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Supplementary Submission: Inquiry into the rationale for, and impacts of, new dams and other water infrastructure in NSW

Macquarie River re-regulating storage proposal

Healthy Rivers Dubbo (HRD) is a grass roots community group dedicated to providing a strong voice for our local rivers, aquifers and wetlands in the Murray-Darling Basin for the benefit of wildlife, plants and people. We pay our respects to Elders past and present and acknowledge that this land was never ceded.

HRD lodged a submission to this Inquiry in September 2020 and gave a presentation by phone link up at the hearing held on 27 November 2020 at Parliament House.

HRD is grateful for the opportunity to submit a supplementary submission to the Inquiry, with a focus on the Macquarie River re-regulating storage proposal (the proposal).

The intent of this supplementary submission is to provide new information to the Inquiry about the proposal as revealed in December 2019 through a release of documents through the Parliament. As an [appendix](#) to this supplementary submission please find a link to the documents that HRD has read that came through parliament.

We also refer to answers given to questions in Budget Estimates in March 2021.

Business Case

Calls from the Macquarie Valley community to see the business case for the proposal have increased. Recreational river users have reported to HRD that they have heard through their contacts that the business case shows that the project has fundamental economic flaws.

The expected CAPEX for the project was cited as \$84,000,000 back in March 2020. The risk for potential cost blow out is high according to Jim Bentley's precis of the project plan reviewed in February 2020.¹

The expected cost of environmental offsets is \$2.251 million.

¹ Document ref DPIE.DIP.512 2020 Variation agreement Appendix A page 143 of 188

For a public investment of \$86,251,000 before cost blowouts, this proposal will only benefit the cotton industry, as confirmed in DPIE Water's funding proposal to Snowy Hydro Legacy Fund (SHLF):

"...in particular it is intended to improve reliability for general security licence holders. The weir is also intended to improve delivery efficiency to water users downstream of Gin Gin Weir and reduce transmission losses when transferring and delivering water through the system.

*Agriculture is a significant contributor to economic activity in the Macquarie-Castlereagh region and the biggest user of water. The largest agricultural use of water in the valley is for irrigated cotton production downstream of Dubbo. This industry is underpinned by water and many of these users hold general security water licences. The investigation of a re-regulating weir will help determine whether the infrastructure will improve the reliability of water for these users in the context of a more variable future climate."*²

Of the 23,000 jobs and \$7 billion in annual economic activity in the Dubbo Regional local government area, most jobs and revenue production are in Health Care and Social Assistance, followed by Retail Trade then Education and Training.

Jobs in neighbouring cotton towns have reduced dramatically in recent decades as (often public) investments in streamlining technologies are saving cotton growing corporations in wage overheads.

Employment figures in cotton growing in the MDB from the 2016 census (Appendix 3 Page 50):

Year	Cotton growing jobs in the MDB
2001	2,950
2006	1,700
2011	1,520
2016	1,007

Under current water planning rules this proposal prioritises irrigation at the expense of town water supply, high security licenses, stock & domestic licenses, basic rights, native title rights and planned environmental water.

The State significant infrastructure development application for the proposal should be cancelled, as the proposal is only for the benefit of the cotton industry.

WaterNSW, as a state corporation, has a conflict of interest in advocating for additional water to sell to their general security customer base.

HRD considers it is not in the best interest of the NSW community for over \$86 million in public money to be spent on a proposal that is a subsidy to the cotton industry, would cause significant impact on several matters of national environmental significance and would be in contradiction of the priorities of use in the Water Management Act 2000.

Third Party Impacts

² Document ref DP1E.D1P.507 SNOWY HYDRO LEGACY FUND PROJECT PROPOSAL Appendix A page 126 of 188

In respect to the impacts that the proposal would have on the river and the volumes of water downstream, there are many industries in the Valley that would be impacted by the proposal. HRD considers it appropriate for the community to know if they have been assessed in the business case.

There would be less water available for unregulated irrigation downstream, NSW Water Minister Pavey was asked to comment about that in Budget Estimates on Monday 25 March 2021 and her answer was:

“WaterNSW in consultation with DPIE Water is continuing hydrological assessments of the flow changes and access in the lower parts of the Macquarie system. Assessments to date have determined that for all climate scenarios there will be minimal change to the flow regime as a result of the reregulating storage. WaterNSW has committed to stakeholders in the lower Macquarie that consultation will continue to present the findings of assessments, including potential impacts, and work with stakeholders to identify how any changes can be mitigated or addressed.”

