritism.

Query/comment	Response
» Who measures flows down to Menindee?	The Healthy Floodplains team clarified that the Water Renewal Taskforce, a separate team, was responsible. An offer was made to contact that team.
» If you start to measure rainfall runoff then you won't comply with BDL, because you are taking away from historical use that BDL was premised on.	The MDBA responded: the process better estimates what is being taken via FPH. The reference point does not change, it is accessing better information. The recovery targets have not changed, and there is no access to new water.
» The model assumes the profile fills up before the rainfall runs.	The Department responded: if the profile is full, some rainfall will run off, regardless. The model accommodates the quantity of rainfall and the profile. The soil profile does not have to be full before it runs off.
» Is it possible for rainfall to be exempted?	The MDBA's response: it is still captured under the limits, that does not mean it's not regulated. The Department's response: it all has to be accounted for. An exemption means an exemption from the requirement to have a licence, it does not mean that water is not accounted for.
» What is happening in Queensland? (i.e. measurement and enforcement measures)	The MDBA indicated Queensland was going through a similar process, but had started that process much earlier. It had introduced a moratorium on infrastructure in 2000 and in its water resource plans from 2003.

6.1.4 Dareton workshop

Query/comment	Response
» Will daily extraction limits be incorporated into FPH, and how does that tie into the MDBP?	The MDBA indicated that individual daily extraction limits are a maximum daily amount to be pumped from the river. The MDBA's expectation is that FPH must be constrained to the legal limits. The issue of volumetric licences and account limits control that.
» No-one trusts the government. The focus has been on appeasing irrigators in the north. Models don't work in dry years, and averages don't work on a good day. Is the intention to take it back to the 1993-94 cap limit?	The MDBA responded that limits are imposed by the MDBP and reference state water sharing plans. They set the diversion limits as the lesser of the cap: 1993-94 or 2000. The Department added that implementing the policy will control any growth that has occurred. It is likely that this will see a reduction in floodplain harvesting in the north. The Healthy Floodplains team has been engaging extensively in the north and south.
» How are downstream water sharing principles protected? It is a great concern that connectivity is not being recognised.	The Department indicated that issue would be addressed in water resource plans, which were to be exhibited within a couple of weeks of the meeting. Further, it should be recognised that SDL compliance was important and was predicated on being able to provide connectivity outcomes. (Issues of connectivity were addressed in more detail later in the presentation).

Query/comment	Response
<p>» I like that things will be returned to 1993-94. Can the Department or the MDBA guarantee the Menindee Lakes scheme will be saved?</p>	<p>The Department responded: there has been growth in storage and use, the objective is to bring it back to legal limits and cap levels. The regulator will determine whether users are following the rules. The question was understood, but the Department cannot give a guarantee.</p> <p>The MDBA added it supported the policy because it brought growth back into the limits, but it could not guarantee that Menindee would be saved.</p>
<p>» There have been no meetings with people in Menindee or Pooncarie.</p>	<p>The Department responded that the current meeting was part of the engagement plan. Circumstances prevented a meeting at Pooncarie. The Menindee Lakes Stakeholder Advisory Group asked for a meeting, and the Department has committed to holding one.</p>
<p>» Until you can say the WSP of the Barwon-Darling is to be brought back to 2012 levels, you are wasting your time. Whatever happens, we will lose again. How do you 'pub test' policies to show they will have a positive effect?</p>	<p>The Department responded that significant work had been done, and there were 48 peer review recommendations to be actioned. Data would become available within a few months when the WSPs were published.</p> <p>The MDBA added it was supporting the policy on the basis that it would improve the data available and help extraction revert to MDBP limits. The point about mistrust was well heard.</p>
<p>» What is the difference between 'legal' and 'sustainable'?</p>	<p>The Department responded: 'legal' take refers to SDL under the MDBP and long-term diversion limits under WSP. SDL are intended to provide sustainable levels of take. A range of water recovery targets were examined to provide sustainability. Ultimately, SDL are a trade-off: the health of communities and consumptive use.</p> <p>The MDBA added: there was a recognition the legal take was over-allocated. The MDBP sets what is believed to be sustainable limits for the foreseeable future. There will be a review of the MDBP in 2026.</p>
<p>» Some works may have been approved and are still in place. What happens to those works?</p>	<p>The Department indicated the WSP 'drew the line'. It was important to recognise the bulk of works were not having an impact.</p>
<p>» How will a newly issued FPH licence affect a current licence? Will it come off a water holder's account?</p>	<p>The Department indicated the policy provided a licence for an historical practice. Historic water use practices have been brought into licensing iteratively. The process issues a licence and approval and provides a mechanism to ensure extraction stays within legal limits.</p>
<p>» Will each valley have limitations? Will they be monitored and policed? Is there confidence the valleys will stick to those limits?</p>	<p>The Department responded it was confident in the resolve of government to implement reform, and confident of its ability to monitor implementation.</p>
<p>» There is scepticism that more water will be put back into tributaries and rivers. More water will be held in the Basin for production.</p>	<p>The Department acknowledged the statement and indicated its responsibility was to demonstrate its enforcement of the policy.</p>
<p>» How will the policy show improvements for recovered water downstream? How will the Department assess risks to the environment downstream?</p>	<p>The Department responded: information for environmental assets would describe changes in diversions. SDL would provide outcomes for downstream communities and the environment. The policy provides a mechanism for the state to uphold its</p>

