

Review into the development of a funding framework for Local Land Services NSW

Other Industries — Issues Paper
May 2013

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Invitation for submissions

IPART invites written comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

Submissions are due by 2 July 2013.

We would prefer to receive them electronically via our online submission form <www.ipart.nsw.gov.au/Home/Consumer_Information/Lodge_a_submission>.

You can also send comments by fax to (02) 9290 2061, or by mail to:

Review of funding framework for Local Lands Services NSW
Independent Pricing and Regulatory Tribunal
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Submissions will be posted as soon as possible after the closing date on our website <www.ipart.nsw.gov.au>. Late submissions might not be accepted and in that event will be returned to the submitter.

If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed on the previous page.

We may choose not to publish a submission—for example, if it contains confidential or commercially sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please indicate this clearly at the time of making the submission. IPART will then make every effort to protect that information, but it could be disclosed under the *Government Information (Public Access) Act 2009* (NSW) or the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), or where otherwise required by law.

If you would like further information on making a submission, IPART's submission policy is available on our website.

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1 Introduction

The NSW Government is seeking advice from the Independent Pricing and Regulatory Tribunal (IPART) on how the new Local Land Service (LLS) boards should price their services.

Some services, as now, will be funded by government. Other services will be priced to recover part or all of their costs from landholders.

The full range of services to be provided by LLS is extensive and includes:

- ▼ advice on production for primary industries and farm businesses
- ▼ biosecurity including plant and animal health
- ▼ plant and animal pest control
- ▼ natural resource management
- ▼ emergency response.

These services are currently provided by the NSW Department of Primary Industries (DPI), Livestock Health and Pest Authorities (LHPAs), or Catchment Management Authorities (CMAs).

IPART will not be determining actual charges.

We will also recommend an audit methodology to assess the extent efficient cost recovery pricing is being applied. The full terms of reference for the review are reproduced in Appendix A.

A key consideration is the level of discretion Local Land Services Boards shall exercise in setting charges. This will determine the extent of detail in our advice.

The context for our inquiry is:

- ▼ the establishment of the new entity for service delivery (ie, LLS)
- ▼ an increased focus on biosecurity including how the responsibility for risk management is to be shared by everyone in NSW
- ▼ a noticeable increase in the number of small, non-commercial landholdings

- ▼ doubts expressed in reports from past reviews¹ of LHPA (or predecessor organisations) related to the suitability and sustainability of the existing funding approach to the delivery of services.

1.1 IPART's task

The Terms of Reference ask us to develop a rating framework and complementary service pricing system for Local Land Services NSW.

In developing an efficient and transparent Cost Recovery Framework, (ie, a funding framework) and an efficient ratings base and collection mechanism (ie, complementary service pricing system), the Terms of Reference asks us to have regard to:

- ▼ the strengths and weaknesses of Cost Recovery Frameworks used by other similar service providers
- ▼ the ratings base including such options as rateable land above a certain area or value, stock carrying capacity and the unimproved land value, depending on how well these options align with risk creators or service beneficiaries
- ▼ the appropriateness of special purpose levies and how they are determined
- ▼ the outcomes from the public forums conducted by Mr Mick Keogh and the Local Land Services Stakeholder Reference Panel (Stakeholder Reference Panel).

IPART will **not** be setting prices. It will recommend the framework to be applied to this task by LLS boards and recommend an audit methodology to assess the extent of compliance with efficient cost recovery pricing.

1.2 Our proposed approach to this task

We will develop an efficient and transparent Cost Recovery Framework and advise on an efficient funding framework (ie, fees, government funding and ratings base). The funding framework, eg, ratings base, and the collection mechanism are intended to match individual service categories to those groups who benefit from the services or create the need for the services. This will involve, sharing the efficient costs of services variously across private landholders, industries and the general community.

We will assess current funding arrangements in place for services provided and the rationale behind them. We will consider Cost Recovery Frameworks used by other similar service providers, in Australia and elsewhere, to inform our decision on the approach to take.

¹ Hon Richard Bull, *Review of the Rural Lands Protection Boards Rating System in NSW*, July 2007; Terry Ryan, *Report on the Review of the NSW Livestock Health and Pest Authority (LHPA) Model*, February 2012.

We propose a set of principles to guide the development of an efficient Cost Recovery Framework and discuss these in Chapter 3. Our aim is to make recommendations to government that best balance these principles.

We will also develop, as required by the Terms of Reference, an audit methodology considering existing approaches, including our own experience to assess the extent to which our framework has been applied.

To ensure our approach is robust to a variety of views, we will seek stakeholder input through regional workshops, a public roundtable and through stakeholder submissions. The information gathered will inform the development of the Cost Recovery Framework and associated funding approach, eg, fees, rates and government funding.

1.3 The purpose of this paper

This paper has been prepared to facilitate consultation for this review. It sets out the approach we will take for the review and highlights specific issues on which we are seeking stakeholder input.

1.4 Providing input to the review

We invite all interested parties to make submissions to IPART in response to this Issues Paper. Submissions are due by 2 July 2013. Submissions which are late might not be accepted and in that event will be returned to the submitter. Submissions will be posted as soon as possible after the closing date.

We also plan to hold regional workshops with locations and dates to be determined. Following the release of a Draft Report in August, we intend to hold an additional public roundtable to give stakeholders a further opportunity to contribute. After considering all views presented through the consultation process, we will present a Final Report to government by the end of November 2013.

The proposed timetable for the review is provided in Table 1.1.

Table 1.1 Indicative timetable for review

Action	By
Release Issues Paper and invite submissions	May 2013
Receive public submissions on Issues Paper	2 July 2013
Hold regional workshops	June/July 2013
Release Draft Report and invite submissions	End August 2013
Hold public roundtable discussion	September 2013
Receive public submissions on Draft Report	Mid October 2013
Present Final Report to government	End November 2013

1.5 The structure of this paper

The Issues Paper is structured as follows:

- ▼ Chapter 2 provides the context for this review
- ▼ Chapter 3 sets out the principles that will guide this review
- ▼ Chapter 4 sets out our approach for an efficient and transparent draft Cost Recovery Framework
- ▼ Chapter 5 shows how the draft Cost Recovery Framework identifies demanders of LLS services
- ▼ Chapter 6 shows how the draft Cost Recovery Framework apportions cost shares between users of LLS services
- ▼ Chapter 7 discusses funding options and collection mechanisms
- ▼ Chapter 8 shows how the draft Cost Recovery Framework identifies efficient funding sources and a fee collection mechanism
- ▼ Chapter 9 explores our preliminary views on an audit methodology that can be used to assess the extent to which our Cost Recovery Framework has been applied.

Each of these chapters highlights 1 or more issues on which we seek stakeholder comment. A complete list of issues on which we are seeking stakeholder comment is provided below.

1.6 List of issues for stakeholder comment

Cost recovery principles (Chapter 3)

1. Do you agree with IPART's proposed cost recovery principles? Are there other factors IPART should consider in developing its cost recovery principles? 23

Introduction to the Cost Recovery Framework (Chapter 4)

2. Should we use the cost recovery frameworks that we have identified from other jurisdictions? Are there other examples of cost recovery frameworks that we should consider? 32
3. Do you agree with IPART's approach which includes a series of stages and 'key questions'? Can our suggested approach be improved? 32

Cost Recovery Framework (Stage 1) – Identify demand for the service (Chapter 5)

4. How should we identify the demand for the services provided? How should we identify the main party or parties that benefit from or contribute to the need for the services? 39

Cost Recovery Framework (Stage 2) – Apportion cost shares between parties (Chapter 6)

5. Should a sliding scale arrangement be used to apportion costs between parties using LLS services? If so, are the percentages used for the State/Commonwealth Plant and Animal deeds appropriate for use? 43
6. Should a risk matrix approach be used to apportion costs between parties using LLS services? If so, what percentages would be appropriate to apply to the relative risks imposed by different stakeholders? 45
7. Can we assign weights (high, medium and low) to reflect the impact each party has in requiring the service be provided? 46
8. Should IPART use the Stakeholder Reference Panel's consultation outcomes to apportion costs shares for LLS services? Are there issues with this approach? 48
9. Should LLS boards be able to exercise discretion under the draft Cost Recovery Framework when determining cost shares between parties? 49
10. Do you agree with the approaches discussed by IPART to apportion cost shares? If not, why not? Can you suggest another way to determine efficient cost sharing that is transparent and practical? 49
11. What information is publicly available on an appropriate split between parties that would use LLS services? 49

Funding option and collection mechanism (Chapter 7)

12. Which rating base(s) should be adopted by LLS and why would this rating base be the best option? 72
13. Which fee collection system(s) should be adopted by LLS and why should this fee collection system be adopted? 72
14. Should exemptions or reductions in charges be used as part of the cost recovery mechanism to provide incentives to reduce risks? 72
15. Are there lessons to be learned from the rating bases and fee collection mechanisms that are adopted in other jurisdictions? 72

Audit methodology (Chapter 9)

16. Do you agree with IPART's proposed approach to assessing the extent to which LLS boards have applied efficient cost recovery pricing? Are there other factors IPART should consider?

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2 Review context

In 2011, the Minister for Primary Industries commissioned the Ryan Report to review the current service model of the NSW Livestock Health and Pest Authority (LHPA).² The Ryan Report highlighted the importance of biosecurity and the related services provided by the Government. It also discussed weaknesses in current corporate governance, recommending that a new model be established to meet the changing needs of farmers and their communities. Further, the report discussed the development of a risk-based funding model for biosecurity and other functions, recognising responsibility lies with risk-bearing and risk-creating stakeholders.

Based on the key findings of the Ryan Report, the government approved the creation of a new Regional Service Delivery Organisation (RSDO) by 1 January 2014. The new RSDO is designed to rationalise the services provided by the LHPAs, Catchment Management Authorities, and the Department of Primary Industries' advisory services. The new entity was branded Local Land Services NSW (LLS) and is scheduled to be operational from January 2014.

This chapter provides background information on the services to be provided by LLS, the agencies that will form the new LLS, the users of these services, and the legislative and historical context.

2.1 Landholder service agencies

Rural services are provided by three separate agencies:

- ▼ Livestock Health and Pest Authorities (LHPAs)
- ▼ Catchment Management Authorities (CMAs)
- ▼ NSW Department of Primary Industries (DPI).

² http://www.dpi.nsw.gov.au/__data/assets/pdf_file/0012/428799/Report-on-LHPA-model-review.pdf.

Livestock Health and Pest Authorities (LHPAs)

LHPAs deliver frontline agricultural services throughout NSW.³ These include safeguarding livestock health, controlling pests, monitoring stock movements and stock identification, and managing travelling stock reserves.⁴

LHPAs are currently funded by a mix of fees for service, rates, and grants from CMAs.

LHPAs charge fees for such services as equipment hire, stock identification tags and fox baits. LHPAs levy three types of rates being a general rate, an animal health rate and special purpose rates. Each LHPA board is required to charge a general and an animal health rate while having the option to charge special purpose rates. CMA grants are tied to specific catchment related projects.

Table 2.1 shows total income and expenses for LHPAs in 2011/12.

Table 2.1 Sources of funds for LHPAs

LHPA		\$m	% of total
Sources of income	General rate	19.1	38.4
	Animal Health rate	10.6	21.3
	Special purpose rate (pest insect)	5.9	11.8
	Grant income	1.4	2.8
	Other income	12.8	25.7
	Total income	49.8	100.0
Expenses	Personnel services	23.2	47.1
	Core services & reserve maintenance	10.6	21.5
	General operating income	10.7	21.7
	Depreciation & asset write downs	3.0	6.1
	Director fees & associated costs	1.8	3.7
	Total expenses	49.3	100.0

Source: Livestock Health and Pest Authorities, Annual Report 2011/12, p 22.

³ Livestock Health and Pest Authorities are created under s37 of the *Rural Lands Protection Act 1998* (NSW).

⁴ LHPA website: <http://www.lhpa.org.au/about-us>.

Catchment Management Authorities (CMAs)

CMAs are responsible for managing natural resources within their designated catchment.⁵ Key roles include developing Catchment Action Plans and providing loans, grants, subsidies or other financial assistance for the purpose of catchment activities. There are 11 CMAs⁶ working with farmers, Landcare and other 'carer' groups, Aboriginal communities, local government, industry and state agencies to respond to the key natural resource management issues facing their catchments.

In 2011/12, CMAs incurred expenses of \$128m⁷ funded from joint State/Commonwealth contributions⁸, operating grant funding, specific works funding and in the case of the Hunter a catchment levy⁹ (see 7.3.4).

Agriculture NSW, Department of Primary Industries (DPI)

DPI is a division within NSW Trade & Investment and works to develop and sustain diverse and profitable food and fibre industries and ensures best practice management of NSW's natural resources.¹⁰ DPI is responsible for:

- ▼ developing profitable, sustainable and biosecure agriculture and fisheries
- ▼ ensuring best practice management of catchments, natural resources and water
- ▼ regulating the state's food sector
- ▼ undertaking research and development into productive systems.

DPI activities to be provided in future by LLS include:

- ▼ production efficiency improvement programs eg, new varieties and products
- ▼ advice on research, emerging trends, markets and risks to agricultural industries
- ▼ formal training for agricultural productivity
- ▼ advice on agricultural legislation and policy.

We do not have current data on the cost and level of cost recovery for DPI services that are within the scope of this review.

⁵ Catchment Management Authorities are established under s6 of the *Catchment Management Authorities Act 2003* (NSW).

⁶ The number of CMAs in NSW was reduced from 13 to 11 on 19 October 2012. See: *Catchment Management Authorities Amendment Order 2012*.

⁷ NSW Government, *Budget Estimates 2012/13, Budget Paper 3*, p 8-1.

⁸ NSW Government, *Budget Estimates 2012/13, Budget Paper 3*, p 8-11.

⁹ Hunter-Central Rivers CMA, 2011/12 Annual Report, pp 25 and 67.

¹⁰ DPI website: <http://www.dpi.nsw.gov.au/aboutus>.

2.2 Users of landholder services

IPART has grouped all consumers into three broad groups of users of the services provided by the LHPAs, CMAs and DPI. These are:

- ▼ landholders (eg, hobby farms or large scale production)
- ▼ industry (eg, agricultural or livestock industries)
- ▼ the community (either the immediate rural communities or the broader NSW community).

Unless agreement is reached between the NSW and other state governments, the framework developed here will only apply to NSW.