This confirms that there will be an impact.

When also asked about the impact the proposal would have on supplementary flow access rules at Marebone weir and water availability at Warren town weir, the Minister replied there would be no impact. HRD wonders how that could be the case when there will be an impact on unregulated irrigation.

Documents presented to stakeholders and posted on twitter show a significant modelled reduction of low to small flushes and flows of up to 6.2% at Marebone.³

Recreation and tourism are important economies in the Macquarie Valley.

The Macquarie River is a popular destination for recreational fishers chasing Murray Cod and other iconic native species.

The Macquarie hosts several large multi-day kayaking events a year, bringing hundreds of people and their wallets from around NSW and beyond.

The famous Ramsar listed Macquarie Marshes attract bird watchers and caravaners from everywhere.

The expected environmental impact of the project will devastate the recreational and tourism industries mentioned above:

In 2010 the Australian Government issued a formal notification of a likely “change of ecological character of the Macquarie Marshes Ramsar site” to the Ramsar Secretariat.

The conditions of the Macquarie Marshes Ramsar site remains poor because of the ongoing effects of regulation. This project will exacerbate ongoing decline in all of the elements outlined in the 2010 notification to Ramsar.

The project will impact the habitat of Eel-tailed Catfish, Olive Perchlet, and Southern Purple Spotted Gudgeon, listed as threatened and endangered under the NSW Fisheries Management Act.

As per the projects’ EPBC referral, the project will have the following significant impact on the critically endangered Silver Perch, endangered Trout Cod and vulnerable Murray Cod under the EPBC Act:

³ <https://twitter.com/FullCostRecover/status/1286279477811507205>

- *Loss of freshwater habitat types such as riffle zones due to inundation, and changes to flow regimes and water quality.*
- *Impacts to aquatic habitats and riparian vegetation from the regular variability of water levels within the storage and the associated effects on river bank stability.*
- *Loss or decrease of available recruitment area, due to changes in available habitat.*
- *Likely impacts to the structural elements that make up established habitat (of vulnerable Murray Cod) in the existing Gin Gin Weir pool, including potential spawning sites.*
- *The new operational regimes may impact larval recruitment and the movement of fish in the locality.*
- *Greater variability in the pool levels and altered fish passage opportunities at the location.*
- *Alterations to important fish habitat in this locality and the potential operation effects on habitat and spawning for Trout Cod and Murray Cod may give rise to potentially significant impacts to these species.*⁴

The significant environmental impacts of this proposal on internationally recognised wetlands, migratory birds, endangered and vulnerable native fish cannot be offset. The estimate seen in documents of \$2,251,000 in environmental offsets is woefully inadequate.

The impacts of the proposal on unregulated irrigation, tourism and recreational industries must be adequately assessed in the business case and made available to the public ASAP.

Cost Benefit Ratio

WaterNSW and the NSW Government claim the proposal will only capture 'rain cancelled' irrigation orders and re-regulate them for later release.

If that were to be the case, the proposal would increase the long term annual average general security availability by about 14,500 ML a year, according to a WaterNSW project manager talking at a small public gathering at Gin Gin on 7/9/2020.

This is a relatively small volume when compared to the volumes typically extracted in a year by general security customers in the regulated Macquarie River source. In the two years to 30/6/2019, 450,000 ML was extracted by general security irrigation customers.

The irrigation industry in the Macquarie is just about to be gifted 62,791 ML per year of brand new property rights in the form of floodplain harvesting licences. This coming after them having decades of free access to as much floodwater as they could take. Recent flows during the March rains in the Macquarie saw up to 12,000 ML taken from supplementary access and floodplain harvesting, during a time when the practice of floodplain harvesting is illegal following the disallowance of the government's floodplain harvesting regulation.

WaterNSW and the NSW Government continue to claim that the proposed dam would not catch tributary inflows from the Bell, Little and Talbragar Rivers that enter the river below Burrendong dam, however that claim has not been put in writing anywhere that HRD has seen. In fact the Scoping Report states on page 16 that *useful tributary contributory inflows* will be a part of the operations.⁵

⁴ <https://www.parliament.nsw.gov.au/lcdocs/submissions/69175/0070%20Healthy%20Rivers%20Dubbo.pdf>

⁵ [Macquarie River re-regulating storage scoping report](#)

This proposal would commit over \$86 million before blowouts on a dam that would only benefit the cotton industry. The proposal would deliver an extra 14,500 ML on average to the industry when they can comfortably use 250,000 ML or more in a single year.