Query/comment	Response
	responsibilities within the MDBP and to provide outcomes downstream.
» What has the Department been doing for the five years to 2018?	The Department indicated it had been collecting data for seven years – some data from landholders was good, other data was not. There is a requirement to better measure impacts downstream. On-farm storages will be measured, and landholders will have to do additional measurements to provide data for the Department.
» How do you get around compromising principles?	The Department indicated the primary purpose was to ensure the take above SDL was brought back to SDL.
» The legal and theoretical requirement is to implement on a whole-of-river basis, the Department's policy is to do the opposite.	The Department acknowledged the point made. The engagement was to demonstrate an action plan and response to growth in extractions.
» Who reviews the peer reviewers?	The peer reviewers responded they met extensively with stakeholders, the Department and the MDBA, all of which determined whether the peer review work was fair. The peer reviewers were open to comments.
» There is a concern that Alluvium Consulting has been accepted by the Department of Agriculture (sic) as a delivery partner. Isn't there a question of independence?	<p>Tony Weber (a senior employee of Alluvium Consulting and a peer reviewer) responded: this industry is not big and Alluvium Consulting works for multiple clients. The process with fellow peer reviewer Greg Claydon was open. Further, fellow peer reviewer Greg Claydon is not an Alluvium Consulting employee, he is an independent contractor.</p> <p>Alluvium Consulting refused some work offered by the Department while the review was underway, so there could be no allegation of impropriety.</p>
» Are licenses transferrable?	The Department indicated the policy outlined how permanent trading might occur. It was aware of the impacts of, and sensitivity surrounding, trading. There would not be trading between valleys, and there would be limits on trading.
» You have not addressed the issue of 500% carryover. Carryover should not be there at all.	The Department indicated that issue would be considered in modelling and environmental benefits reports. Draft WSP rules will be placed on public exhibition and all stakeholders will be able to provide comment. The Department noted that FPH is an episodic activity, averaging one in five years, and is location-specific.
» There is no consideration for high flow and low flow years.	The Department indicated it was working towards active management of flows to introduce connectivity and better outcomes. It would also be considering risks and opportunities for applying this to FPH.
» Would 324 orders limit take on FPH or limit accessibility for carryover years?	The Department's response: a s.324 order is temporary and at the Minister's discretion.
» Who believes there will be water returned to a river under the criteria you've allowed for this process? The trade of water has devastated river systems.	The Department responded that it was confident that this process would ensure that legal limits were not exceeded. The comment in relation to trade was noted and reference was made to previous comments.