2.3 Previous reviews of LHPAs and predecessor organisations

2.3.1 The Bull Report (2007)¹¹

In 2007, the Minister for Primary Industries commissioned a review of the NSW rural lands and protection boards rating system. Undertaken by Hon Richard Bull, the review consulted on the following areas:

- ▼ effectiveness of the current ratings system
- ▼ equity considerations of the current structure
- ▼ systematic discrepancies in the current ratings system
- ▼ alternative rating structures.

The Report, *Review of the Rural Lands Protection Boards Rating System in NSW*, was delivered to the Minister in July 2007 (Bull Report). The final recommendation was to implement a new ratings system with the following features:

- ▼ a base charge applicable to all ratepayers
- ▼ all rates, special purpose levies and the meat industry levy are to be assessed by land area
- ▼ an environmental rate should be paid by all ratepayers
- ▼ ability to apply a differential rate for anomalous situations over certain areas or land use types
- ▼ reductions in rates for voluntary conservation agreements and for pensioners
- ▼ reduction in minimum livestock threshold to 30 stock units
- ▼ a standard animal health charge for all eligible ratepayers
- ▼ a return to a minimum 10ha threshold for rating eligibility

¹¹ Hon Richard Bull, *Review of the Rural Lands Protection Boards Rating System in NSW*, delivered to the Minister for Primary Industries, July 2007.

- ▼ exemptions to no longer apply to sugar cane growing and intensive poultry production
- ▼ changes to the Annual Return to simplify compliance and to increase accuracy in livestock declarations.

All of the recommendations of the Bull Report were fully considered and 2 were adopted. The minimum rating eligibility threshold was increase to 10ha for most districts¹² and the option to rate based on land area¹³ will be available when the Amendment Act comes into effect.¹⁴

2.3.2 The Ryan Report (2012)¹⁵

In 2011, the Minister for Primary Industries commissioned Mr Terry Ryan to review the current service model of the NSW Livestock Health and Pest Authority (LHPA). The final report was delivered to the Minister in February 2012 (Ryan Report). The Ryan Report:

- ▼ highlighted the importance of biosecurity and the related services provided by the Government
- ▼ discussed weaknesses in current corporate governance, recommending that a new model be established to meet the changing needs of farmers and their communities
- ▼ discussed the development of a risk-based funding model for biosecurity and other functions, recognising responsibility lies with risk-bearing and risk-creating stakeholders.

Key findings

The key findings of the Ryan Report were:¹⁶

1. The prime responsibility for biosecurity lies with those who are most directly affected, either as risk creators or risk bearers, namely farmers and other landholders in agricultural and rural areas.
2. The LHPAs are established in legislation to deliver certain front line functions, including some important biosecurity functions, on behalf of landholders, farming industries and the community.

¹² *Rural Lands Protection Regulation 2010* (NSW).

¹³ *Rural Lands Protection Amendment Act* (2008), Schedule 4.

¹⁴ The clauses were originally scheduled to commence on 1 January 2010, but on 14 December 2009, the *Rural Lands Protection Amendment Act 2009* (NSW) amended the commencement date to "...a day or dates to be appointed by proclamation."

¹⁵ Terry Ryan, *Report on The Review of the NSW Livestock Health and Pest Authority (LHPA) Model*, A review commissioned by the Minister for Primary Industries, February 2012.

¹⁶ Terry Ryan, *Report on the Review of the NSW Livestock Health and Pest Authority (LHPA) Model*, A review commissioned by the Minister for Primary Industries, February 2012, pp 7-8.

The current dispersed governance arrangement of the LHPAs has strengths in relation to regional intelligence and local coordination of service delivery. However, it has also frequently led to lack of clarity and differences of perspective between the Authorities, landholders and the Department of Primary Industries on their respective responsibilities and priorities. This inhibits timely and consistent delivery of important front line functions.

3. There is also evidence of significant systemic weaknesses in corporate governance and accountability of individual Authorities to State Management Council and, in turn, to the NSW Government and ratepayers, and there is room for greater administrative efficiency.
4. The staff of the LHPA, employed through the CEO of the State Management Council, are the cornerstone of the current LHPA model. This model delivers animal health and pest animal biosecurity operations, and is responsible for Travelling Stock Reserve (TSR) management. The LHPAs deliver crucial services in ensuring the effectiveness of the animal health strategy for NSW and should continue to maintain essential registers and perform compliance operations.
5. To ensure the LHPA model efficiently delivers core frontline functions in line with its legislated responsibilities, and contributes to the objectives of the State Plan, it is essential that the LHPA develop a policy with the NSW Government (Department of Primary Industries). This policy should cover the adoption and implementation of state-wide biosecurity priorities and operations, and engagement mechanisms for emergency and preparedness campaigns. This direction should be informed by regional-level intelligence.
6. Further, this review has identified the potential for a broader biosecurity role for the LHPA model that includes plant pests and diseases, and weeds.
7. Particular parcels of the Travelling Stock Route (TSR) system may deliver values, such as nature conservation and recreation to the broader NSW community and some grazing opportunities for a small section of the LHPA ratepayer base. However, there is no longer a robust case for landholders to continue to manage reserved public lands to support these values.
8. A new LHPA model can contribute to the 2021 State Plan by:
 - Helping develop biosecurity policy and coordinating the delivery of frontline animal and plant biosecurity services.
 - Actively responding to all biosecurity and general emergencies coordinated by the Department of Primary Industries.
 - Participating with other agencies in joint compliance and advisory functions on pest animals, pest insects, diseases and weeds.
9. In order to refocus and broaden the role of the LHPA model it will be necessary to break with historical thinking and remodel the governance arrangements. This will require a staged approach.

Recommendations of the Review

From these key findings a 3 stage structure was recommended, to be gradually implemented with a view to achieving the goals identified in the NSW Governments 2021 Plan;¹⁷

- ▼ **Stage 1 structure:** a single state-wide LHPA
 - Board of management
 - Advisory committee.
- ▼ **Stage 2 structure:** Biosecurity and regional service delivery organisation
 - Board of management
 - Regional service delivery organisation
 - Advisory committee(s).
- ▼ **Stage 3 structure:** Regain regional leadership
 - Establish the new regional advisory and delivery framework with a formal structure that draws on local advisory committees. It should have local advisory responsibilities under the direction of the state-wide Board of Management. This process could be expected to take 12 months, giving a total transition period of 2-3 years.

In line with the 2021 Plan the recommended changes will increase the devolution of decision making, funding and control to groups and individuals for local activities while retaining centralised control in relation to state-wide issues and priorities.

Based on the key findings of the Ryan Report, the Government authorised the amalgamation and consolidation of the services currently provided by CMA, LHPA and the Department of Primary Industries.

2.3.3 State Management Council Response to the Ryan review¹⁸

In April 2012, the Board of the State Management Council (SMC) of the LHPA released their response to the Ryan review.

The SMC Board strongly disagreed with the Ryan Report with particular reference to the comments on governance and structure.¹⁹

¹⁷ Terry Ryan, *Report on the Review of the NSW Livestock Health and Pest Authority (LHPA) Model*, A review commissioned by the Minister for Primary Industries, February 2012, pp 9-18.

¹⁸ The response by the Board of State Management Council to the Ryan Review Report into LHPs, April 2012.

¹⁹ The response by the Board of State Management Council to the Ryan Review Report into LHPs, April 2012, p 2.

2.4 Legislation / State government objectives

Currently the existence and operation of the LHPAs and CMAs are governed by NSW law, these include the:

- ▼ *Rural Lands Protection Act 1998* (NSW)
- ▼ *Catchment Management Authorities Act 2003* (NSW).

The Acts cover a range of operational requirements and powers, including the processes and requirements for the collection of rates. The regulations made under these Acts also set out more specific details regarding the operation and powers of LHPAs and CMAs. These include:

- ▼ *Rural Lands Protection Regulation 2010* (NSW)
- ▼ *Catchment Management Authorities (Hunter Central Rivers) Regulation 2010* (NSW).

COAG Agreements

There are also Council of Australian Governments' (COAG) agreements that govern the relationship between the state and territory governments and the Commonwealth Government. These include the:

- ▼ Intergovernmental Agreement on Biosecurity
- ▼ National Environmental Biosecurity Response Agreement.

Draft NSW Biosecurity Strategy

The NSW Government is presently consulting on its draft Biosecurity Strategy; the strategy is expected to be finalised in 'early' 2013.²⁰ IPART will consider the impacts of the Biosecurity Strategy in its review.

At the same time, the Australian Government has a bill before Parliament (Biosecurity Bill 2012 [2013]) to manage Australia's biosecurity risks at a national level including compliance with international obligations. The Bill provides for the levying of fines and charging of fees (for cost recovery).²¹

²⁰ NSW DPI, *Draft NSW Biosecurity Strategy*, October 2012, p iii.

²¹ See: http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=s897.

NSW 2021

In 2012, the NSW Government announced its 2021 plan long term vision and goals for NSW.²² The Ryan Report identifies 4 goals within the NSW Government's plan that specifically pertain to the delivery of services to rural and regional NSW. Each of the 4 goals and stated targets are summarised in Table 2.2 below.

Table 2.2 NSW 2021 Plan: Summary of goals and targets

Goal	Targets
Goal 3: Drive economic growth in regional NSW	<ul style="list-style-type: none"> ▼ Increase the share of jobs in regional NSW ▼ Increase the population in regional NSW by 470,000 by 2036 ▼ Protect strategic agricultural land and improve agricultural productivity
Goal 4: Increase the competitiveness of doing business in NSW	<ul style="list-style-type: none"> ▼ Increase business confidence ▼ Reduce red tape ▼ Increase business innovation
Goal 22: Protect our natural environment	<ul style="list-style-type: none"> ▼ Protect and restore priority land, vegetation and water habitats ▼ Protect local environments from pollution (target illegal dumping and provide air quality information to local communities) ▼ Increase renewable energy (20% by 2020)
Goal 28: Ensure NSW is ready to deal with major emergencies and natural disasters	<ul style="list-style-type: none"> ▼ Ensure NSW has appropriate arrangements in place to respond to and recover from natural disasters ▼ Defend against suburban and bushland fires (prevention and hazard reduction) ▼ Increase the number of floodplain risk management plans available to support emergency management planning ▼ Maintain preparedness to deal with biosecurity threats

Source: NSW Government, *NSW 2021: A Plan to Make NSW Number One*, pp 10-12, 43-44 & 53-54.

Web address: http://www.2021.nsw.gov.au/sites/default/files/NSW2021_WEB%20VERSION.pdf.

The Ryan Report highlights Goal 28, which is the most significant for the LHPAs because it directly concerns future biosecurity in NSW; a NSW Government commitment.²³ The specific target is to “Maintain preparedness to deal with biosecurity threats”.²⁴ Box 2.1 contains the priority actions for this target as detailed by the NSW 2021 plan.

²² NSW Government, *NSW 2021: A Plan to Make NSW Number One*.

²³ Terry Ryan, *Report on the Review of the NSW Livestock Health and Pest Authority (LHPA) Model*, A review commissioned by the Minister for Primary Industries, February 2012, p 7.

²⁴ NSW Government, *NSW 2021: A Plan to Make NSW Number One*, p 54.

Box 2.1 Maintain preparedness to deal with biosecurity threats

Pests and disease outbreaks threaten the productivity and competitiveness of our industries and impact on communities. Strong biosecurity measures will ensure they have minimal impact on the NSW economy, environment and community, and protect against and help limit the risk. Actions to achieve this target include:

- ▼ Develop a nationally consistent plant and animal biosecurity legislation and implement by 2015.
 - ▼ Expand the National Livestock Identification Scheme and other traceability systems to cover 95% of NSW livestock industries.
 - ▼ Increase awareness of the benefits, and adoption of, on-farm biosecurity plans by NSW producers.
 - ▼ Build capacity within local government, community groups and landholders to effectively manage invasive species.
 - ▼ Invest \$56.7 million towards the upgrade of Elizabeth Macarthur Agricultural Institute to increase the State's ability to protect multi-billion dollar agricultural industries from the effects of pests and diseases.
-

Source: NSW Government, *NSW 2021: A Plan to Make NSW Number One*, p 54.

While Goal 28 is the most relevant for the LHPAs, Goal 22 contains targets that should be of interest to both the LHPAs and CMAs, especially in light of the NSW Government's decision to create a consolidated LLS delivery organisation. The specific target of interest to the CMAs is the commitment to "Protect and restore priority land, vegetation and water habitats"²⁵. Within this target there are 3 more specific targets:

- ▼ Manage weeds and pests.
- ▼ Protect and conserve land, biodiversity and native vegetation.
- ▼ Protect rivers, wetlands and coastal environments.

Box 2.2 contains the priority actions for this target as detailed by the NSW 2021 plan.

²⁵ NSW Government, *NSW 2021: A Plan to Make NSW Number One*, p 43.

Box 2.2 Target: Protect and restore priority land, vegetation and water habitats

We will use the knowledge and experience of local communities to target our resources to protect and restore natural ecosystems. Actions to manage pests and weeds include:

- ▼ Address core pest control in National Parks through the delivery of NPWS Regional Pest Management Strategies and improve educational programs and visitor access.

We will work with Catchment Management Authorities and local community groups to protect and improve habitats on private lands. Actions to conserve biodiversity and native vegetation include:

- ▼ Regenerate degraded natural bushland, including riverbanks, and degraded waterways through a \$10 million fund.
- ▼ Purchase and protect strategic areas of high conservation value and ensure more green spaces across Sydney and NSW through the \$40 million Green Corridor Program.
- ▼ Establish more national parks including a new national park to protect the sensitive Dharawal State Conservation Area and continue the reserve establishment program.
- ▼ Increase Aboriginal participation in natural resource management by supporting Aboriginal Green Teams and other Aboriginal groups working to protect and conserve natural environments.
- ▼ Better protect threatened and iconic species such as koalas and review the Threatened Species Priorities Action Statement to make it easy for community groups and businesses to get involved in threatened species conservation.

We will strategically recover and manage water for the environment to improve the health of the most stressed rivers and wetlands. Actions to protect waterways include:

- ▼ Complete Water Sharing Plans for surface and ground water sources and report annually on environmental water use.
- ▼ Drive the Commonwealth to ensure they deliver a Basin Plan that protects the environment and regional, social and economic outcomes through investment in strategic water recovery, water efficiency and river health measures.

Source: NSW Government, *NSW 2021: A Plan to Make NSW Number One*, 2012, p 43.

