

Oolloo Water Advisory Committee
Meeting Record 6

28 March 2017 – 9.30am
Paterson Room, Katherine Research Station

Members Present

John Childs	Chair
Mona Liddy	Traditional Owner
Peter Rix	Proxy for Malcom Baker
	Quintis, Water Extraction Licence Holder
Rob Lindsay	Maddaingya Malak Malak Ranger Program
	Representative
Peter Marks	Horticulturist, Water Extraction Licence holder
Sam McBean	NT Cattleman's Association representative, Water
	Extraction Licence Holder
Warren de With	AFANT Representative

Members Absent

Dick Perry	Community Member, Water Extraction Licence Holder
Kate Peake	Regional Development Australia Northern Territory
Eddie Webber	Community Member
Alison King	Aquatic Ecologist
Phil Howie	Community Member, Water Extraction Licence holder
Simon Smith	NT Farmers Association representative
Lorrae McArthur	Northern Land Council
Malcom Baker	Quintis Corporation, Water Extraction Licence Holder
	Peter Rix present as proxy

Advisors Present

Gabby Yates	Water Planner, DENR
Robbie Henderson	Water Planner, DENR
Liza Schenkel	Community Engagement, DENR

Observers

Lizzie Sullivan	Traditional Owner
Pru Ducey	DENR, Minutes
Yu-Chun Chou	Compliance and Enforcement Officer, DENR

1. OPENING

(John Childs)

Meeting opened at 9.55am

1.1. Apologies

Dick Perry	Community Member, Water Extraction Licence Holder
Phil Howie	Community Member, Water Extraction Licence holder
Kate Peake	Regional Development Australia Northern Territory
Eddie Webber	Community Member
Alison King	Aquatic Ecologist
Trish Rigby	Northern Land Council representative, proxy for Lorrae McArthur
Malcom Baker	Quintis, Water Extraction Licence Holder
	Peter Rix present as proxy

1.2. Introduction from the Chair

The Chair thanked everyone for attending. There are three major items on the Agenda today: a presentation on the draft Strategic Indigenous Reserve (SIR) policy; discussion on the Strategic Indigenous Reserve in the Ooloo Water Allocation Plan area; and, discussion of draft sections of the Plan relating to managing licenced water entitlements.

2. MINUTES FROM PREVIOUS MEETING

Acceptance or amendments required to the draft Minutes from Meeting 5 was deferred due to the number of members absent.

- ❖ *ACTION: Gabby Yates will email members seeking their acceptance or amendments to the draft Minutes from Meeting 5.*

3. DISCUSSION DRAFT STRATEGIC INDIGENOUS RESERVE POLICY

(Robbie Henderson, DENR)

Robbie Henderson gave an overview of the draft policy and summarised key consultation questions. Robbie is the Water Planner based in Alice Springs. In addition to working on the development and review of Water Allocation Plans in the Alice Springs area he is developing the Strategic Indigenous Reserve Policy.

The Committee was encouraged to provide a submission on the draft SIR policy discussion paper. A submission should include points where there is general agreement and also include divergent views. Individuals are also welcome to make a submission reflecting the views of their stakeholder constituents.

The main aspects of the proposed policy are:

- SIRs to be included in new and revised water allocation plans.
- Amend the Water Act to require SIR inclusion in future water allocation plans
- SIRs to be perpetual

- SIR operated through licencing; subject to the same assessment process and licence conditions as other water extraction licences

How does the SIR facilitate participation in water markets?

- Enables Aboriginal people to negotiate with 3rd parties to provide them with temporary and conditional access to a portion of the SIR
- Water extraction licences that access the SIR may be temporarily traded (permanent trading prohibited)
- All water trades would require the free, prior and informed consent of Aboriginal landowners

What happens if the water resource is already fully or over allocated?

- SIR identified (initially an 'empty bucket') and entitlements returned through surrendered, amended or revoked licences would be reallocated in the following order of priority:
 1. Environmental and cultural flows (over allocated systems only)
 2. SIR
 3. General consumptive pool

What happens to 'on hold' applications for water licences in plans that will be affected?

- SIRs take precedence over new applications that are currently on hold
- New licence applications may access water entitlements from the remaining consumptive pool, or may seek to obtain water through trade with existing licence holders or from an applicable SIR.