Query/comment	Response
» A stakeholder raised concerns regarding the impacts associated with trade of floodplain harvesting licences and having large carryover licenses.	The Department indicated it acknowledged carryover arrangements and trading were an issue for water users and there would be another opportunity for input from all stakeholders on these matters.
» What are the penalties for large-scale theft?	NRAR responded that the <i>Water Management Act</i> has a series of offence categories and sanctions. NRAR indicated it would not reveal tactics, but committed to utilising all the tools at its disposal - this included debiting an account and suspension or revocation of licenses.
» There are 15 government contractors in the room. The Murray Darling Basin Commission ripped water harvesting out of NSW so it could go to South Australia and Lake Alexandria. How many people bought shares in the Sydney Harbour Bridge?	The Department acknowledged the comment and indicated the number of staff present was driven by a desire to engage with stakeholders, and in response to previous criticism that experts had not been present in previous engagements to answer questions.
» Will the number of storages be made publicly available?	The Department responded that detailed LIDAR and bathymetric surveys of storages had been completed. That material would be in the public domain via modelling reports.
» How much money will be required to implement the policy? Will the Federal Government contribute?	NRAR responded that the Federal Government had made a grant to ensure it would be sufficiently resourced. In addition, bids would be submitted to IPART in coming months and additional appropriations would be sought from NSW Treasury. NRAR's board recognised the importance of funding.
» The thought of 500% carryover is ludicrous. If the river can't deliver in one year, what expectation could there be that it could do so in future? How do you stop diversions?	The Department responded: most FPH is captured by structures and put into storages, although there are some gravity-fed storages which would need to discharge or pass through water. They will be put into the arrangements. Reference was also made to previous comments on this issue.
» How can you promote a system on low priority use of water and not have a mechanism to turn it off?	The Department acknowledged the comment and indicated the government was aware of the drought and it had received advice on such mechanisms. Further, it was aware of the decision-making process at both the ministerial and lower levels.
» If water is captured to start with, won't it stay there?	The Department's response: there are myriad structures on the landscape, some associated with FPH and some not. All have an impact on water movement. There are approvals for structures that impede flow, they will continue to exist. The regulator is turning its mind to unapproved structures on the landscape that are causing problems.
» Who comprises the Board of NRAR?	NRAR responded: the Chair is Craig Knowles, plus Bruce Brown and Ilona Miller.
» Why isn't the standard default setting that the river gets the water? If there is excess water, irrigators can have it.	The Department responded: the intention is to provide mechanisms that provide for the environment first. The Natural Resources Commission report says something similar. The policy is set up to achieve those outcomes. Where you have a record drought, the Minister has the mechanism to step in and put in place temporary restrictions.

A local stakeholder closed the Dareton meeting thanking the Healthy Floodplains team for attending.