3 IPART's proposed principles for this review

The Terms of Reference (Appendix A) for this review ask us to:

- ▼ Develop an efficient and transparent Cost Recovery Framework that LLS boards can use to set service fees for the different categories of services they provide to the different groups of beneficiaries. In undertaking this task, IPART will assess the strengths and weaknesses of cost recovery frameworks used by other similar service providers.
- ▼ Advise on an efficient rating base for compulsory fee collection and an efficient fee collection mechanism.
- ▼ Develop an appropriate audit methodology for assessing the extent to which efficient cost recovery pricing has been applied to services provided by LLS boards.

We have developed a set of principles to guide our decision-making for this review, taking into account the Terms of Reference. These are discussed in Section 3.5 of this Chapter. We seek feedback on the suitability of these principles.

3.1 Objectives of cost recovery

Key objectives of cost recovery are to:

- ▼ Improve the efficiency of decisions on what services are provided; to whom they are provided; by whom they are provided; and how they are provided.
- ▼ Improve equity by ensuring those who benefit from the provision of the service or create the need for service bear the cost.

Situations will arise where the broader community should fund services because:

- ▼ of government policy
- ▼ the beneficiaries or risk creators are too dispersed
- ▼ it is not cost effective to impose service fees.

3.2 Service provision by LLS

In general, LLS should not provide services where such services are available in contestable markets, ie, where a lack of entry barriers provide an incentive for existing firms to behave competitively. However, the provision of services by LLS may be justified when the market is unlikely or unable to provide a satisfactory response to a particular issue faced by landholders. This includes when:

- ▼ parties impose inefficient costs or provide benefits that the market does not price
- ▼ parties in the market have sufficient power to artificially influence transactions including stopping new entrants
- ▼ the market is unable to provide an adequate level of the service due to the public good properties of the service
- ▼ parties have dissimilar information, which creates an imbalance of power in transactions.

These points are more fully described in Chapter 5, Box 5.1.

3.3 Funding services provided by LLS

There are 3 generic parties who could be charged for LLS services. They are:

- ▼ the community (eg, the general NSW community through taxes or the local community through rates)
- ▼ industry (eg, through a levy)
- ▼ landholders – business or person (eg, through rates or fee-for-service).²⁶

A decision on who will pay for services is most often made on the basis of who benefits from or who creates the need for a good or service.

²⁶ The groups above are purposely generic, but may need to be disaggregated further for the review to accurately reflect the relevant beneficiaries or risk creators.

There have been a number of reports that consider cost recovery by government agencies. In 2001 the Productivity Commission (PC) published recommendations, which have influenced the Commonwealth and state governments' approaches. In general, the PC's cost recovery framework provides for a hierarchy^{27,28} in the allocation of costs, which is:

- ▼ firstly, costs should be recovered from the **risk creators** relative to the cost they impose on others (eg, those who allow pests to remain on their properties)
- ▼ where risk creators cannot be identified or it is inefficient to charge them, then costs should be recovered from those that benefit, ie, the **beneficiaries** (eg, those who benefit from the elimination of pests or disease)
- ▼ if neither risk creators or beneficiaries can be identified or it is inefficient or ineffective to charge them, then the **government** should consider paying for the provision of the services.

The 'risk creator-beneficiary-taxpayer pays' hierarchy as it may be termed²⁹ is not universally recommended. Biosecurity New Zealand encountered problems applying this hierarchy to biosecurity services and has discarded this approach in favour of having no presumption of charging any one group over the other.³⁰ Nevertheless, this approach is useful when considering which of these categories is driving the need for the service.

To be most effective the party charged should be able to:

- ▼ capture enough of the benefits of the service to be prepared to pay for its provision
- ▼ modify their behaviour to reduce the costs of the service or the risks that caused the need for the service over time.

²⁷ Also mentioned in, Smith, H. and Webster, S., *A new biosecurity investment decision framework to promote more efficient biosecurity policy*, paper presented at the Australian Agricultural and Resources Economics Society 2010 Conference, pp 5-6.

²⁸ Biosecurity New Zealand also discusses this hierarchy in its 2004 review of funding approaches for biosecurity services in New Zealand. See section 4.1 for our discussion on Biosecurity New Zealand's review.

²⁹ Smith, H. and Webster, S., *A new biosecurity investment decision framework to promote more efficient biosecurity policy*, paper presented at the Australian Agricultural and Resources Economics Society 2010 Conference, p 5.

³⁰ Biosecurity New Zealand, *Future Funding of Biosecurity Services*, Discussion paper No: 04/01, Chapter 2.

3.4 Attributes for compliance audits

An audit is a 'systematic, independent and documented process for obtaining evidence and evaluating it objectively to determine the extent to which the criteria are fulfilled'³¹. To assist in the assessment of LLS compliance with our proposed Cost Recovery Framework, our framework needs to be:

- ▼ reliable, allowing reasonably consistent evaluation
- ▼ neutral, contributing to conclusions that are free from bias
- ▼ understandable, contributing to conclusions that are not subject to significantly different interpretations
- ▼ relevant, contributing to conclusions that assist decision-making by the LLS boards, and
- ▼ complete, ensuring relevant factors for assessing compliance are not omitted.

3.5 IPART's proposed principles

Our proposed principles have in part been influenced by the Australian Government's 'Cost Recovery Guidelines', released in July 2005³² and the OECD's 'Best Practice Guidelines for User Charging for Government Services'.³³ These guidelines provide a precedent for cost recovery by agencies as the basis for the provision of goods and services.

IPART's proposed principles to assess whether a cost recovery framework meets the objectives outlined in section 3.1 are set out below:

Appropriate pricing strategies

LLS boards should set charges to recover all the costs of products or services where it is efficient to do. Partial cost recovery should apply if there is a clear rationale, such as:

- ▼ where new arrangements are phased in
- ▼ where there are government endorsed community service obligations
- ▼ for explicit government policy purposes.

LLS boards should consider whether incentives should be provided to stakeholders that encourage them to avoid creating risks and imposing costs. Charges could be reduced if risks are substantially reduced. This is discussed further in Chapter 7, Box 7.1.

³¹ Intergovernmental Agreement on Biosecurity, Section 6- Glossary of terms, 13 January, 2012.

³² Commonwealth of Australia, *Australian Government Cost Recovery Guidelines*, Canberra, 2005.

³³ Organisation for Economic Co-operation and Development, *Best Practice Guidelines for User Charging for Government Services*, PUMA Policy Brief No.3, March 1998.

In addition:

- ▼ costs that are not directly related or integral to the provision of products or services should not be recovered
- ▼ where it is possible, cost recovery should be undertaken on a service (or service group) basis rather than across the agency as a whole.

Administrative efficiency

Fee collection mechanisms should be simple to administer and cost effective.

Any charges, that do apply, should reflect the cost of providing the product or service. Therefore, cost recovery should not be applied:

- ▼ where it is not cost effective
- ▼ where it is inconsistent with government policy objectives
- ▼ where it would unduly stifle competition or industry innovation.

Institutional issues

The fee collection mechanism must operate within statutory and legal constraints.

There are constitutional limits to the extent funds can be appropriated from private parties and the nature of the instruments available.³⁴ Additionally, we should consider spill-over issues that may result due to differing approaches across jurisdictions; especially across geographical boundaries.

Transparency

The Cost Recovery Framework, including apportioning of cost shares between all relevant parties and developing an efficient funding approach, should be clear and easily understood by the LLS boards and their stakeholders. An element of transparency includes appropriate consultation with end users to be charged. Clear consultation serves to communicate with users the rationale for any charge and to obtain useful information on designing an efficient mechanism.

Consistency

The Cost Recovery Framework should be applied consistently across the different LLS boards. A consistent application of the framework does not mean that outcomes will necessarily be the same across LLS boards. Due to variations in climate and landscape, propensity for disease outbreaks and other factors, it is possible that services, beneficiaries and / or risk creators, cost shares and appropriate funding approaches may vary.

³⁴ See, for example, s 90 of the *Commonwealth of Australia Constitution Act*.

However, what should be consistent across LLS boards, is the application of the framework to identify the appropriate beneficiaries and / or risk creators, their relative responsibility for the service and the best way for those identified to fund the provision of the service. Where consistent with the framework, the NSW Government could impose bands on the cost shares (in terms of % ranges) to be borne by specific groups of stakeholders.

In practice, not all of the principles will align with each other. For example, our Cost Recovery Framework may determine that a particular stakeholder should be charged consistent with efficient provision of the service, but this may not align with a collection mechanism that is easy to administer.

Chapters 4-6 and 8, discuss our proposed process for developing a Cost Recovery Framework. Chapter 7 summarises current funding arrangements and discusses issues surrounding funding options and fee collection mechanisms. The Cost Recovery Framework, which links cost of service to end user, applies to all the broad groups identified in section 3.3, ie, the community, industry and landholders.

IPART seeks comments on the following

1. Do you agree with IPART's proposed cost recovery principles? Are there other factors IPART should consider in developing its cost recovery principles?

4 Introduction to the Cost Recovery Framework

In chapter 2 of this report, we described the current approach to recover costs. This chapter discusses our preliminary views on the development of an efficient and transparent Cost Recovery Framework. If adopted, the Cost Recovery Framework will be used by LLS boards to set service fees for the different categories of services provided.

4.1 Cost recovery approaches in other jurisdictions

As required under the Terms of Reference, we have undertaken a preliminary investigation into Cost Recovery Frameworks used by other similar service providers, in Australia and elsewhere.

Australian Government / Productivity Commission

In 2005, the then Commonwealth Department of Finance and Administration³⁵ released its cost recovery guidelines.³⁶ The guidelines provide a framework to assist agencies to design and implement cost recovery arrangements that comply with the Government's policy. Cost recovery falls into 2 main categories, fees for goods and services, and taxes (primarily levies). The cost recovery framework provides a means to improve the efficiency of government provided goods and services. Further, charges provide users with information on the costs of the services provided.

The framework has a 5-stage process for determining the appropriate cost recovery approach, which includes:

- ▼ initial policy review
- ▼ design and implementation
- ▼ cost recovery impact statement process
- ▼ ongoing monitoring
- ▼ periodic review.

³⁵ Now, the Commonwealth Department of Finance and Deregulation.

³⁶ Commonwealth of Australia, *Australian Government Cost Recovery Guidelines*, Canberra, 2005.

In 2001, the Productivity Commission (PC) completed a review into cost recovery by government agencies.³⁷ The PC proposed detailed guidelines for reviewing existing arrangements and to test new proposals. The PC found that well designed arrangements can promote economic efficiency and equity by instilling cost consciousness into agencies and ensuring those using or requesting regulated products bear the cost.

The PC's view is that cost recovery should be implemented for economic efficiency reasons, not to raise revenue. In general, cost recovery should not be implemented where:

- ▼ it is not cost effective
- ▼ it is inconsistent with policy objectives.

Operationally, cost recovery should:

- ▼ use fees for service where possible
- ▼ apply to activities not agencies
- ▼ not be used to finance other objectives or for policy development.

In terms of design, cost recovery should:

- ▼ generally, avoid cross-subsidies
- ▼ ensure transparency and accountability
- ▼ include industry consultation.³⁸

Department of Primary Industries (Victoria)

The department commissioned a report by Frontier Economics, released in November 2008,³⁹ which discussed:

- ▼ an economic framework for cost recovery in relation to biosecurity activities
- ▼ current arrangements and policy practice, in light of the economic framework established
- ▼ recommendations for managing cost recovery.

³⁷ Productivity Commission, *Cost Recovery by Government Agencies*, Report No.15, 16 August 2001.

³⁸ Productivity Commission, *Cost Recovery by Government Agencies*, Report No.15, 16 August 2001, pp xxviii-xxix.

³⁹ Frontier Economics, *Mechanisms for Funding Biosecurity Measures*, a report prepared for the Department of Primary Industries, Victoria, November 2008.

The report emphasises that biosecurity should be viewed as a continuum of policy responses from preparedness and prevention through to containment and post incursion responses, and adaptation. The report discusses efficient cost recovery, but not in isolation from other considerations such as administrative efficiency, institutional constraints, equity and distributional issues. The report looks at funding arrangements that meet the gaps of the biosecurity policy continuum not addressed by current cost recovery arrangements.

Biosecurity New Zealand (Ministry for Primary Industries)

In December 2004, Biosecurity New Zealand released a discussion paper on funding Biosecurity Services.⁴⁰ The objective of the review was to treat funding as a mechanism to efficiently minimise risks of, and damage caused by pest and diseases. The paper sets up an analytical approach that seeks to identify the exacerbators and the beneficiaries of biosecurity services, and the role of the Crown. The paper recommends a funding template based on a series of 'key questions' related to stakeholders' ability to influence outcomes and makes no presumption on charging any one group over the other.⁴¹

Department of Agriculture, Fisheries and Forestry (Queensland)

In July 2011, the Queensland Government released its draft *Biosecurity Bill 2011* (Qld). The Bill addressed biosecurity risks to human health, social amenity, the environment and the economy. The Bill was intended to enhance responsiveness to emergency diseases outbreaks. Further, the Bill also focused on maintaining best practice biosecurity standards for the agricultural and food production industries. The draft legislation adopted a risk-based decision-making approach.⁴² Funding arrangements were not specified, however provision was made for a Land Protection Fund.⁴³ The Bill has currently lapsed.

On 18 January 2013, the Premier and Minister for Agriculture, Fisheries and Forestry announced a \$5 million fund to support the cattle industry during disease outbreaks.⁴⁴ The Queensland Cattle Industry Biosecurity Fund will be funded through a \$2 million grant by government, and a \$3 million loan to be repaid by the cattle producers through an industry levy. Details on how the levy would be funded and operated were not announced. The fund will initially assist producers impacted by the current Bovine Johne's disease outbreak.

⁴⁰ Biosecurity New Zealand, *Future Funding of Biosecurity Services*, Discussion paper No: 04/01.

⁴¹ Biosecurity New Zealand, *Future Funding of Biosecurity Services*, Discussion paper No: 04/01, see section 1.3, Chapter 2 and Appendix 1.

⁴² Explanatory Notes to *Biosecurity Bill 2011* (Qld).

⁴³ <http://www.legislation.qld.gov.au/Bills/53PDF/2011/BiosecurityB11.pdf>, see Part 3 sections 63-68.

⁴⁴ Media release, Joint Statement, Premier and Minister for Agriculture, Fisheries and Forestry, *New fund to support cattle industry in disease fight*, 18 January 2013.

