

Manjimup and Pemberton Landowners  
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21 February 2018

Hon Alannah MacTiernan MLC  
Minister for Regional Development; Agriculture and Food;  
11<sup>th</sup> Floor, Dumas House, 2 Havelock Street  
West Perth, WA 6005  
[Minister.MacTiernan@dpc.wa.gov.au](mailto:Minister.MacTiernan@dpc.wa.gov.au)

Dear Minister

### **DENIAL OF PROCEDURAL FAIRNESS FOR FOOD PRODUCERS IN MANJIMUP**

Manjimup and Pemberton Landowners (MPL) write to advise you of the actions taken to recover the rights to self-supply water in Manjimup denied by the State Government on 16 November 2017. We wish to assure you MPL is making all reasonable efforts to recover these rights stripped from farming families, and we will not relax our efforts until we succeed.

1. By administrative decisions, the Department of Water and Environmental Regulation ('the Department') on 16 November 2017 stopped issuing of new water licences in eight sub-catchments of the Donnelly River and in six other vital sub-catchments of the Warren and Donnelly Rivers. This sudden action taken by the Department in eight sub-catchments of the Donnelly River is biased to directly favour the Southern Forests Irrigation Scheme; the closure of the other six sub-catchments indirectly favours the Southern Forests Irrigation Scheme. The harm caused to landowners in these fourteen sub-catchments, being denied their rights to water, include loss of land value, disruption of funded business plans, loss of income potential and mental stress.
2. In response to anxiety and commercial harm being caused by the Department's decision, on 8 January 2018 a meeting of over thirty self-supply water food producers unanimously resolved to re-activate the Manjimup and Pemberton Landholders group which had been successful in previous campaigns against unfair water licence fees and water resource management charges, and unnecessary 'red tape'.
3. MPL established an information and action web site at [www.selfsupplywater.net](http://www.selfsupplywater.net) and provided a template letter to the Minister for Water on 'UNFAIR LIMITS TO WATER ACCESS FOR FOOD PRODUCERS IN MANJIMUP' (see Attached). Letters were sent from 9 January and responses received from the Minister on and from 9 February. The response from the Minister provided no relief from the commercial harm being caused to food producers in the fourteen sub-catchments, nor relief from frustration and anxiety being caused to farming families.
4. MPL on 19 February wrote to the Premier on 'DENIAL OF PROCEDURAL FAIRNESS FOR FOOD PRODUCERS IN MANJIMUP' (see Attached). We submitted to the Premier there is denial of procedural fairness in administration of the *Warren-Donnelly surface water allocation plan (2012)*, and denial of procedural fairness through maladministration of the *Rights in Water and Irrigation Act (1914)*. We have asked the Premier to intervene to restore the rights to water of self-supply water users in the fourteen sub-catchments of the Donnelly and Warren Rivers and to end the maladministration of legislation.
5. MPL on 20 February wrote to the Federal Minister for Agriculture and Water Resources on 'DENIAL OF PROCEDURAL FAIRNESS FOR FOOD PRODUCERS IN MANJIMUP WA', seeking his assistance to gain relief for self-supply water users from the denials of procedural fairness.

The Federal Government has a direct current interest in these matters because the Southern Forests Irrigation Scheme is seeking a \$40 million grant under the National Water Infrastructure Development Fund. More generally, the Federal Government has an interest in whether the Western Australian Government has given effect to agreements made within the *Council of Australian Governments Water Reform Framework Agreement*; this is addressed in our letter to the Premier.

6. A fundamental issue underlying this current crisis caused by denial of procedural fairness is that the Department has not allocated sufficient water for agriculture in the area that is regarded as the 'food bowl of the South West'. MPL's submission in 2010 on the draft *Warren-Donnelly surface water allocation plan* (available at [www.selfsupplywater.net](http://www.selfsupplywater.net)) requested allocations based on Mean Annual Flow of streams, at twice the volume of water the Department allocated in the final *allocation plan* in 2012, based on ESY (Ecologically Sustainable Yield). ESY is determined by a method called PADFLOW. The *Warren-Donnelly surface water allocation plan methods report* (2012) at page 43 describes PADFLOW:

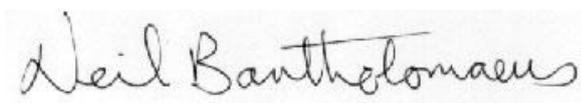
*"PADFLOW is a holistic approach which accounts for water requirements at the ecosystem scale. This includes water dependency of suites of animals and plants, predator-prey relationships and recruitment processes to parent populations."*

PADFLOW derived ESY may be applicable to relationships between Tiger Snakes and Water Rats on a theoretical creek or stream, but in practice it has more than halved the amount of water required for agriculture in the Warren and Donnelly River catchments. The costs forced upon self-supply water users because of ESY have been in millions of dollars needlessly spent on costly off-stream overland flow (run-off) and variable take dams. Many applicants for water licences to develop their properties where land is zoned 'Priority Agriculture' have been turned away in despair by the Department. The ESY approach has artificially caused full allocation of water in the vital sub-catchments of Manjimup-Brook Yanmah-Dixvale, East Brook and Smith Brook.

The constraining ESY approach to water allocations has been forced onto food producers in Manjimup through denial of procedural fairness administratively and particularly through maladministration of the *Rights in Water and Irrigation Act* (1914) as set out in our letter to the Premier on 19 February.

MPL on 5 February 2018 issued a position statement on 'INCREASED WATER ALLOCATIONS FOR FOOD PRODUCERS IN MANJIMUP' (see Attached), for the information of the Minister.

Yours sincerely



Neil Bartholomaeus  
Convener  
Manjimup and Pemberton Landowners

Attachment: Template letter to the Minister for Water from [www.selfsupplywater.net](http://www.selfsupplywater.net)

Attachment: Letter to the Premier of 19 February 2018

Attachment: Letter to Federal Minister for Agriculture and Water Resources of 20 February 2018

Attachment: MPL position statement on 'INCREASED WATER ALLOCATIONS FOR FOOD PRODUCERS IN MANJIMUP'