6.1.5 Feedback: Sydney workshop & concurrent webinar

Query/comment	Response
<p>» Before there were dams, floods used to last 6-8 weeks, now they last 6-8 months in the Macquarie. I used to have 6000 acres of good country, now I have 6000 acres of country I can't use for six months. Millions of dollars have been spent to be sustainable. There has been no consultation. You don't listen to irrigators.</p>	<p>The Department responded that it was interested in understanding the core issues, including core changes to irrigator behaviour affecting individual properties.</p>
<p>» What will this do to improve the health of the rivers themselves? What regulations will occur to allow flows to reach the Barwon-Darling before licensing occurs? Over-estimations of creek flows and over-extractions in dry times have not been addressed.</p>	<p>The Department responded: growth in storage and use in the northern valleys had been observed, the objective was to bring it back to sustainable limits. Connectivity, particularly in WSP and WRP, was a key theme. It was important to acknowledge the data now available was significantly better than in previous years. Independent peer reviewers had been used to analyse the process and identify where improvements could be made. Further, a key driver of the policy was protecting downstream users from unconstrained FPH, and the Department expected to see downstream outcomes.</p>
<p>» What about first-flood flows?</p>	<p>The Department indicated its attention had been focused on the north. Environmental management work was ongoing. Draft rules would be followed through, risks and opportunities identified. The government signalled an intention to manage flows, overall, and manage events in the north.</p>
<p>» There is no confidence from the industry in how regulation will be implemented. How can there be certainty?</p>	<p>The Department responded: this is a process that has been occurring for some time. The Department's role is to give advice to government in an unbiased way, and government is the decision-maker. Further, the need to account for water take is recognised. More work is to be done on how that is implemented, and will be put into a report to be made publicly available.</p>
<p>» You can't put people under scrutiny on a weekly basis, they won't put up with it.</p>	<p>The Department responded: there is no intention to make changes if they are not required. The Department is putting in the effort to get things right, and is doing its best with the information available.</p>
<p>» Why is rainfall runoff included? Who else gets to pay for rainfall?</p>	<p>The Department acknowledged the sentiment that the policy position was not supported by the stakeholder making the point. It should be understood that not all runoff goes to storages - it was important to understand capture to permanent and temporary storages, and how it was measured through permanent storages. Further, there was a difference between the requirement to account for water take and the requirement to licence it. The MDBA expects the Department to understand the quantum of diversions.</p>
<p>» How has rainfall runoff been calculated?</p>	<p>The Department responded that the independent reviewers had asked for a third-party review, and that work was underway and would be published, for transparency.</p>

Query/comment	Response
» Will the MDBA return WRP back to the state government if they fail?	The MDBA responded: if a state WRP does not meet the requirements, a negotiation between ministers would address that. The MDBP sets out connectivity across state boundaries and borders. If the connectivity is low, the WRP is not required to set out provisions. If it is high, the WRP needs to set our provisions to manage connectivity.
» There is unhappiness about a timing mismatch between authorised WRP and implementation, and also the inequity of water being taken for irrigation.	The Department responded that an action plan had been laid out to June 2021 to complete implementation. The MDBA added that Minister Littleproud had extended the NSW requirement to submit plans, and the agency would do everything it could to have plans accredited and assessed. The NSW Government still needs to report and account against SDL.
» What is the approach if you're not confident in the model – will it be amended? What is the role for the peer reviewers?	The Department responded: the timeframe was ambitious because it was a long-standing reform, and the Department was working hard to implement it within its timeframes. The peer reviewers had been approached to continue their work on an ongoing basis. There is a proposition to ensure stakeholders are involved in discussions moving forward.
» The assessment of what is 'significant' varies between valleys and within valley. The government has not addressed that issue of equity, to date.	The MDBA responded: under the MDBP, where the collection and use is not measured, it is termed 'interception' – for example, farm dams and FPH. The take and use of intercepted water needs to be accounted for under SDL.
» Please outline the KPIs for environmental improvement.	The Department indicated it needed to understand the quantum of the changes pre- and post-implementation. A lot of work has already been done through the MDBP and WRP. The Department will present the information as it is, and a comparison against environmental water requirements.
» The policy won't happen without the support of the irrigation industry, and you won't get that while including rainfall runoff. You don't listen, you try to bully people. Listen to what we say.	The Department acknowledged it had heard much about the issue of rainfall runoff and also practical implementation during the stakeholder engagements. The Department is required to account for water, and acknowledges the practical concerns.
» The bottom of the river has copped it for years while works continue in the north. The irrigators in the northern Basin have yet to give up a thing. How will you proceed when what is proposed fails?	The Department responded that the process allowed it to meet the SDL the MDBP had set. NSW was meeting its commitment to the MDBP and to satisfy its own water laws. The MDBA added that the MDBP was about whole-of-system management. It was a requirement to ensure water travels through the system to where it was required, and also to ensure water was protected as per the Act. Outcomes are codified in the inter-governmental agreement.
» How are water-retention techniques accounted for within the model?	The Department indicated the models had been calibrated.
» What metering devices are being considered?	The Department indicated water users would need to install devices on storages. Temporary storages were considered a minor component. The policy outlines that landholders would need to transfer to permanent storages or measure within temporary storages.
» Who will compensate for de-watered landscapes?	The Department responded: activity has been occurring for a number of years, and it was not proposed to change the activity. Rather, the intent was to better regulate and measure