Biosecurity in Western Australia

The *Biosecurity and Agriculture Management Act 2007* (WA) authorises funding arrangements for biosecurity activities in Western Australia. Biosecurity activities are funded by a combination of ratepayer rates within Recognised Biosecurity Group areas and ‘matched’ funding by the government, and a number of industry funded schemes (ie, sheep and goats; cattle; grains, seeds and hay). A report reviewing the Department’s Industry Funding Schemes⁴⁵, uses established cost recovery principles⁴⁶ to evaluate if the industry schemes are efficient. The report states it has applied the OECD’s *Best Practice Cost Recovery Guidelines for User Charging for Government Services* (1998) and the principles established by the Productivity Commission in its *Cost Recovery by Government Agencies* (2001) report.

Cost recovery in South Australia

Primary Industries and Resources SA (PIRSA) uses the Australian Government Cost Recovery Guidelines in the policy review, design, and implementation stages of cost recovery for its services.⁴⁷ Biosecurity SA states that biosecurity is a shared responsibility of government, industry and the community.

The shared responsibility includes:

- ▼ for farmers, the management of pests and threats on their properties
- ▼ for industry, the responsible use of agricultural chemicals
- ▼ for government, minimisation of the risk and potential harm from threats like locust plagues, emerging livestock diseases, fruit flies and other regional or state-wide issues of significance.⁴⁸

⁴⁵ ACIL Tasman, *Industry funded biosecurity management in Western Australia: A review of the Western Australian industry funded biosecurity management schemes*, prepared for the three Industry Management Committees, through the Department of Agriculture and Food Western Australia, June 2012.

⁴⁶ Ibid, p 10.

⁴⁷ Primary Industries and Resources SA, *PIRSA Cost Recovery Policy GO P 014*, 11 August 2010, p 10. Commonwealth of Australia, *Australian Government Cost Recovery Guidelines*, Canberra, 2005.

⁴⁸ See Biosecurity SA’s website: <http://www.pir.sa.gov.au/biosecuritysa>, [accessed 15 April 2013].

Separately, in South Australia, Natural Resource Management boards are funded by a combination of a land based levy, a water based levy and state government revenue. One object of the *Natural Resources Management Act 2004* (SA) is that people who obtain benefits from the natural environment, or who adversely affect or consume natural resources, bear an appropriate share of the costs that flow from their activities.⁴⁹ Hence, along with the precautionary principle and risk-based decision-making, appropriate cost recovery should be taken into account for services provided with the aim of achieving sustainable development.

4.2 An efficient and transparent Cost Recovery Framework for LLS services

In section 4.1 we reviewed Cost Recovery Frameworks from other jurisdictions. These frameworks generally attempt to link the cost of the services provided to the users of the service ('beneficiaries') and / or to the parties creating the need for the service ('risk creators').

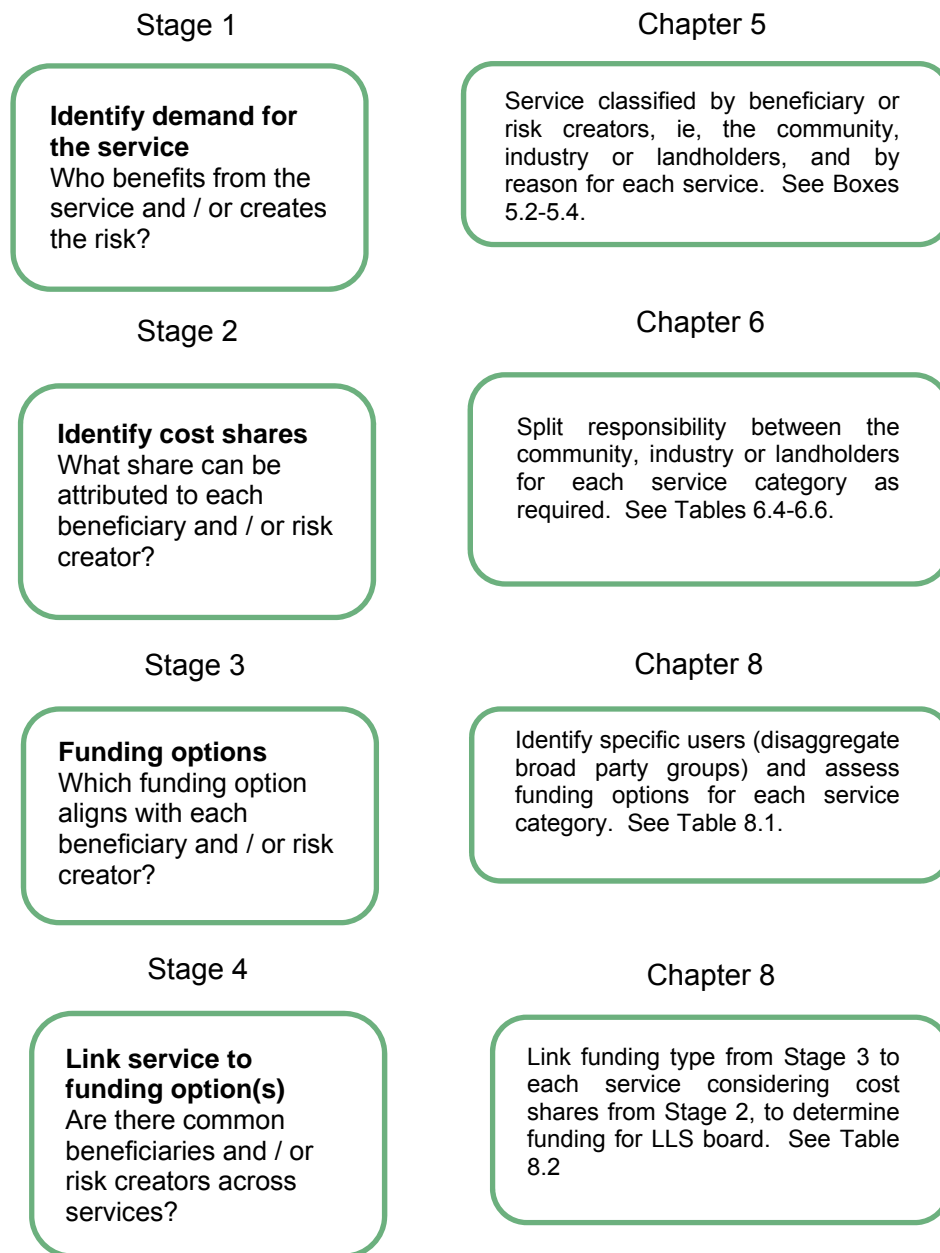
Similarly, our approach is to ask a series of 'key questions' that assist with:⁵⁰

- ▼ identifying the most appropriate party/parties to pay for the particular service, and understanding the reason for the service (Chapter 5)
- ▼ understanding the relative contribution of the identified party/parties, including what role the government might play (Chapter 6)
- ▼ identifying an appropriate funding option and fee collection mechanism that links a party/parties demanding the service, and how they pay for it (discussed in Chapter 7 and demonstrated in Chapter 8).

Our draft Cost Recovery Framework is represented in Figure 4.1 as a series of **stages**. The boxes on the left of the diagram describe each stage and the boxes to the right provide reference templates we have developed to work through the stages.

⁴⁹ *Natural Resources Management Act 2004* (SA), s 7(3)(f). See also: Government of South Australia, *Our Place. Our Future: State Natural Resources Management Plan South Australia 2012-2017*, p 31.

⁵⁰ Our approach draws on approaches by Biosecurity New Zealand; see section 4.1 for more detail, and a 'Biosecurity Threat Decision Tree', which was presented at the Australian Agricultural and Resources Economics Society Annual Conference 2010 by Harley Smith and Stewart Webster of the NSW Department of Trade and Investment.

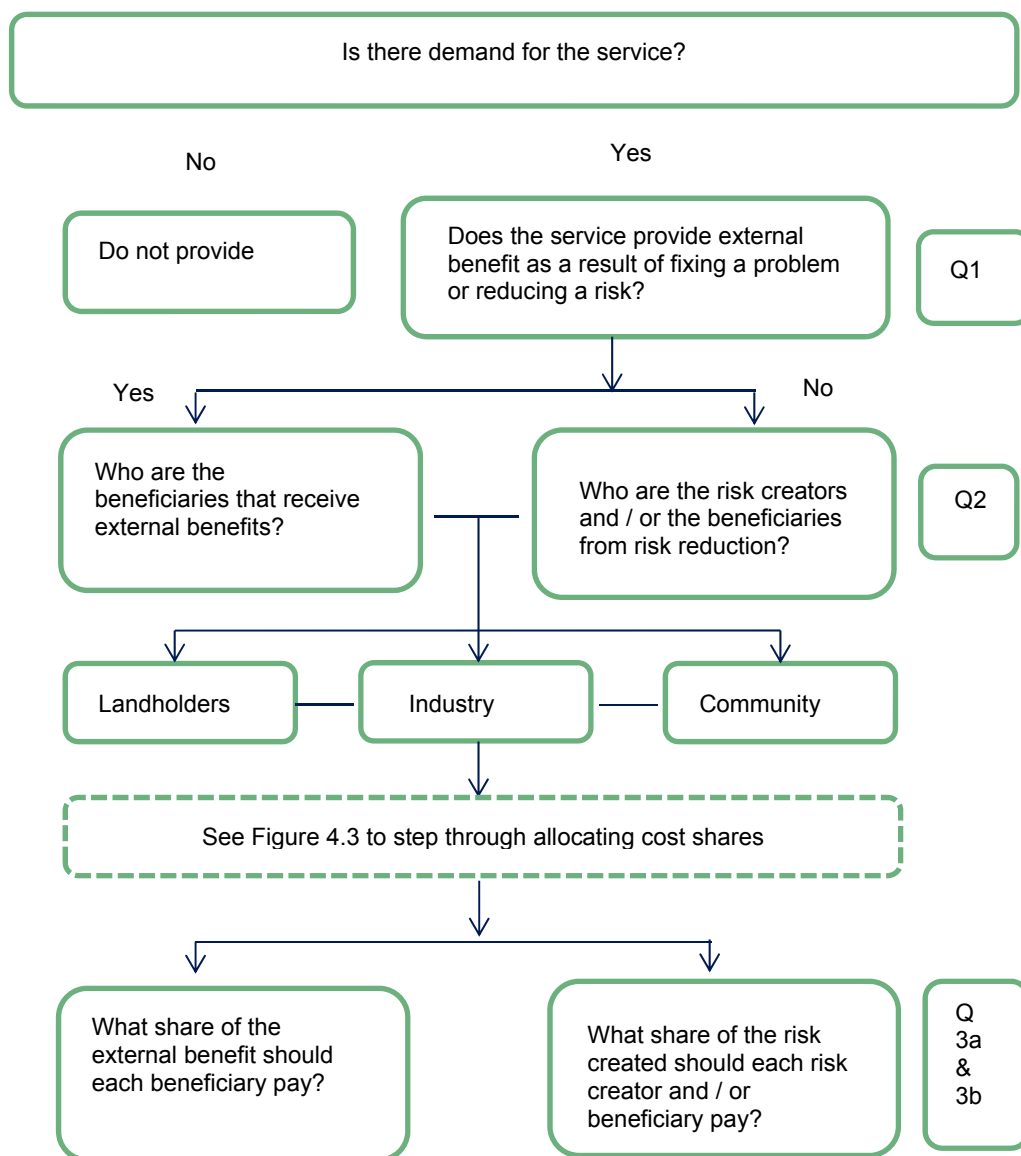
Figure 4.1 IPART's Cost Recovery Framework

Source: IPART.

4.2.1 A decision tree for a Cost Recovery Framework

Figure 4.2 presents the 'key questions' for Stages 1 and 2 in a decision tree, to assist LLS boards to work through this process clearly and consistently. The numbered boxes in Figure 4.2 correspond to questions that follow in this report.

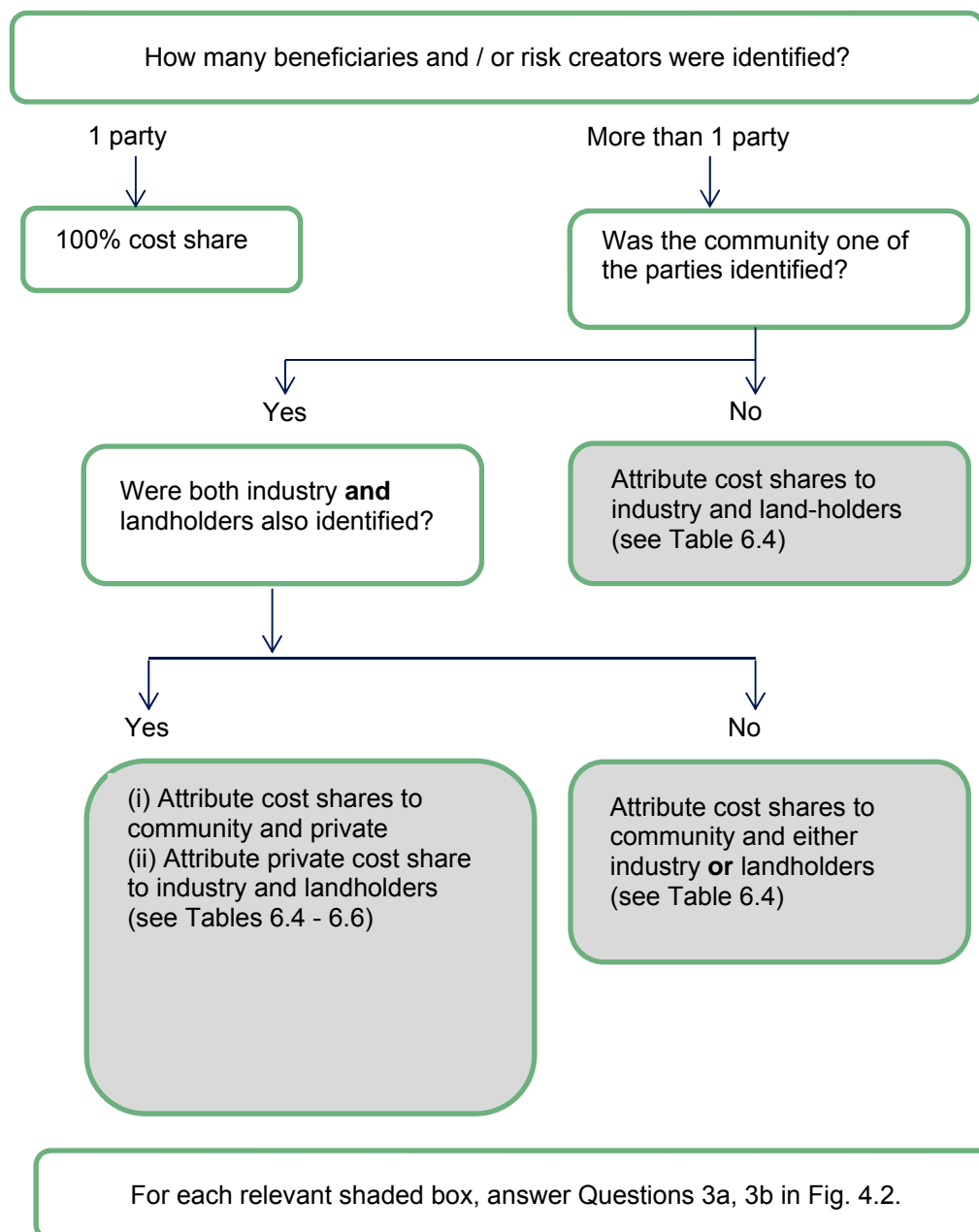
Figure 4.2 IPART's draft decision tree for Cost Recovery Framework



Note: The numbers in the boxes correspond to the 'key questions' that are used in the Cost Recovery Framework. Questions 1 and 2 are answered in Stage 1 and questions 3a and 3b are answered in Stage 2 in Figure 4.1.