The cost benefit ratio of the proposal based on those numbers must be very low. The public doubts the claims made by WaterNSW and DPIE Water that the dam will not catch tributary flows – it doesn't make any sense otherwise.

The business case for the proposal must be released before cabinet gets a chance to approve the proposal.

Environmental Impact Statement (EIS)

HRD understands that the business case is complete 'up to a point', as told to us by the WaterNSW project manager. Further, we understand WaterNSW want to complete the EIS so the cost of environmental offsets can be included in the business case before it goes to Cabinet for a funding decision.

Information gained through Parliamentary papers released in December 2020:

On 2/10/2020 DPIE Water emailed the SHLF team to ask:

"The Minister has approved fast-tracking the EIS investigations and approvals for the macquarie re-reg weir to occur concurrently with business case development. This means that the project will need an additional \$2.3m. Will Snowy Hydro be able to provide this funding?"

On 7/10/2020 the reply came:

"Unfortunately the DPO and Gary do not support this funding request. The SHLF will not be able to provide funding for the EIS and DPIE Water will need to seek funding elsewhere."

To date WaterNSW have not been able to secure funding for the EIS, confirming to HRD's Convenor on a phone call on 22/4/2021 that they are having difficulty getting funding of the EIS.

Assessment of the project plan (early 2020)

In a NSW Government document (ref BN20/98) attached to a letter signed by Jim Bentley and addressed to Mr Ronan Magaharan (Executive Manager Assets WaterNSW), the Macquarie mid system re-regulating storage and Lake Rowlands to Carcoar pipeline in the Lachlan region are discussed:

"DPIE Water Group and Regional NSW Division of the Regions, Industry, Agriculture and Resources Group (RIAR) have identified significant deficiencies with the project plans provided by WaterNSW for both projects as required under the funding deeds."

The Regional Water Strategy (RWS) Division recommended that the invoice for Milestone 2, which consisted of 3,712,000 for the Macquarie proposal not be funded as the as the project plan deliverables were not adequate.

It was recommended that WaterNSW amend the project plan to meet the requirements of Schedule A of the funding deed.

Deputy Secretary Bentley notes that the project plan does not meet the requirements of the funding deeds to demonstrate value for money and prudent use of public funds.

The Snowy Hydro Legacy Fund Steering Committee was requested to approve allocation of the remaining required funding in March 2019, but did not approve this allocation. Both Treasury and Infrastructure NSW committee members were not satisfied with the budget and/or governance arrangements for the projects.

Regional NSW Group separately proposed the projects in a SHLF ERC submission as part of the 2019-20 Budget process. Treasury did not support the projects proceeding to ERC consideration.

DPIE Water state the documents they reviewed had a list of issues that need to be dealt with, that include this list of missing elements:

- review and clearly articulate the scope, objectives and outcomes of the two business cases including alignment with the Macquarie and Lachlan Regional Water Strategies (RWS)
- incorporate climate and hydrological modelling undertaken for the Macquarie and Lachlan Regional Water Strategies into preparation of the business cases, and reflect the agreed approach in the project plans
- include key project delivery elements decision points, process for resolving policy and planning matters, communications and timing that will inform Government's future investment decisions on progressing the construction of the two projects
- provide a detailed cost schedule for each project that aligns with the key project delivery elements; expected budget draw down based on milestones and decision points (including hold and don't proceed points) and justification for each cost element
- set out the governance arrangements including the roles and responsibilities of the working group (agreed by the RWSs Senior Officers Group), project oversight by the RWSs Executive Committee and reporting to DPIE under the funding deed,
- articulate how the business case development aligns with Infrastructure NSW's Gateway Assurance Process
- provide stakeholder engagement and risk management plans that are consistent with the development of the Macquarie and Lachlan Regional Water Strategies
- revise risk management plans to include project specific risks and mitigation strategies

The risks to the proposal if the above was not revised included:

- delays in the delivery of the final business cases for both projects
- misalignment between the development of the business cases, the Macquarie and Lachlan RWS and other relevant projects such as investigations into the augmentation of Lake Rowlands Dam
- misalignment between the modelling used for the business cases and RWSs which may lead to delays in the Infrastructure NSW Assurance process
- scope creep and additional costs for Government due to incorrectly scoped or inadequately developed project plans
- confusion about which regional stakeholders will be consulted as part of the two business cases and the Macquarie and Lachlan regional water strategies
- inefficient use of resources (e.g. modelling and stakeholder consultation) between WaterNSW and DPIE Water
- future risks and liabilities for Government due to inadequate risk management and governance arrangements
- limited oversight over high value projects that are publically funded

Recommend that the funding deeds are varied to enable more effective governance of the projects

Based on the issues outlined above, it is recommended that the two WaterNSW invoices - \$3,712 million (incl GST) for the Macquarie and \$2,887 million (incl. GST) for the Lachlan - are not accepted at this stage. Instead, it is recommended that the Deputy Secretary - Water write to WaterNSW

requesting amendments to the project plans in order to meet the requirements of Schedule A of the funding deeds (draft letter at Attachment E).

Further, on the basis of more detailed budget information provided in the revised plans, it is recommended that DPIE Water seek to amend the payment schedule and milestones in the funding deeds. Changes to the details of the milestones and payment schedule will need to be agreed with WaterNSW and documented by a written variation to the funding deeds. Clause 20.6 provides that such a variation may be agreed in writing via an exchange of emails that confirm the agreed variation.

This will allow for more effective governance and management of costs for the projects, and more effective budget management within DPIE given that the Snowy Hydro Legacy Fund Steering Committee has not supported funding the full costs of the projects given concerns about the costing provided and governance arrangements. The Department now needs to allocate the funding from another source.

The options for funding the continuation of the proposal were:

- find the money within the Water Group by reprioritising funding
- issue a Ministerial Direction to WaterNSW and continue the work financed through a mix of the existing grant and debt funding the balance (recommended by Regional NSW)
- not completing the EIS before the business case is finalised

WaterNSW requested the Department's consent for a media release, but were denied due to issues with the project plan.

Funding History Timeline

The SHLF is providing funding for Final Business Case (FBC) only.

"Project funding from SHLF unlikely as funds have been diverted to Dams prioritisation. Other funding sources should be investigated such as the National Water Infrastructure Development Fund. Est CAPEX \$84M"

On 22/5/2019 Treasury approved \$1.2m for proposal as a part of \$6,350,000 for funding several business cases from the SHLF.

Extra funding requirements were identified by WaterNSW after DPIE Water had made submission for funding, and a shortfall for the Macquarie proposal was identified.

A previous request made 13/2/2019 for the SHLF to fund the shortfall was rejected.

Total contract value 4,500,000

SHLF allocation 1,200,000

Total shortfall 3,300,000

In February 2020 DPIE Water advised WaterNSW that 3,712,000 Milestone 2 payment would not be funded as the as the project plan deliverables were not adequate. Both Treasury and Infrastructure

NSW committee members were not satisfied with the budget and/or governance arrangements for the projects

In June 2020 the shortfall from SHLF for the business case was made up from underspends in DPIE Water of \$977,000

Efforts were being made in July 2020 to fund the proposal through a WaterNSW stimulus package.

In November 2020 reported that previous concerns had been addressed, and milestone 2 payments were released:

An email from DPIE to RWS Snowy Hydro team says the payments processed to date = \$2,244,000

RWS team authorised payment of an invoice for \$820,000 being part of Milestone 2 PO for \$3,375,000 from SHLF.

Conclusion

The project is in a limbo, with no secured funding for the EIS or the capital expense.

Due to the significant inadequacy of the project plan as assessed in February 2020, it would appear that the milestone 2 funding for the business case was initially denied until significant improvement to the plans was achieved. It was not until November 2020 that SHLF released the milestone 2 payments, meaning WaterNSW were operating in the meantime on underspends being reallocated and presumably debt, at a time when WaterNSW resources are being stretched.

This very expensive project is unabashedly for the benefit of the export cotton industry, and will cost First Nations groups, downstream users and the environment immeasurably.

HRD strongly asserts that the business case in its current state must be made public immediately.

Appendix B [link to documents obtained through parliament](#)

For further information please contact



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