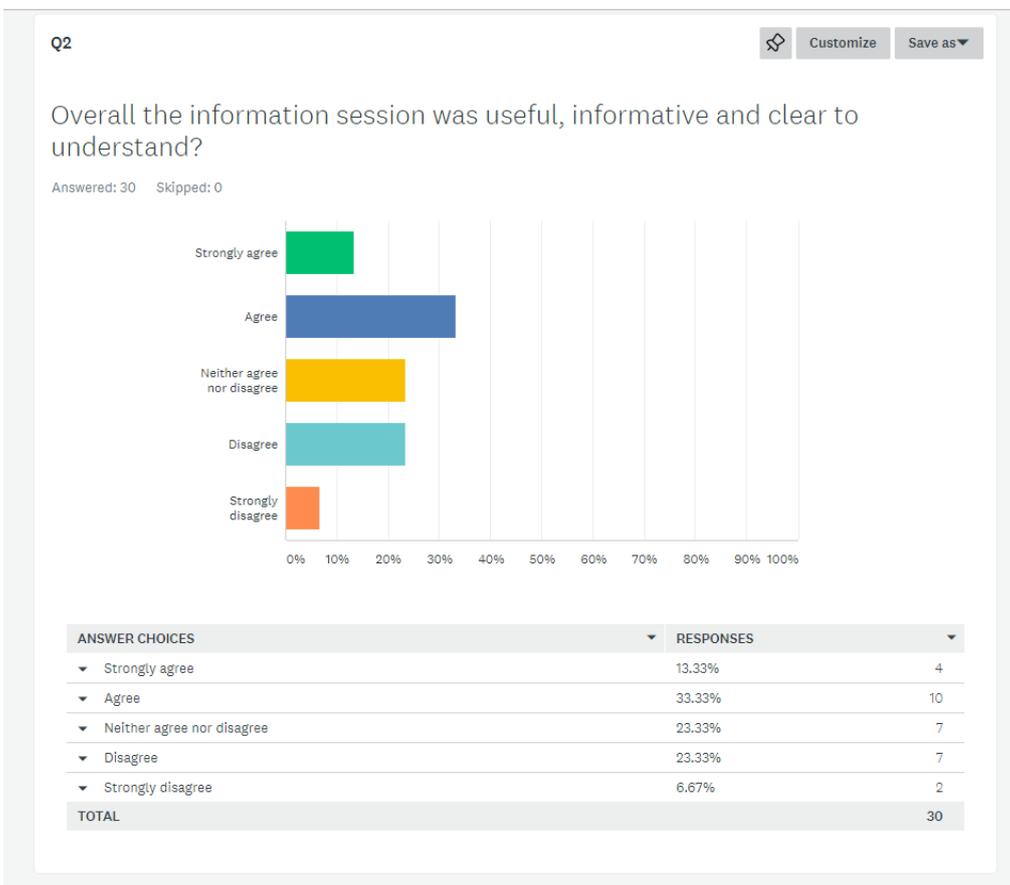
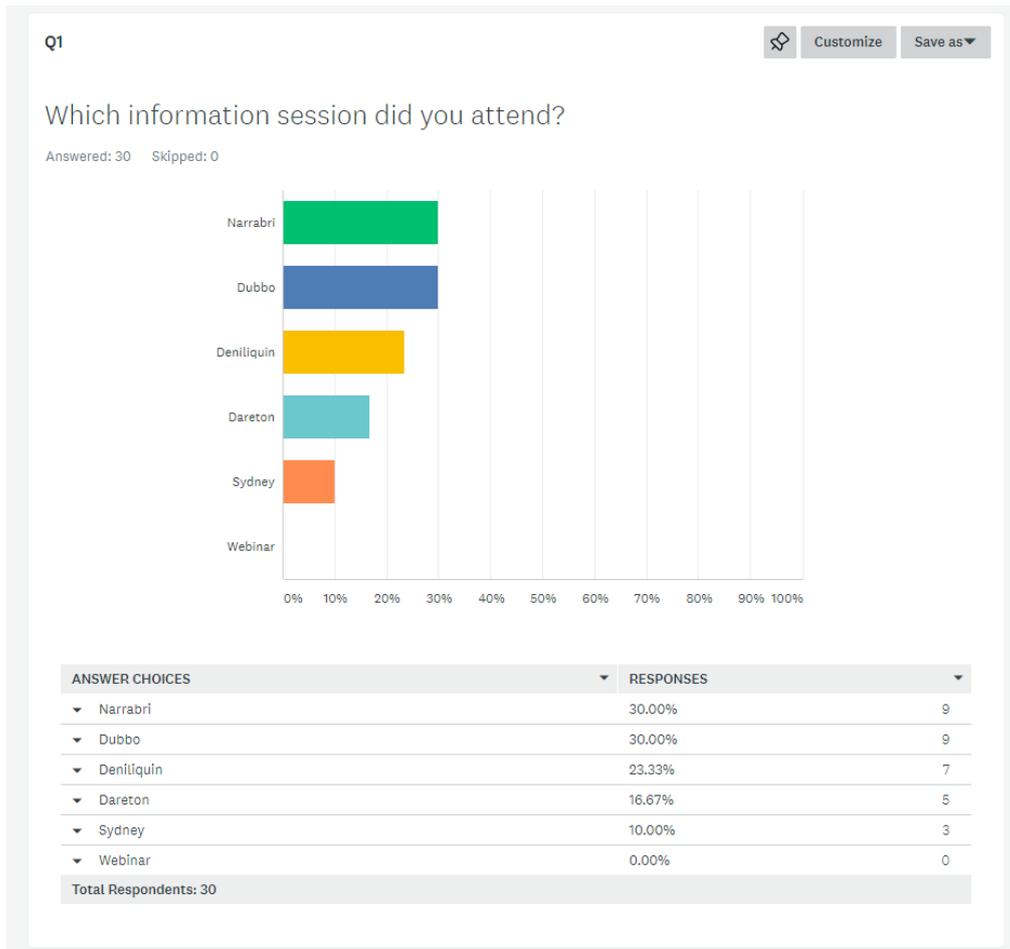
Query/comment	Response
	the existing activity. If the activity has increased beyond sustainable limits, it needs to be brought back into sustainable limits. There would be no new water take.
» What other processes will be taken into account?	The Department indicated two forms of accounting would measure different forms of water take. If water users had multiple forms of water take entering a storage, they could provide evidence of the different components. The complex accounting methodology is an evidentiary system. The Department was still working on a template, which would be as simple and practical as possible, and more engagement on that would follow.
» How do you apply limitations to trade?	The Department indicated FPH was site-specific, and trading opportunities were expected to be quite limited. The requirement would be on the vendor or the agency to demonstrate it did not require the water it was trading off. The regulator will examine storage data, which prompted the requirement for telemetry.
» Is the legislation retrospective? If proven to be illegal, what happens to those works?	The Department responded it had been examining water take to date, not works. NRAR added that it was conducting pilot projects in the Gwydir and Darling river valleys. If found to be non-compliant, works would need to be modified to bring them into compliance.
» Greater demand will be from environmental water holders. What consideration has been given around that regarding accounting and compliance?	The Department indicated it would treat environmental water holders much like every other market participant. There was nothing to prevent environmental water holders from purchasing water.
» Are there any plans for the Department to assist in the implementation of sensors, loggers or telemetry? There is an anticipated implementation bill of \$20 million to be paid by irrigators.	The Department indicated it was conscious of the on-farm costs, and anticipates purchase and installation would cost between \$2000-\$2500 per storage. Most irrigators had between 1-3 storages. The Department was also aware of the need to balance multiple objectives, and to work with industry to achieve outcomes that were fit-for-purpose.
» Will there be adequate time to implement on-farm devices?	The Department indicated the list of storage sensors and approved loggers and telemeters would be published. Water users would have from April 2020 to June 2021 to implement the devices.
» Why meter storages when you could meter at the input to the farm? It would be easier to estimate rainwater take rather than keep a record of what storage levels do.	The Department acknowledged the point, and indicated it was felt storage measurement devices were the most practical way to measure when there are multiple water inputs. The desire was to give water users choice.
» Is the measurement strategy state-wide?	The Department responded that the policy was state-wide and was being implemented in the northern valleys first, based upon an assessment of growth and risk.
» The risk-based strategy may be based on information that is 10-14 years old. The Department needs to consider perverse outcomes.	The Department indicated it was providing a mechanism, framework and regulation that supports equity in water use and outcomes. The Department had indications the market would be able to meet demand for sensors, data loggers and telemetry devices.