Which WAP areas will be affected (in the near term):

- Western Davenport (review in prep)
- Ti Tree (new plan in prep)
- Ooloo Dolostone Aquifer (plan in prep)
- Mataranka-Tindall Limestone Aquifer (plan in prep)
- Howard East (plan in prep)

Longer term:

Alice Springs (review 2021)

Berry Springs

Katherine-Tindall

Recommendations to be formulated following stakeholder consultation

- Who would 'hold' the SIR entitlement?
 - Provide access to the SIR allocation to an appropriate entity/entities to manage on behalf of and for the benefit of Aboriginal landowners eg Land Councils in conjunction with Aboriginal Land Trust or Prescribed Bodies Corporate
- Where are the 'road-signs' pointing?
 - Feedback to date points to the Land Councils, acknowledging the expertise/role of existing institutions
- How to calculate how much water should be reserved in the SIR

- A fair and objective approach is sought. A suite of potential options will be analysed through consultation
- Where are the 'road-signs' pointing?
 - Most favouring a methodology based on land area. ie Percentage of consumptive pool placed into SIR = percentage of Aboriginal Land with access to the resource (e.g. over lying the aquifer)

Discussions points, suggestions and feedback included:

- There was discussion to emphasise that environmental and cultural flows are different and that an SIR is different from a cultural flow in that a cultural flow aims to protect/ service cultural and spiritual water dependent values whereas the Strategic Indigenous Reserve is a volume of water that can be used for consumptive beneficial uses for indigenous economic development.
- Committee members asked how will people know what water is available in the SIR and who to contact to request access to the SIR?
- The same rules that apply to existing licences will apply to persons wishing to use water from the Strategic Indigenous Reserve.
- Documentation with an application to access water from SIR would need to show free, prior and informed consent of the Aboriginal landowners
- The NLC is responsible for assisting Aboriginal peoples to acquire and manage their traditional lands and seas. There was discussion about whether the NLC could play this role in the management of the SIR. Some committee members thought that alternatives should be investigated.
- Committee members commented that administration and governance arrangements for managing the SIR must be as simple and as transparent as possible to minimise barriers to the SIR being used. Must ensure that whatever administrative arrangements are developed, the intent of the policy is not undermined.
- Overall SIR policy will be consistent across the Territory
- Committee discussed various methods for determining the volume of the SIR and agreed that using methods based on population, need, disadvantage or aspiration may be difficult because they are less transparent, subjective, and more open to fluctuation and change relative to determining the volume based on land tenure area.
- In a situation where the resource is fully allocated, there are concerns about how water will be allocated to the SIR.
- Some Committee members stated that they thought there should be broader consultation about the SIR with Aboriginal people in the region. Mona Liddy and Liza Schenkel (DENR) will undertake this consultation during the week of the 3rd April and report back to DENR and OWAC.
- Committee members queried what Security Level licences from the Strategic Indigenous Reserve could be issued with, and how this would work in a fully allocated system where water allocations were being recouped to furnish the notional Strategic Indigenous Reserve volume. Some Committee members said that existing users of water should not be disadvantaged (e.g. the reliabilities of existing licenced water users should not be reduced).

The key principles for the SIR identified by the Committee were:

- For an SIR to work, it needs to be simple for people to access and the rules and administrative arrangements should be clear. Once water is licenced from the SIR, it should be managed the same way as all other licenced water entitlements.
- It is important that the reserved water is used, it needs to be available for economic development whether that is through trading or through developing own country
- Overarching policy is broad, individual Water Allocation Plans should determine the volume of the SIR. A one-size fits all method for determining the volume may not work across the whole Territory.
- The purpose is to have economic development, there needs to be water available, there is some concern that in trying to fill the SIR it might inhibit economic development or disadvantage existing water users. The SIR shouldn't create additional disadvantage or create barriers to regional development.
- Questions were raised as to how security levels work in relation to SIR.
 - Will security levels move up the chain as water is recouped through use it or lose it.
 - Does water retain the security level it was originally issued with, or does it just go back into the consumptive pool?
 - Does low security move up to medium security
 - The effective of changing security levels on reliability needs to be considered.
- *ACTION: Gabby will give further consideration to security levels in relation to SIR before providing advice to the Committee.*

The closing date for submissions is Thursday 13 April 2017.

- ❖ *Mona Liddy and Liza Schenkel (DENR) will consult with previous members of the the Daly River Aboriginal Reference Group about the SIR and prepare a submission to DENR on the draft policy. Mona Liddy and Liza Schenkel will also report back to OWAC.*
- ❖ *ACTION: The Chair will draft a submission from the group, and distribute it to members for comment.*

4. STRATEGIC INDIGENOUS RESERVE IN THE OOLLOO WATER ALLOCATION PLAN AREA

There are three items the Committee needs to consider

1. How we determine the volume of the reserve
2. How we get water into the reserve
3. Governance around the reserve and rules

In the Oolloo Water Allocation Plan area, Aboriginal land makes up 23.7% of the total land area, and 24.1% of the irrigable land occurs over Aboriginal land. In the previous draft Oolloo plan the volume of the SIR was determined as 24% of the 60GL/ year consumptive pool, which equated to 14.4GL/year.