Source: IPART.

Figure 4.3 presents the 'key questions' required to determine the answers to questions 3a and 3b in Figure 4.2 (decision tree for cost recovery), which allow LLS boards to work through the allocation of cost shares clearly and consistently.

Figure 4.3 Draft decision tree for the allocation of cost shares**Note:**

(1) Private funding in Figure 4.3 includes both industry and landholders.

(2) Public and community are used interchangeably in Figure 4.3. It is commonly the case that public benefits or risks created by the community-at-large are funded by the government.

Source: IPART.

IPART seeks comments on the following

2. Should we use the cost recovery frameworks that we have identified from other jurisdictions? Are there other examples of cost recovery frameworks that we should consider?
3. Do you agree with IPART's approach which includes a series of stages and 'key questions'? Can our suggested approach be improved?

5 Cost Recovery Framework (Stage 1) – Identify demand for the service

Stage 1 of our framework requires the identification of the party or parties that are either beneficiaries and / or risk creators for each LLS service. Figure 4.2 shows how the ‘key questions’ approach identifies the users of the service and the reason for its provision. This chapter applies Stage 1 of the Cost Recovery Framework to worked examples.

5.1 Identify the demand for the service

A service may be provided because it provides benefits to landholders, industry or the community, by reducing risks posed by some party’s actions, eg, the eradication of declared pests and noxious weeds. Services that seek to reduce risk or a problem may be required because the market is unlikely or unable to provide a satisfactory response to a particular issue. The causes of this failure of the market, and for a role for government, are discussed in Box 5.1.

A service may also be provided that benefits users, and which is not aimed at risk reduction. An example of such a service might be training that improves the quality of pasture or livestock. These services may be considered private goods.

The benefits of a private good can only be consumed by the purchaser and there is a cost to providing additional units of the good.

Where private goods are available in contestable markets there is no reason for the government to provide the service. However, a government agency may provide this service for policy reasons. If the government chooses to provide a private good, it is commonly understood that it must be provided on a competitively neutral basis, which implies the good shall be priced at a commercial rate.

Where there is no clear reason for the service or group demanding the service, LLS boards should re-consider providing the service.

The first ‘key question’ that needs to be answered is:

Question 1

- ▼ what is the justification for the service, does the service provide an external benefit as a result of fixing a problem or reducing a risk?

If no, the reason for the provision of a service is to directly eliminate or reduce a risk caused by some party’s actions.⁵¹ Therefore, this question assists to identify all direct ‘risk creators’ and ‘beneficiaries’. To help classify the nature of the identified risk, Box 5.1 defines reasons why the market may fail to provide a satisfactory outcome, and hence there may be an inefficiently high level of risk.

If yes, the service also provides external (‘indirect’) benefits beyond any reduction in risk. This question assists to identify all relevant ‘beneficiaries’, including those parties that benefit indirectly. Therefore, along with direct ‘risk creators’ and any parties that benefit from the reduction in risk, there may be other parties that receive a benefit.

The possible outcomes that result from Questions 1 are:

- ▼ ‘beneficiaries’ only, may exist when the service provides private benefits only
- ▼ direct ‘risk creators’ and ‘beneficiaries’, when the service results in fixing a problem or reducing risk only
- ▼ direct ‘risk creators’ and ‘beneficiaries’ **and** indirect ‘beneficiaries’ when the service provides external benefits as a result of fixing a problem or reducing risk.

Further, it is possible that a single party may be both a beneficiary and a risk creator.

5.2 Identify the beneficiaries and/or risk creators

There may be one obvious party that benefits from or is responsible for the provision of the service. If this is the case, it is clear who should pay for the service. However, if more than one party benefits and/or creates risk, a further question should be asked at this point, that is:

Question 2

- ▼ who are the main beneficiaries and / or risk creators? Can they be identified?

This question assists with determining cost shares, which is discussed further in section 4.3.

⁵¹ Some risk exists in all transactions; however risks that can be negotiated by private parties will be done so efficiently. When a risk or problem exists caused by market failure, an inefficient transaction will occur, because the non-market risk cannot be negotiated away.

The main beneficiaries/risk creators may be difficult to identify. Therefore, it is important to know if there are **minor** or dispersed beneficiaries/risk creators. If there are minor beneficiaries or risk creators that can be charged for the service, it might be efficient and effective to do so.

Should these minor parties be unable to capture enough of the benefits or change their behaviour to reduce the risk they are creating, a cost-benefit analysis should be undertaken at this point to consider whether to proceed with the service. If an LLS board is unable to answer any of these questions, it may be appropriate to **re-consider** providing the service.

5.3 The role of the government

Our hierarchy above provides for government involvement if a service is required, eg, for policy reasons, but no single party or industry can be held accountable. This does not mean the government should act, only that a reason exists that might warrant it to act. Box 5.1 provides an explanation to assist in classifying what issue an LLS service is trying to overcome, and hence why the service might be provided by the agency.

In section 3.3 of IPART's proposed principles we discussed the 'risk creator-beneficiary-taxpayer' hierarchy.⁵² Questions 1 and 2 help to identify who in the hierarchy creates the demand for the service, ie, the community, industry or landholders. However, we also discussed in section 3.3, it may not be appropriate to follow this hierarchy strictly, instead no presumption is made as to which party should be charged compared to another other party.

⁵² The taxpayer in this hierarchy would be represented by the government.

Box 5.1 Reasons for government involvement

A well-functioning market for goods and services has certain characteristics, which allow for mutually beneficial trade. If these characteristics are not present, government intervention may be justified. The 4 main reasons for government involvement are: market power, externalities, public goods and information imbalance. These characteristics are considered along with Question 2 in Figure 4.2.

Market power: Where participant(s) in the market use their influence to restrict mutually beneficial transactions from occurring.

A common source of market power is where a party has monopoly power in the provision of a service, or a cartel may exist, which artificially increases price and / or reduces supply.

Externalities: Where an activity impacts other parties not involved in a transaction.

The impact of this activity on others could be negative eg, chemical residue spillage or positive, eg, cross pollination by bees.

Public goods: Where the reason for the service is to help the market provide an adequate level of a desired service that is under-provided.

Inadequate provision of a service may occur because participants are unable to capture the benefits of their investment, even if the service is demanded by the market, eg, surveillance for exotic plants and pests. This is because, if the service is provided, it benefits all landholders in an area.

Information imbalance: Where the reason for the service is to reduce the imbalance of information between parties in a transaction, ie, one party has more information than another, which may be hindering mutually beneficial trade.

An example is an animal certification scheme. Certification provides information that could otherwise be costly to obtain and may influence a potential buyer's decision by making them better informed.

5.4 Applying the draft Cost Recovery Framework

We have chosen the following services to be provided by LLS (see Appendix C for the full list of services) to demonstrate our framework:

- ▼ managing travelling stock reserves (Box 5.2)
- ▼ production efficiency improvement programs (Box 5.3)
- ▼ advice on compliance with the *Native Vegetation Act 2003* (NSW) (Box 5.4).

The framework, discussed so far, is applied to the 3 services in Boxes 5.2 to 5.4.

Box 5.2 Travelling stock routes: ‘key questions’ to identify beneficiaries and / or risk creators

Travelling Stock Reserves (TSRs) are parcels of Crown land which provide pasture for travelling or grazing stock. They were originally used to move livestock from farms to markets or railheads, before modern transportation became available. They have also been used, more recently, as fodder in times of drought, and also serve as shelter for livestock in times of bushfire and flood (specific areas only). TSRs are also used for recreational purposes and as conservation reserves.^a

Question 1

- ▼ What is the justification for the service, ie, does the service provide an external benefit as a result of fixing a problem or reducing a risk?
 - Crown lands may be a source of pests and weeds which may move to adjoining private properties (ie, negative externality). However, TSRs provide private benefits to farmers using the land to move stock or to ‘house’ them.

Question 2

- ▼ Who are the main beneficiaries or risk creators? Can they be identified?

The main beneficiaries are:

- ▼ Farmers using TSRs for moving stock and as insurance for drought and floods.

The main risk creators are:

- ▼ The community, as owner of Crown lands, need to maintain the land to control for pests and weeds. Otherwise a risk is created, which may impose an additional cost on other parties that maintain their land, because they also have to account for pest and weeds on Crown land.

Minor beneficiaries include:

- ▼ dispersed members of the community using TSRs for recreation
- ▼ the community, through CMAs, enjoying conservation services.

^a This definition is from <http://www.lhpa.org.au/travelling-stock-reserves>, and from the 2007 Ryan Report (Attachment 8), p 44.

Box 5.3 Production efficiency programs: ‘key questions’ to identify beneficiaries and / or risk creators

Production efficiency programs are provided by DPI’s advisory and extension personnel.^a These services promote industry development through ensuring the adoption of industry best practice based on the latest and most appropriate research findings etc. An example of this type of service is the Prograze – PROfarm course offered by DPI.^b

Question 1

- ▼ What is the justification for the service, ie, does the service provide an external benefit as a result of fixing a problem or reducing a risk?
 - Training programs mainly provide private benefits – they are captured by the farmers doing the training.
 - However, there may be some benefits to others parties who benefit from the efforts of their neighbours. These external benefits are not charged for, which may result in these services being under-provided.

Question 2

- ▼ Who are the main beneficiaries or risk creators? Can they be identified?

The main beneficiaries are:

- farmer or industry using advisory or extension services to increase the quantity or quality of their output.

The main risk creators are:

- none identified.

Minor beneficiaries include:

- the community may benefit if the training is provided to all that demand it, however, it may not be possible for the market to (privately) provide this level of service, due to ‘free riding’.

^a <http://www.dpi.nsw.gov.au/aboutus/services/extension>.

^b <http://www.dpi.nsw.gov.au/agriculture/profarm/courses/prograze>.

Box 5.4 Native vegetation: ‘key questions’ to identify beneficiaries and / or risk creators

Property Vegetation Plans are, voluntary, legally binding agreements, required for the approval of clearing of remnant vegetation or protected regrowth when clearing will improve or maintain environmental outcomes. Otherwise, clearing of remnant native vegetation or protected regrowth is in contravention of the *Native Vegetation Act 2003* (NSW) (the Act).^a For example, this service may involve CMA staff visiting landholders to provide advice, or to obtain new information that may need to be incorporated into the CMA’s modelling of the proposed plan.^b

Question 1

- ▼ What is the justification for the service, ie, does the service provide an extra benefit as a result of fixing a problem or reducing a risk?
 - The service should result in less clearing of native vegetation by landholders.
 - This results in less degradation of the environment. There are indirect benefits if returning native vegetation provides a habitat for native animals.

Question 2

- ▼ Who are the main beneficiaries or risk creators? Can they be identified?

The main beneficiaries are:

- the community, through reduced land degradation.

The main risk creators are:

- landholders that clear land of native vegetation.

Minor beneficiaries include:

- the community may benefit if the protection of native vegetation results in the protection of habitats for native animals.

^a <http://www.environment.nsw.gov.au/vegetation/pvp.htm>.

^b CMAs use native vegetation assessment tools (NVAT) to assess whether clearing proposals meet the requirement of the Act. NVAT are objective, computer based, decision support programs (<http://www.environment.nsw.gov.au/vegetation/nvat.htm>). This interpretation of the service is based on IPART research. Actual service details may vary considerably.

IPART seeks comments on the following

4. How should we identify the demand for the services provided? How should we identify the main party or parties that benefit from or contribute to the need for the services?

6 Cost Recovery Framework (Stage 2) – Apportion cost shares between parties

In Figure 4.1, Stage 2 of our framework requires the apportionment of cost shares between parties for an LLS service based on the party or parties identified in Stage 1, ie, beneficiaries and / or risk creators. Figure 4.3 shows how cost sharing arrangements are assessed. This chapter discusses Stage 2 of the Cost Recovery Framework and includes worked examples.

6.1 Cost sharing arrangements for LLS services

To develop an appropriate funding arrangement for each service we must understand which parties benefit from using the service, and / or are the reason for the service being provided. Stage 1 of our Cost Recovery Framework allows for this to occur.

We then determine the degree to which each party benefits from the service, and / or are responsible for its provision (if they are a risk creator). Therefore, the next set of questions that should be answered is:

Question 3 (a)

- ▼ What share of the risk created should direct risk creators and / or direct beneficiaries pay?

Question 3 (b)

- ▼ What share of the external benefits should indirect beneficiaries pay?

6.2 Cost sharing approaches

There are a number of approaches to determine cost sharing arrangements. We discuss 3 approaches that could potentially form the basis to proceed. The 3 approaches are discussed in turn, but it may also be possible to combine the features of these approaches to develop a custom process.

These are:

- ▼ a sliding scale which reflects who receives the benefit of the program
- ▼ risk matrices which reflects who creates the risk that gives rise to the program
- ▼ proportions developed by the Stakeholder Reference Panel.

6.2.1 Approach 1 – Sliding scale

The current national emergency biosecurity arrangements for plants and animals (the so-called Plant deed⁵³ and Animal deed⁵⁴) split responsibility using a **sliding scale** between government and industry using a beneficiary pays approach, as shown in Table 6.1.⁵⁵ The top category relates to incidents that may seriously harm human health but have little impact on commercial industries, and thereafter the scale changes as impacts on industries through production losses increase relative to public benefits, eg, from human health or to the environment.⁵⁶

Table 6.1 Plant Health and Animal Health cost sharing arrangements

Category of Emergency Plant Pest / Disease	Government Funding	Industry Funding
Public benefits only	100%	0%
Public benefits greater than private benefits	80%	20%
Proportion of public to private benefits is roughly equal	50%	50%
Private benefits are greater than public benefits	20%	80%

Note: The Plant and Animal deeds do not have a category where only private benefits exist. The Plant and Animal deeds only refer to this sliding scale by category, from 1-4, with Category 1 being 100% government funding and so on. To assist understanding we have used these definitions for each category.