Query/comment	Response
<p>» What opportunities will emerge to establish whether long-term averaging is the best basis for modelling the system?</p>	<p>The MDBA clarified that the Basin Plan considered watering plans and environmental assets in addition to long-term averages.</p>
<p>» The policy seeks a systemic privatisation of benefit but a socialisation of landscape losses. Is this approach sustainable for the ecology?</p>	<p>The Department responded that the policy intended to bring historic water take into a licensing framework. There is an acceptance the current level of water take before the MDBP is not a sustainable footing for the continued prosperity of Basin communities. The current level of extraction needs to be moved to a SDL.</p> <p>The MDBA added that the process of setting SDL involved looking at water requirements for assets throughout the Basin, and different wetting and drying regimes. SDL were set to provide that watering, and it is reflected in the modelling.</p>
<p>» What is the state's planning role in achieving adjustments from the 2012 level of take over time to a sustainable level?</p>	<p>The MBDA responded that WRP must demonstrate they can achieve SDL. The MDBP articulated what SDL should be for each WRP area. The Commonwealth made a commitment it would bridge the gap between the BDL and the new sustainable diversion limit, and expects to see in the WRP that plans can meet the SDL. If the recovery is not complete the demand for recovery remains. The MDBA is looking for a plan to achieve SDL, a method to determine the SDL, and a mechanism to measure the take - the outputs from those methods feed into the compliance register.</p>