The SIR Discussion Paper has some other potential options for determining the volume of an SIR:

- Population
- Need / Disadvantage
- Aspirations / Opportunity
- Negotiated Consensus
- SIR on application / proposal

Committee members felt that it is difficult to translate Need / Disadvantage into a volume of water. Members did not feel they had capability to determine either Need / Disadvantage or Aspirations / Opportunity and thought that using land area is more transparent and the most appropriate approach in the Oolloo WAP area.

Under a consumptive pool of 89.2GL, a SIR of 24% would have a volume of approximately 21.4GL. There was general agreement that the SIR should be 24% of the consumptive pool. Some Committee members asked for further information to better understand this volume at the Management Zone level across the Plan area.

- ❖ *ACTION: Gabby to provide figures at the next meeting advising how much land is in each zone, how much water is in each zone, and how much water would need to be recouped in each zone to fill the SIR.*

Concerns raised were not so much about the quantity of water, but that it is used as is the intent of the policy – i.e. that the water is available for regional development and that it is utilised.

5. **DRAFT PLAN SECTION DISCUSSION ITEM – MANAGING LICENCED WATER ENTITLEMENTS (Groundwater Licences, Water Accounting Period, Water Trading)**

The Committee noted the focus would be on the Principles for this section of the Plan, as the actual wording may change pending legal advice and policy development.

The Committee provided feedback on each section of the plan drafting and this feedback will be used to prepare further information and drafting to the Committee.

Some key comments were:

- Decisions on licencing need to be made in a timely manner and the Plan should make Commitments to uphold statutory timeframes.
- There was a question about whether First in First Served is still the most appropriate means for allocating water to licence applications.
- Some committee members said that a preliminary announced allocation should be made in March so that growers have earlier indications about water availability than May (planting decisions about some annual crops are made well before May)
- There was a question about whether, in years when the sustainable yield is higher than the Consumptive Pool, temporary allocation of additional water could be considered. Gabby Yates said that at this stage, with use well below

maximum entitlement volumes, this would not be something that DENR would consider and individuals seeking temporary water allocations should seek to trade them from existing licence holders.

- Committee member suggested that to facilitate trading, some sort of advertising service for licence holders who have surplus water entitlements would be useful. In other jurisdictions, private industry provides water brokerage services.
- With regard to the Plan Section on Recouping Unused Water, Committee members raised the following matters:
 - Water entitlements need to cover the bad years, so you don't end up with a reduced entitlement and an increased need due to climatic conditions. Therefore licence holders shouldn't be penalised for introducing water efficiency measures that might appear as underutilisation depending on how unused water is assessed. A bad outcome would be to recoup water from licence holders who are managing their entitlements to limit the risks to their growing operations and reduce their farm resilience during below average wet years.
 - Some members thought 90% is too high and that 75% may be more reasonable
 - Land and water availability are key elements to developing a successful irrigation venture, but they are only part of the story. Some members voiced that 3 years is a short time period over which to prove a new irrigation development and that licence holders should be given more time to demonstrate they are using their water (e.g. 5 years)
 - 75% is a transparent flag for the Department to identify unused water
 - If a licence holder has reasons for the underutilisation, then this will be taken into consideration in the decision process
 - Some members queried whether the Controller would consider 'exceptional circumstances' only (e.g. flood, drought, commodity price fluctuation, quarantine ban such as mosaic virus) or whether other reasons/ circumstances could also be considered. Committee members thought that consistent and transparent criteria for making decision to recoup unused water needs to be included in the Plan for fairness.
 - Licence holders need to be confident in what they need to demonstrate is a 'circumstance'.
 - Committee agreed that Water should be recouped where there has been nothing done, and no reasonable reasons as to why
 - Members would like to see guidelines in place, and the type of circumstances the Controller would consider

Reallocating Unused Water item will be discussed at the next meeting, following consideration of security levels in relation to the SIR.

Due to time constraints, discussion on the Principles of Water Trading was held over until the next meeting.

6. NEXT MEETING

The next meeting will be held towards the end of April, possibly at Douglas Daly Research Station, with the community welcome to meet with the Committee over lunch.

The May meeting is scheduled for 22 May in Katherine, and the Minister will be attending. This will be an opportunity to provide a brief on the draft plan and where we have developed it to. Committee members were asked to consider delivering presentations on certain sections of the Plan so it is a Committee product, not just a presentation from the Department.

Meeting Closed 3.35pm