Source: Emergency Plant Pest Response Deed, pp 18-24; Emergency Animal Disease Response Agreement, pp 16-21.

⁵³ The Emergency Plant Pest Response Deed (EPPRD) is a formal, legally binding agreement between Plant Health Australia, the Australian Government, all state and territory governments and plant industry signatories, covering the management and funding of responses to Emergency Plant Pest (EPP) incidents. See: <http://www.planthealthaustralia.com.au/wp-content/uploads/2012/12/Fact-sheet-Emergency-Plant-Pest-Response-Deed.pdf>.

⁵⁴ The Emergency Animal Disease Response Agreement is a formal, legally binding agreement between Animal Health Australia, the Australian Government, all state and territory governments, and currently fourteen livestock industry signatories. The agreement covers the management and funding of responses to Emergency Animal Disease incidents. See: www.animalhealthaustralia.com.au.

⁵⁵ *Mechanisms for Funding Biosecurity Measures*, November 2008, report prepared for the Department of Primary Industries, Victoria, by Frontier Economics, see <http://www.dpi.vic.gov.au/about-us/publications/economics-and-policy-research/2008-publications/mechanisms-for-funding-biosecurity-measures>.

⁵⁶ *Mechanisms for Funding Biosecurity Measures*, November 2008, report prepared for the Department of Primary Industries, Victoria, by Frontier Economics, section 3.3.1.

The sliding scale approach is an established approach, and is used for similar purposes as for some of the services provided by the LLS boards. Further, this approach seeks to assign relative responsibility to identifiable parties. The approach is simple to understand and follow and requires little information about the service to apportion shares between parties. A weakness of this approach is that it allocates costs to government and industry only and not to landholders.⁵⁷

6.2.2 Adjusting the sliding scale approach to include landholders

However, it is possible to overcome this weakness by adjusting Table 6.1 to include another sliding scale to allow for landholders to be included, see Table 6.2.

Table 6.2 Adjusted sliding scale approach to include landholders (Example)

Total			Private		
%	Public	Private	%	Industry	Landholders
Public > Private	80%	20%	Industry > landholders	80%	20%
Public ≈ Private	50%	50%	Industry ≈ landholders	50%	50%
Public < Private	20%	80%	Industry < landholders	20%	80%

Note: Stage 1 requires the split between Public and Private. Stage 2 requires Private to be split between Industry and Landholders.

Source: IPART.

This approach is useful when the 3 broad groups we have identified are all considered to be either beneficiaries or risk creators. When 2 parties are identified, then Table 6.1 is appropriate to use. If only 1 party has been identified, then by definition (linking costs of service to user or risk creator) all costs should be borne by this party.

Table 6.3 below is effectively an input / output Table,⁵⁸ because once the proportions in Table 6.2 have been determined, these proportions automatically become inputs in Table 6.3, and the final costs shares are calculated (blue cells).

⁵⁷ Unless you assume industries can pass on the costs to their customers. However, this approach still doesn't account for non-industry connected beneficiaries or risk creators.

⁵⁸ Not to be confused with Input-Output Tables.

Table 6.3 Determining the split between 3 parties (Example)

Public v Private		Private v Private		Final Cost Shares
Public	80%			80%
Private	20%	Industry	50%	10%
		Landholders	50%	10%

Note:

(1) Public funding occurs when benefits or risk accrue to the general community.

(2) Total percentage across the 3 parties must add to 100%, ie, the blue cells must add to 100%.

Source: IPART.

IPART seeks comments on the following

- Should a sliding scale arrangement be used to apportion costs between parties using LLS services? If so, are the percentages used for the State/Commonwealth Plant and Animal deeds appropriate for use?

6.2.3 Approach 2 – Risk matrices

Cost shares could also be allocated using an approach based on a traditional risk-matrix, which assigns a low, medium or high impact to each party. The low to high weighting provides an indication of the size of the benefit or the risk created by the party that has been identified previously using our 'key questions' approach. We discuss how this approach would work using a series of steps.

Step 1 – Apportioning costs between community and private beneficiaries / risk creators

The matrix approach is useful when two main parties can be identified. Table 6.4 shows how this approach would work. For example, responsibility and hence funding for a service can come from either public or private sources. Therefore, the first step is to determine the split between public versus private, that is, assign percentages between the two.

Table 6.4 Determining the split between 2 parties (Example)

Private / Community	High	Medium	Low
High	50% / 50%	60% / 40%	80% / 20%
Medium	40% / 60%	50% / 50%	60% / 40%
Low	20% / 80%	40% / 60%	50% / 50%

Note: The matrix is read as Private vs Community, ie, from left to right.

Source: IPART.

These percentages, other than the 50-50 split, are indicative. The 50-50 split would always occur for High/High, Medium/Medium or Low/Low, because by definition, both parties would be equally responsible for the service. For the other cells in Table 6.4, eg, High/Low, the main beneficiaries / risk creators determined from questions asked in chapter 5 may not be equally responsible or is likely to receive equal benefits.

Therefore, Step 1 is what we consider to be a **single matrix** approach. Any 2 parties can be split using this approach, eg, community and industry, community and landholders or industry and landholders.

However, where there are **more than 2 main parties**, a modified or 'staged 2-step' matrix may be required. Where we envisage this approach to work is if public and private funding is required, and there are multiple private beneficiaries / risk creators. To reiterate, the following steps (2 and 3) are required only if there are **more than 2 parties**, if there are only 2 parties, the following stages are redundant.

Step 2 – Apportioning private costs between industry and landholders

In Step 2, where 3 parties exist, the private parties are assigned proportions based on their relative responsibility to each other for this service. In Table 6.4 we split public (ie, community) from private (ie, industry, landholders). In this stage we need to determine the split between the private parties; shown in Table 6.5 (the proportions in Table 6.5 are illustrative).

Table 6.5 Determining the split between 2 private parties (Example)

Industry / Landholders	High	Medium	Low
High	50% / 50%	60% / 40%	80% / 20%
Medium	40% / 60%	50% / 50%	60% / 40%
Low	20% / 80%	40% / 60%	50% / 50%

Source: IPART.

The proportions in Table 6.5 for the 2 private parties are applied to the original split between public and private, Table 6.4, which allows the 'private' sector to be disaggregated between multiple parties; this is explained in Step 3.

Step 3 – Final apportionment

Table 6.6 shows the final cost sharing arrangement for the service split between 3 parties, assuming one of these parties is the government (on behalf of the community). Table 6.6 combines the output of Table 6.4 and 6.5 to calculate final cost shares based on an assessment of:

- ▼ the split between public and private (Table 6.4)
- ▼ the split between industry and landholders (Table 6.5)
- ▼ apply the splits from Table 6.5 to the percentage attributed to private in Table 6.4.

Table 6.6 Determining the split between 3 parties (Example)

Public v Private	Step 1 split	Private v Private	Step 2 split	Cost Shares – Step 3
Public	80% (High)			80%
Private	20% (Low)	Industry	60% (High)	12%
		Landholders	40% (Medium)	8%

Note: Total percentage across the 3 parties must add to 100%.

Source: IPART.

Therefore, the 'staged 2-step' matrix requires 2 decisions for LLS boards to make supported by analysis. In Table 6.6, the 2 decisions are indicated in the 'yellow' cells. The final outcome, which cannot be changed because it is strictly a calculation, is in the 'blue' cells. The split between industry and landholders is obtained by multiplying the percentages in Step 2 to the proportion allocated to private in Step 1.

The matrix approach apportions relative responsibility to the main parties identified as being either beneficiaries and/or risk creators. The approach is flexible enough to allow for multiple parties and also allows the analyst to categorise the responsibility of each party further (high, medium or low impact).

A weakness of this approach is that it uses rules-of-thumb to assign probabilities, which may not directly align with responsibility. Further, an assessment (or possibly judgement) is required to attribute high, medium or low impact to the parties included in a matrix, which may require more information than is available. However, the matrix approach and assigning of weights has an established history. When it is difficult to accurately assign probabilities, this approach provides a useful method to determine cost shares.

IPART seeks comments on the following

6. Should a risk matrix approach be used to apportion costs between parties using LLS services? If so, what percentages would be appropriate to apply to the relative risks imposed by different stakeholders?

7. Can we assign weights (high, medium and low) to reflect the impact each party has in requiring the service be provided?

6.2.4 Approach 3 – Stakeholder Reference Panel

Another approach to apportion cost shares is to use research undertaken by the Stakeholder Reference Panel,⁵⁹ based on perceived benefits, to assign proportions between the community, industry and landholders, across all services provided. Figures 6.1, 6.2 and 6.3 show 3 examples of the perceived benefits attributed by 3 different areas to the proposed LLS services.

We can see from these charts that variation exists between the 3 communities on the relative benefit each service provides to each party – farmer, industry and community. This variation is not unexpected, because in some areas a service may deliver more of a private benefit, while in other areas it may provide more of a public benefit. This difference may be due to factors such as type of production, pest, weed and landscape, communities may want different services or the same services but in different quantities.

The stakeholder consultation approach adopted by the Stakeholder Reference Panel could provide us with a useful logic check when running services through our framework. Alternatively, these proportions could be used as direct inputs into our framework when apportioning costs shares. The proportions developed through consultation are an important piece of information because stakeholders' views are formed based on an understanding of the local conditions and reasons for the service in their area.

However, there may be some challenges with this approach unless the surveys were undertaken with all relevant parties represented. If not, the results could be subject to bias. Further, using an aggregation of results across all of the Panel's workshops may not solve this issue, which could still lead to using biased results. The main survey respondents across all centres classified themselves as:

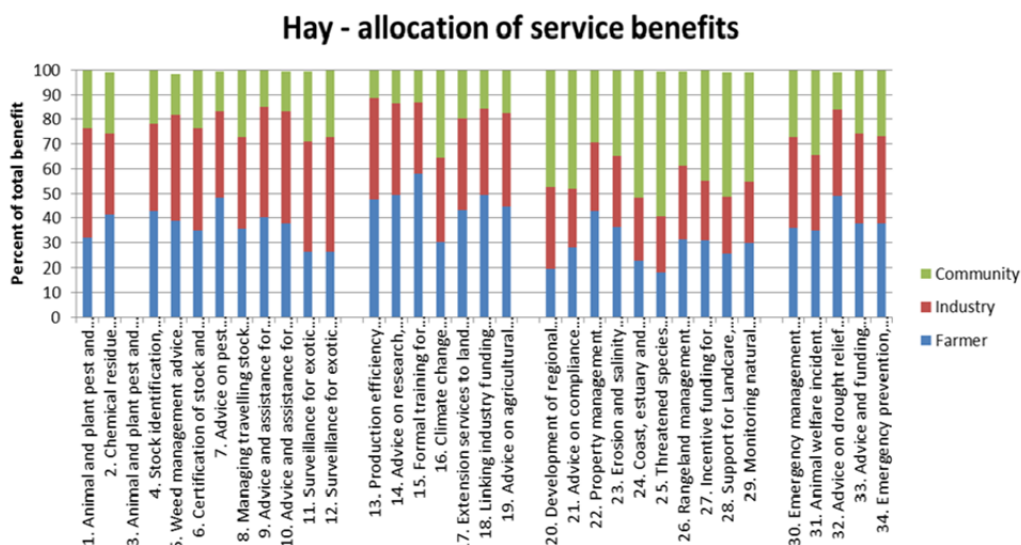
- ▼ full-time farmers
- ▼ rural resident
- ▼ hobby/lifestyle landholder
- ▼ community group representative.⁶⁰

⁵⁹ The Stakeholder Reference Panel (the Panel) is an independent body that guides the development of the new Local Land Services entity. The Panel consulted on issues such as, the proposed boundaries for LLS boards (see Appendix B) and services provided (see Appendix C). LLS boundaries and services are issues outside of IPART's Terms of Reference.

⁶⁰ See LLS consultation: <http://engage.haveyoursay.nsw.gov.au/document/show/906>.

The survey allowed respondents to self-classify across multiple categories which make it difficult to ensure a representative sample of views exists. In any case, it appears that the overwhelming majority view expressed was that of full-time farmers.

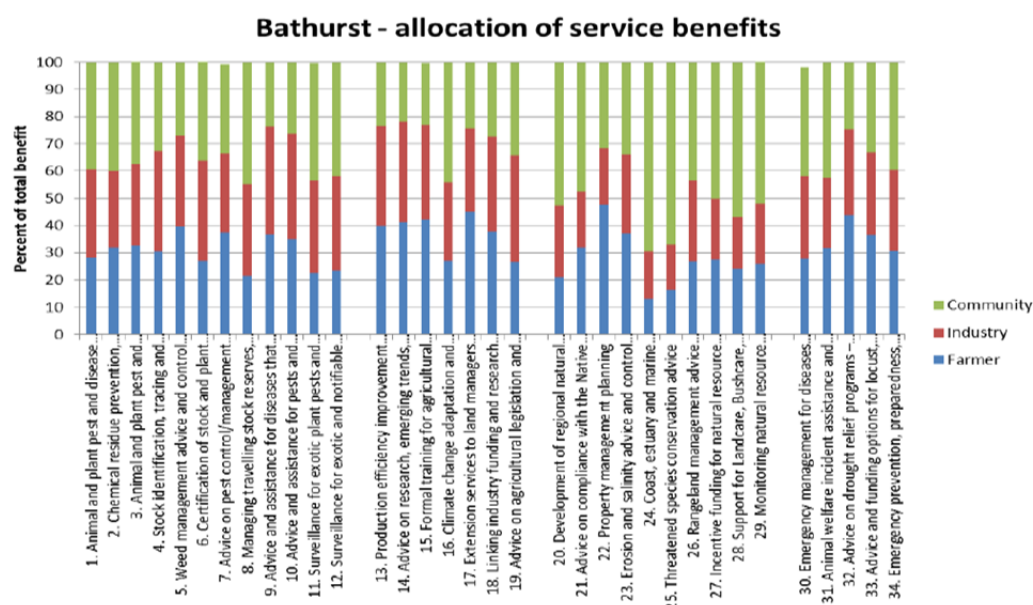
Figure 6.1 Stakeholder Reference Panel workshop – Hay (average of participants' response)



Note: The columns represent the average response of all participants at the Hay workshop.