7 Evaluation of feedback sessions

A survey of participants was used to evaluate the sessions, the results of which are presented on the following pages.

Floodplain Harvesting information sessions (September 2019) - evaluation

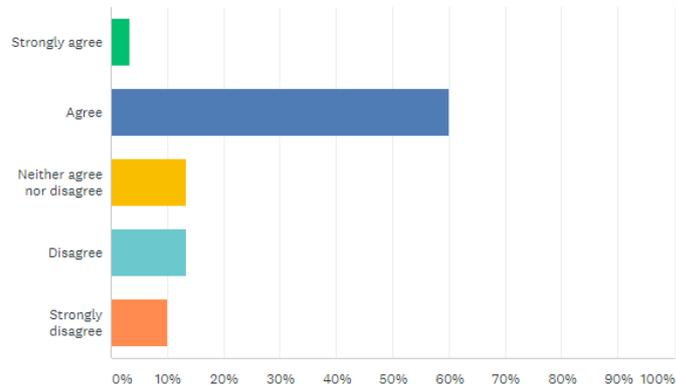


Q3

Customize Save as

My knowledge of the Independent Peer Review, Action Plan and Measurement strategy has improved.

Answered: 30 Skipped: 0



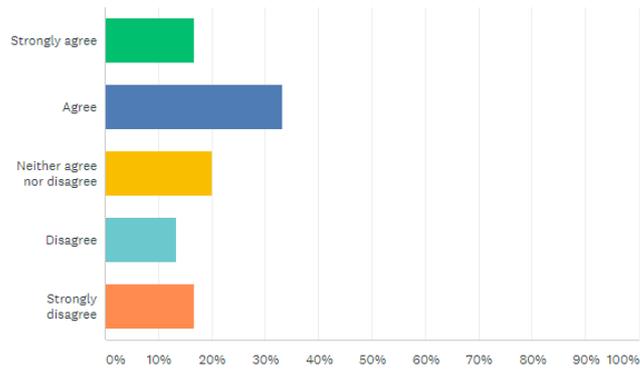
ANSWER CHOICES	RESPONSES
Strongly agree	3.33% 1
Agree	60.00% 18
Neither agree nor disagree	13.33% 4
Disagree	13.33% 4
Strongly disagree	10.00% 3
TOTAL	30

Q4

Customize Save as

There was enough opportunity to ask questions about the information presented.

