

21 May 2018

Hon Dave J Kelly BA MLA  
Minister for Water  
8th Floor, Dumas House  
2 Havelock Street, WEST PERTH WA 6005  
[Minister.Kelly@dpc.wa.gov.au](mailto:Minister.Kelly@dpc.wa.gov.au)

Dear Minister

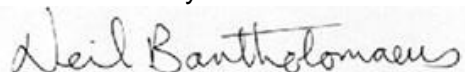
### **LOG OF CLAIMS: SELF-SUPPLY WATER USERS, MANJIMUP & PEMBERTON**

Growth in food production in Manjimup and Pemberton based on self-supply water was disrupted by the State Government in November 2017. Fourteen sub-catchments of the Donnelly and Warren Rivers were closed to issue of new water licences to favour the proposed Southern Forests Irrigation Scheme. The Southern Forests Irrigation Scheme has twice failed to attract funding under the National Water Infrastructure Development Fund and food production must revert to the proven water self-supply model. We respectfully request the Minister direct the Department of Water and Environmental Regulation to:

1. Issue water licenses for self-supply water in the eight sub-catchments of the Donnelly River closed to licensing on 16 November 2017. There is 9.211 Gigalitres of water available in the relevant sub-catchments based on the *Warren-Donnelly surface water allocation plan (2012)*, at 16 November 2017.
2. Accept applications for water licences in the six sub-catchments of the Donnelly and Warren Rivers closed to licensing on 16 November 2017. These sub-catchments were closed with only 15% to 42% of mean annual stream flow allocated to agriculture. These low allocations to agriculture versus the environment are choking growth in food production. Where land is zoned 'Priority agriculture' in planning schemes, up to 70% of mean annual stream flow should be allocated to agriculture. Two thirds of the area of the catchments of the Donnelly and Warren Rivers is State Forest, national park and nature reserve, providing environmental water for the rivers.
3. In general, convert insecure 'variable take' water licences to standard water licences, within the allocations requested at 2. An exception could be to ensure stream flow for the Pemberton Town Water Supply.
4. Remove the new condition for an extra three months stream flow bypass applied to over 100 licence renewals. It is not practicable to comply with this condition where a dam only has an under wall pipe or no pipe at all. The Department has stated bypass infrastructure is not required to be retrofitted. Renewal of a Surface Water Licence with an impracticable condition could in effect be non-compliance with the *Rights in Water and Irrigation Act (1914)*, Schedule 1, Division 2, Clause 8, and consequentially, such a Surface Water Licence be invalid.
5. Recognise the High Court decision that a 'watercourse' must have a defined channel with a bed and banks; per Barwick C.J. McTiernan, Kitto, Taylor and Owen JJ. *Knezovic v Shire of Swan-Guildford* [1968] HCA 38. The Department is claiming watercourses are flowing into properties when this condition is not met. This is denying opportunities for overland flow and spring fed dams in sub-catchments where the Department claims water is fully allocated for in-stream dams.

In addition to these matters that influence access to water for food production, we are alarmed at your intention to introduce water licence fees of \$6,668 for renewal of a licence and \$13,057 to construct a licensed dam. We are strongly opposing these unjustified fees.

Yours sincerely



Neil Bartholomaeus  
Convener, Manjimup and Pemberton Landowners, [www.selfsupplywater.net](http://www.selfsupplywater.net)