Source: NSW Local Land Services consultation workshop report – Hay, 18 February 2013.

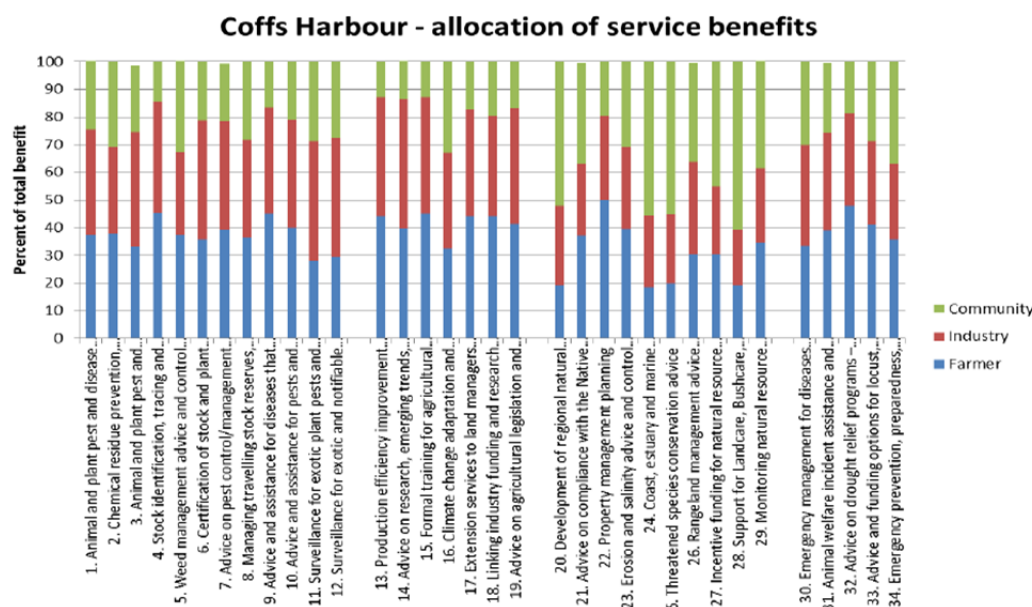
Figure 6.2 Stakeholder Reference Panel workshop – Bathurst (average of participants' response)



Note: The columns represent the average response of all participants at the Bathurst workshop.

Source: NSW Local Land Services consultation workshop report – Bathurst, 12 February 2013.

Figure 6.3 Stakeholder Reference Panel workshop – Coffs Harbour (average of participants' response)



Note: The columns represent the average response of all participants at the Coffs Harbour workshop.

Source: NSW Local Land Services consultation workshop report – Coffs Harbour, 19 March 2013.

IPART seeks comments on the following

- Should IPART use the Stakeholder Reference Panel's consultation outcomes to apportion costs shares for LLS services? Are there issues with this approach?

Cost sharing using IPART's draft Cost Recovery Framework

The draft Cost Recovery Framework allows for regional differences to be taken into account. The framework provides each LLS board with a flexible tool to use. The results for Travelling Stock Reserves (TSRs) example (Box 6.1), which are used to demonstrate our approach, could vary across the LLS areas because the boards take differing views on beneficiaries and risk creators.

If the government wishes to fix its cost share, the framework can still be used to determine the contribution of industry and landholders. Further, the government might restrict its share of costs around a band, eg 40% to 60%. The framework would still be able to apportion cost shares between other parties.

IPART seeks comments on the following

9. Should LLS boards be able to exercise discretion under the draft Cost Recovery Framework when determining cost shares between parties?
10. Do you agree with the approaches discussed by IPART to apportion cost shares? If not, why not? Can you suggest another way to determine efficient cost sharing that is transparent and practical?
11. What information is publicly available on an appropriate split between parties that would use LLS services?

Applying the draft Cost Recovery Framework

Boxes 6.1, 6.2 and 6.3 show how the draft Cost Recovery Framework apportions costs (using the matrix approach) between parties for the 3 examples we have used throughout this paper, ie:

- ▼ managing travelling stock reserves
- ▼ production efficiency improvement programs
- ▼ advice on compliance with the Native Vegetation Act.

The framework applied to these examples assumes full flexibility is available to LLS boards, ie, pre-determined cost shares or bands are not imposed. In general, we see across boxes 6.1 to 6.3 that:

- ▼ all 3 broad groups, ie, the community, industry and landholders are identified as being either a beneficiary or a risk creator
- ▼ these examples illustrate that the framework is able to replicate findings consistent with the Panel's consultation, which shows its flexibility as a tool
- ▼ various combinations of cost sharing occurs depending on an assessment of relative responsibility.

Note, these worked examples are used to demonstrate the framework; detailed analysis and information would be needed to ascertain actual cost shares. The draft Cost Recovery Framework is flexible enough to allow for cost shares to vary across LLS boards if circumstances / assumptions mean answers to Question 1 to 3 culminate in different outcomes.

Box 6.1 Cost sharing – Travelling stock reserves

In Box 6.1, we use the information from Box 5.2 and the answers to question 3 above to apportion costs between the identified beneficiaries and / or risk creators, for our travelling stock reserves example.

Working through the questions in section 6.1, a single matrix is used to apportion costs between landholders, ie farmers (beneficiary) and the community (risk creator).

Question 3 (a)

- ▼ What share of the risk created should direct risk creators and / or direct beneficiaries pay?

The risk creator identified is the community, as Crown land belongs to the community and the control of pests and weeds is the community's responsibility (**medium**).

Question 3 (b)

- ▼ What share of the external benefits should indirect beneficiaries pay?

The cost of maintaining the land to allow livestock to travel and as a refuge should be funded by farmers. The alternative for travel is commercial transportation, and the alternative for refuge is trucked in fodder or premiums for lost stock (**medium**).

The community and landholders are considered to have a **medium** impact, risk and private benefit respectively, therefore the appropriate sharing arrangements is **50% / 50%**. Should the answers to the 'key questions' have resulted in a different view, for example high for landholders and low for the community, then the appropriate combination might be 80% / 20%.

Box 6.2 Cost sharing – Production efficiency improvement programs

In Box 6.2, we use the information from Box 5.3 and the answers to question 3 above to apportion costs between the identified beneficiaries and / or risk creators, for our production efficiency programs example.

Working through the questions in section 6.1, a single matrix is used to apportion costs between industry, ie, primary producers (beneficiary) and the community (public good).

Question 3 (a)

- ▼ What share of the risk created should direct risk creators and / or direct beneficiaries pay?

None identified.

Question 3 (b)

- ▼ What share of the external benefits should indirect beneficiaries pay?

The main beneficiaries of training services that seek to improve yield or to allow for market access are primary producers (**high**). Industry, for this service receives pure private benefits

However, in Box 5.3 we identified that advisory / extension services such as training programs may have public good characteristics. If left to private provision, it may only be profitable to provide the service in some instances, meaning that an efficient level of the service is not provided. The community would achieve a higher level of welfare if additional units of the service were provided (**low**).

Industry is considered to receive a **high** private benefit from advisory / extension services. The community is thought to receive a **low** (indirect) benefit, therefore the appropriate sharing arrangements is **80% / 20%**. If a different conclusion is drawn from the 'key questions', for example high for industry and medium for the community, the appropriate sharing arrangement could be, 60% / 40%.

Box 6.3 Cost sharing – Advice on native vegetation

In Box 6.3, we use the information from Box 5.4 and the answers to question 3 above to apportion costs between the identified beneficiaries and / or risk creators, for our advice on native vegetation example.

Working through the questions in section 6.1, a single matrix is used to apportion costs between landholders (risk creator) and the community (beneficiary).

Question 3 (a)

- ▼ What share of the risk created should direct risk creators and / or direct beneficiaries pay?

The risk creator identified is the landholder, who must comply with relevant legislation. The clearing of land by a landholder may not take into account the cost imposed on the environment (**high**).

Question 3 (b)

- ▼ What share of the external benefits should indirect beneficiaries pay?

In Box 5.4, the community was identified as an indirect beneficiary, if efficient land clearing leads to the preservation of natural habitats for native animals, beyond the direct effects of dealing with land degradation (**low**).

Landholders are considered to have a **high** impact (ie, risk creator), and the community potentially receives a **low** external benefit, therefore the appropriate sharing arrangement is **80% / 20%**. If an alternative view was that the flow-on effects to the community were also high, the appropriate cost-sharing arrangement would be high / high, and therefore the appropriate sharing arrangement would be, 50% / 50%.

7 Funding option and collection mechanism

The Minister has asked IPART to:⁶¹

- ▼ advise on an efficient rating base for compulsory fee collection and an efficient fee collection mechanism
- ▼ assess the strengths and weaknesses of cost recovery frameworks used by similar service providers.

The adopted funding option(s) and collection mechanism(s) should support the targeted policy outcomes while encouraging the efficient use of resources and minimising transaction costs. Funding options include fee for service, rates (including special levies), grants and other government funding. Where we are directly discussing issues related to rates, we will use the terms 'rate' or 'rating'.

This Chapter:

- ▼ considers what makes an efficient funding base and an efficient fee collection mechanism
- ▼ discusses the current funding models
- ▼ compares 3 different rating bases (notional stock carrying capacity; property size; and the unimproved capital value of the land)
- ▼ compares 2 options for minimum rateable land area
- ▼ reviews cost collection mechanisms used by other similar service providers.

7.1 Efficient funding options and fee collection mechanism

The funding option should be aligned where possible with the benefit derived from a service and/or the cost of minimising risk creating activities. This will encourage stakeholders to balance their demand for a service with the cost of service provision and also encourage stakeholders to reduce the need for corrective action by LLS to combat a threat (see Chapter 4).

⁶¹ Minister for Primary Industries, letter dated 22 February 2013, p 1.

While a general 'rate', as a funding source, may minimise collection costs it may not encourage individual stakeholders to consider the cost of service provision. Conversely, the cost of fee collection from an individual may exceed the benefit derived or the risk averted. In such situations where a service is still required it is appropriate to adopt alternative funding mechanisms to the charging of a customised service fee.

There is considerable cost to establishing billing systems. Economies of scale may be realised where the rating bases of different organisations align⁶² and both utilise the same fee collection mechanism. If a rating base is unique to one organisation this may not be possible. If it is deemed necessary for LLS to have its own fee collection mechanism(s) then it is likely that a centralised state wide billing system will be most efficient.

7.2 Current cost recovery model

There are several funding sources used by the LHPAs and the CMAs. Table 7.1 contains a summary of funding source options, their effective groups and relative rateable group identified in the Bull Report.⁶³

Table 7.1 Funding options and effective groups

Funding source	Effective group	Bull Report
Fee for service	Individuals/businesses	N/A
LHPA Rates:		
– General	Occupiers of land	10ha or more
– Animal health	Livestock industry/farms	>30 stock units
– Special purpose	Individual(s) or Industry(s)	Per hectare or base amount
Grant (and co-payment)	Community	Government funded
Direct Government funding	Community	Government funded

Source: Hon Richard Bull, *Review of the Rural Lands Protection Boards Rating System in NSW*, July 2007.

7.3 Current funding arrangements

7.3.1 Fee for service

Fee for service charging is suitable for services:

- ▼ that provide exclusive benefits to the individual using them, and
- ▼ where using or benefiting from the service can be withheld until payment is made.

⁶² Eg, LLS and Local Government Councils.

⁶³ Hon. Richard Bull, *Review of the Rural Lands Protection Boards Rating System in NSW*, July 2007.

Examples of LHPA services that are provided on a user pays basis (fee for service) include:

- ▼ Equipment hire
- ▼ Fox baits
- ▼ Permits (eg, travelling stock reserves grazing)
- ▼ Stock ID registration.

Some of the services LHPAs provide are also provided by the market. In 2011/12 fee for service items⁶⁴ accounted for 26% of total LHPA revenue.

7.3.2 LHPA and CMA Rates

Current LHPA rating system

The current LHPA rating system is prescribed in the *Rural Lands Protection Act 1998* (NSW) (**RLP Act**) and *Rural Lands Protection Regulation 2010* (NSW) (RLP Regulation). An overview of the current system is included below.

Section 61(1) of the RLP Act states that there are three types of rates that can be made by an authority:⁶⁵

- a) a general rate
- b) an animal health rate
- c) special purpose rates

Section 62 of the RLP Act requires each board to levy a general and an animal health rate in accordance with the regulations while giving them the option of levying one or more special purpose rates, stating:

- (3) A board may make and levy one or more special purpose rates for any year on any land in its district when the board considers it necessary to do so.

Section 62(5) allows the regulations to:

- ▼ specify the purposes for which any special purpose rate or animal health rate may be levied, and
- ▼ exempt rateable land on which less than a specified number of stock are kept from liability for any animal health rate.

⁶⁴ We assume that "other income" in the LHPA 2011-12 Annual Report, p 22, aligns with fee for service.

⁶⁵ *Rural Lands Protection Act 1998* (NSW), s 61.

Section 63 of the RLP Act gives the specifics of how rates are to be levied including the information that should be contained on a rate notice (eg, land specified, amount of rate and due date).⁶⁶

The Act allows LHPA general, animal health and special purpose rates to consist of⁶⁷:

- ▼ a base amount for each holding of rateable land, and
- ▼ an amount payable for each stock unit based on the total notional carrying capacity of rateable land.

Section 62(4) of the RLP legislation stipulates that “a rate is to be made in accordance with the regulations”. Regulation 7 of the RLP Regulation contains the specifics of how each rate is set and calculated. In effect, the rates are set as an amount per stock unit or per hectare, if calculated with respect to the land area.

Under the current system each board is required to determine the number of stock units that each holding (within their respective regions) can carry (notionally). This amount is then multiplied by the per unit amount (stock or hectare) to be paid and then added to the base amount to determine the total amount payable for a particular rate.⁶⁸

Sections 70-74 of the RLP Act outline the process of appealing an authority’s assessment of notional carrying capacity in the event that an owner or occupier is dissatisfied.

Rates are payable by the occupier of the land.⁶⁹ However, if rates are unpaid after 12 months the owner of the land (if not the Crown) becomes liable.⁷⁰

Under Sections 76-78 of the RLP Act, an Annual Return must be lodged by relevant occupiers or owners. Annual Returns must provide details of stock kept on the holding (among other things) as at 30 June. This is used to determine whether or not the person is to pay the animal health rate (and meat industry levy).⁷¹

⁶⁶ *Rural Lands Protection Act (1998)*, s 63.

⁶⁷ *Rural Lands Protection Regulation 2010 (NSW)*, reg 7.