Answered: 30 Skipped: 0



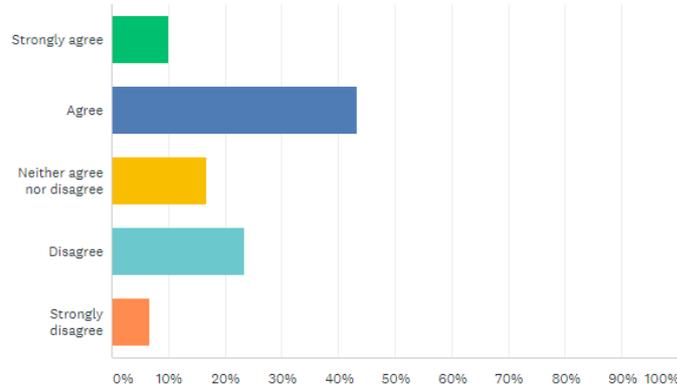
ANSWER CHOICES	RESPONSES
Strongly agree	16.67% 5
Agree	33.33% 10
Neither agree nor disagree	20.00% 6
Disagree	13.33% 4
Strongly disagree	16.67% 5
TOTAL	30

Q5

Customize Save as

The session was well organised with a range of materials, including power-points and handouts that supported the information being presented.

Answered: 30 Skipped: 0



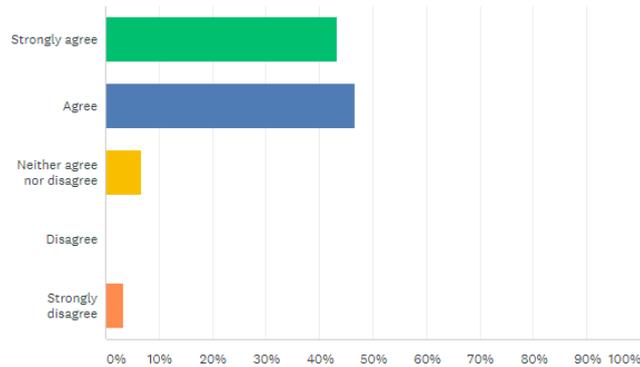
ANSWER CHOICES	RESPONSES
Strongly agree	10.00% 3
Agree	43.33% 13
Neither agree nor disagree	16.67% 5
Disagree	23.33% 7
Strongly disagree	6.67% 2
TOTAL	30

Q6

Customize Save as

I would be interested in attending future information sessions.

Answered: 30 Skipped: 0



ANSWER CHOICES	RESPONSES
Strongly agree	43.33% 13
Agree	46.67% 14
Neither agree nor disagree	6.67% 2
Disagree	0.00% 0
Strongly disagree	3.33% 1
TOTAL	30

8 Appendices

Questions on notice

Where the Department or accompanying agencies could not immediately respond to a query or comment, the Floodplains team committed to taking it as a question on notice, with a commitment to follow up. Those issues were:

For the Department:

- » Clarify whether/where section 324 'cease to pump' restrictions apply
- » Clarify the Department's position on MACE-brand meters and whether they are compliant
- » Clarify the approach to temporary storages and whether they will be incorporated within the implementation of the new regime
- » The Healthy Floodplains team indicated rainfall runoff was considered an active issue with the Minister's office, with the Department to follow up and clarify the Government's position on the issue

For other agencies:

- » MDBA: provide more detail about historical flows, modelling and their impact on allocations; assure that "39% flows down the Darling River"