⁶⁸ *Rural Lands Protection Regulation 2010 (NSW)*, reg 7(5).

⁶⁹ *Rural Lands Protection Act 1998 (NSW)*, s 64.

⁷⁰ *Rural Lands Protection Act 1998 (NSW)*, s 65.

⁷¹ *Meat Industry Act 1978 (NSW)*, s 59A(1).

7.3.3 Special purpose levies (rates)

There are currently 4 special purpose levies that exist in NSW, the:

- ▼ Hunter catchment levy (Hunter/Central Rivers CMA)
- ▼ Animal health levy (LHPA)
- ▼ Pest insect levy (LHPA)
- ▼ Meat industry levy (LHPA).⁷²

The Hunter catchment levy is collected by local government councils and included in the council rate notice sent to local landowners.

As an adjunct to collecting their own rates, LHPA boards also collect the meat industry levy (prescribed in the *Meat Industry Act 1978* (NSW)⁷³) on behalf of the NSW Food Authority. This levy is payable by all persons liable to pay the board's animal health levy.

Boards also collect (for payment to the Minister) a levy set by the Minister to meet expenses incurred in the control of pest insects. This levy is payable by all landholders.

7.3.4 Grants and other Government funding⁷⁴

Government funding is principally sourced from:

- ▼ specific purpose grants provided by the State and Commonwealth Governments
- ▼ general funding from consolidated revenue.

Currently LHPAs do not receive any government funding, either through grants or directly from consolidated revenue. They do however source monies from the CMAs when they receive grant monies for specific projects.

The Catchment Management Authorities (CMAs) will have received almost \$561 million in funding from the NSW and Commonwealth Governments over the 5 years from 2008/09 to 2012/13 as shown in Table 7.2.

⁷² Section 59A(1) of the *Meat Industry Act 1979* (NSW) states that: "In respect of a year commencing on 1 January, a meat industry levy shall be payable to the Food Authority by every occupier of land liable to pay an annual health rate in respect of that year under the *Rural Lands Protection Act 1998*."

⁷³ *Meat Industry Act 1978* (NSW), s 59A(1).

⁷⁴ Based on information provided by Catchments, Department of Primary Industries.

Table 7.2 Total Government payments to CMAs (5-year period)

Funding source	2008/09 to 2012/13 (\$m)
Total NSW payment to CMAs	319.0
Total Commonwealth payment to CMAs	241.9
Total Government payments to CMAs	560.9

Source: Catchments, Department of Primary Industries.

CMAs use these funds to work toward the targets set out in their Catchment Action Plans (CAPs). CMAs estimate that they leverage \$2.20 community investment (in cash or in kind) for each \$1.00 invested by government. Community investment in response to the \$560 million invested by Government will be over \$1.2 billion from 2008/09 to 2012/13.

Table 7.3 summarises the government funding sources for CMAs.

Table 7.3 Major CMA Funding Sources

Source	Gov't	Comments
General Recurrent	NSW	▼ On-going; subject to State Gov't budget savings target of \$11 million by 1 July 2013.
Catchment Action NSW (CANSW)	NSW	▼ A 5 year funding program, from 2008/09 to 2012/13. ▼ Annual CANSW payments to CMAs were set for the 5-year period. ▼ No formal advice has been received regarding its extension.
Caring for our country Base-level (C4C Base-level)	C'with	▼ Base-level payments are sourced from Phase 1 of the Caring for our Country initiative; a five year funding program which runs from 2008/09 to 2012/13. ▼ Annual base-level payments to CMAs were set for the 5 year period. ▼ Phase 2 has been announced, but NSW has yet to be advised of the scale of the funding or how it is to be delivered. ▼ The transition from CMAs to LLS seems likely to limit the initial Commonwealth commitment of any base-level funds to 1-year.

Source: Catchments, Department of Primary Industries.

The allocation of Catchment Action NSW funds is subject to a formal assessment undertaken by the Natural Resources Commission (NRC). The better a CMA performs in delivering agreed targets the greater share of the funding it receives.

About a quarter of Commonwealth funds were paid directly from the Commonwealth to the CMAs. The funding schemes are listed in Table 7.4.

Table 7.4 Sources of direct funding to CMA's from the Commonwealth

Source	Gov't	Comments
Caring for our country competitive grants	C'wlth	<ul style="list-style-type: none"> ▼ These payments are sourced from Phase1 of the caring for our country initiative; a 5-year funding program which runs from 2008/09 to 2012/13. ▼ Phase2 has been announced and applications sought for some components.
Bioregional assessment	C'wlth	<ul style="list-style-type: none"> ▼ A 2-year funding program that sits under the National Partnership Agreement on Coal Seam Gas and Large Coal Mining Development. ▼ Drawing to an end on 30 June 2013.
Biodiversity Fund Phase1	C'wlth	<ul style="list-style-type: none"> ▼ A part of the Clean Energy Future Initiative ▼ A total of \$35.5m has been won by CMAs from Phase1, being disbursed up until the end of 2016/17.
Water for the Future Initiative	C'wlth	<ul style="list-style-type: none"> ▼ A 10-year strategic investment initiative.

Source: Catchments, Department of Primary Industries.

The annual and total value of each source is shown in Table 7.5.

Table 7.5 Direct payments to CMA's from the Commonwealth - \$m

Year	Bioregional Assessment	Biodiversity Fund Phase1 ^a	Water for The Future Initiative	C4C Competitive Funds ^b	Total
2008/09	-	-	-	3.7	3.7
2009/10	-	-	-	3.7	3.7
2010/11	-	-	9.6	3.7	13.4
2011/12	2.0	4.0	9.6	3.7	19.4
2012/13	3.2	3.0	9.8	3.7	19.7
Total	5.2	7.0	29.0	18.7	59.9

^a The \$7.013 million Biodiversity Fund payments scheduled by the end of 2012/13 are a portion of a total of \$35.5 million that will be disbursed by the end of 2016/17.

^b Caring for our Country (C4C) Competitive funds have been estimated by calculating a yearly average from the total allocated to CMAs in the Caring for our Country Business plans over this period.

Figures may not add due to rounding.

Source: Catchments, Department of Primary Industries.

7.4 Funding of Department of Primary Industries advisory / extension services

At the time of writing this Issues Paper no information was available on the cost and associated cost recovery of DPI services to come under the umbrella of LLS.

In the NSW Government's Budget Estimates for 2003/04, the most recent source of detailed relevant information, it was estimated that of the costs of the services provided by the then Department of Agriculture (now the Department of Primary Industries) was estimated to be \$80.3m. Of this amount \$6.9m was sourced from retained revenue for sales of goods and services. An additional \$9.3m was to be sourced from grants and contributions with the remainder funded from NSW Consolidated Revenue.⁷⁵

7.5 Assessment of ratings bases and minimum rateable land options for the new LLS boards

As part of the Terms of Reference for this review IPART was asked to assess the merits of 3 possible ratings bases:

- ▼ stock carrying capacity
- ▼ land area (per hectare)
- ▼ unimproved land value.

As well as assessing the merits of each ratings base IPART has been asked to consider the minimum size of a rateable property within each district. Currently minimum rateable property size is stipulated in the RLP Regulation, with most set to 10 hectares.⁷⁶ This leaves 2 broad options for the new LLS boards:

- ▼ keep minimum rateable sizes the same
- ▼ decrease the minimum rateable sizes.

Because both options propose maintaining the LLS boards freedom to set a minimum above the legal minimum there is no need for a third option suggesting an increase in the legal minimum.

⁷⁵ NSW Government, *Budget Estimates 2003/04, Budget Paper 3*, p 3-17.

⁷⁶ *Rural Lands Protection Regulation 2010* (NSW), Schedule 3.

7.5.1 Ratings base options for biosecurity

Ratings base 1: Notional stock carrying capacity

The RLP Act defines notional carrying capacity⁷⁷ (in relation to land within a district) to mean the number of stock that the authority for the district has assessed could be maintained on the land.⁷⁸

The RLP Regulation requires the authority to assess the notional carrying capacity of land by reference to the number of stock units that could be maintained on the land in an average season under management practices that, in the authority's opinion, are usual for the district.⁷⁹

RLP Regulation also contains more specific information as to how notional carrying capacity is to be determined, stating that:⁸⁰

- ▼ A 40 kilogram wether sheep of any breed represents 1 stock unit, and a 400 kilogram steer of any breed represents 10 stock units.⁸¹
- ▼ The assessment is to be made irrespective of whether the land is or is not used for any purpose at the date of assessment.⁸²
- ▼ The authority must make its assessment as if the raising of stock were the only use of land.⁸³
- ▼ The authority must take into account:
 - The nature of the holding or structure concerned.⁸⁴
 - Any improvement and equipment used for the purposes of intensive livestock production on the land.⁸⁵
 - The manner in which the holding has been worked.⁸⁶
 - Any other matter it considers necessary.⁸⁷

⁷⁷ *Rural Lands Protection Act 2008* (NSW), s 58.

⁷⁸ This definition will be omitted upon commencement of specified clauses in the *Rural Lands Protection Amendment Act 2008* (NSW). These clauses were originally scheduled to commence on 1 January 2010, but on 14 December 2009, the *Rural Lands Protection Amendment Act 2009* (NSW) amended the commencement date to "...a day or dates to be appointed by proclamation."

⁷⁹ *Rural Lands Protection Regulation 2010* (NSW), reg 10(2).

⁸⁰ *Rural Lands Protection Regulation 2010* (NSW), reg 10.

⁸¹ *Rural Lands Protection Regulation 2010* (NSW), reg 10(1).

⁸² *Rural Lands Protection Regulation 2010* (NSW), reg 10(3).

⁸³ *Rural Lands Protection Regulation 2010* (NSW), reg 10(4)(c).

⁸⁴ *Rural Lands Protection Regulation 2010* (NSW), reg 10(5)(a).

⁸⁵ *Rural Lands Protection Regulation 2010* (NSW), reg 10(5)(b).

⁸⁶ *Rural Lands Protection Regulation 2010* (NSW), reg 10(5)(c).

⁸⁷ *Rural Lands Protection Regulation 2010* (NSW), reg 10(5)(d).

The Bull Report identified several flaws in using a notional carrying capacity ratings base. These included:⁸⁸

- ▼ The subjectivity of assessing carrying capacity.
- ▼ The likelihood of ongoing legal challenge.
- ▼ The onus placed on Directors who have to conduct carrying capacity assessments, many of whom admit to lack of qualifications and experience.
- ▼ Ratepayers with no livestock (eg, citrus fruit growers) perceive the rating assessment as having no relevance to them.
- ▼ The explosion in subdivision with smaller landholders having no notion of carrying capacity, let alone to be rated on it.

The Bull Report recommended that the LHPA boards move to using a per hectare base for general animal health and special rates.⁸⁹

Ratings base 2: Land area (per hectare)

Using a per hectare ratings base involves attaching a unit amount (\$/ha) to each hectare within a region as opposed to each stock unit (\$/stock unit). This would mean occupiers of larger properties would have greater liability irrespective of the productive capacity of the land.

The Bull Report noted that while the general consensus (at the time) was that there were problems with the rating system (based on notional carrying capacity) there were mixed feelings about changing to a per hectare base. Most boards indicated that they were 'open' to considering the rate per hectare concept while some indicated that they would prefer a continuation of the current rating system, stating that the status quo more readily reflected a landholder's ability to pay.⁹⁰ The Bull Report noted that boards may be overestimating their ability to deliver equity on this issue.

Arguments for moving to a per hectare basis (in the context of the general rate) centred on situations where pest animals were commonly breeding in areas with a lower notional carrying capacity (which attracted lower rates). Movement to a per hectare rating base would rectify this anomaly.

⁸⁸ Bull Report, p 32.

⁸⁹ Bull Report, pp 8-10.

⁹⁰ Richard Bull, *Review of the Rural Lands Protection Boards Rating System in NSW*, July 2007, p 27.

Concern was expressed about the possibility of an unusual situation where occupiers of land with a low notional carrying capacity and a large area would face major increases in rates upon the introduction of a rate per hectare system.⁹¹ On this point, the Bull Report noted that this could be rectified by using a differential rating system. A differential rating system would allow boards to charge a lower per unit rate to be attached to land of significantly poorer quality. It was generally agreed by boards that a differential rate would not normally be applied to individual holdings, but rather to large tracts of land that had significantly different environmental conditions to the majority of the district.⁹²

The *Rural Lands Protection Amendment Act 2008* (NSW) will amend the RLP Act to allow boards to calculate rates on a per hectare basis rather than the notional carrying capacity of a property. A new section 61(3) will be inserted which states that:

- (3) A rate may consist of:
 - a) a base amount, and
 - b) an amount calculated on a per hectare basis.⁹³

Ratings base 3: Unimproved capital value of land

The unimproved capital value of land is a ratings base that is currently used by local governments in determining council rates. The definition of *land value* used by local governments is found in s 6A(1) of the *Valuation of Land Act 1916* (NSW), which states:

- (1) The land value of land is the capital sum which the fee-simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona-fide seller would require, assuming that the improvements, if any, thereon or appertaining thereto, other than land improvements, and made or acquired by the owner or the owner's predecessor in title had not been made.⁹⁴

The *Local Government Act 1993* (NSW) (LG Act) distinguishes 4 categories of rateable land:⁹⁵

- ▼ farmland
- ▼ residential
- ▼ mining
- ▼ business.

⁹¹ Bull Report, p 27.

⁹² Bull Report, p 27.

⁹³ *Rural Lands Protection Amendment Act 2008*, Schedule 4.

⁹⁴ *Valuation of Land Act 1916*, Section 6A(1).

⁹⁵ *Local Government Act 1993* (NSW), s 493.

The LG Act also gives councils the power to further differentiate types of rateable land by dividing these 4 categories into sub-categories.⁹⁶

The use of the unimproved capital value of land as a ratings base is not currently supported by the RLP Act or the RLP Regulations.

The Bull Report stated that during consultation there was almost universal rejection of the concept of the rates being charged on unimproved capital value. The reasons for rejecting this rating base included that:

- ▼ there are wide variations in land values (even within restricted areas), it would result in serious inequities in the rating system, and
- ▼ board services have no correlation with the value of land.⁹⁷

While land value does capture the productive capacity of a piece of land it also captures other factors, including:

- location (proximity to coast or major centres)
- the non-agricultural production options involved in developing the land (eg, mining).

7.5.2 Options for minimum areas of rateable land

Option 1: Retain the existing the minimum rateable land area

The *Rural Lands Protection (General) Regulation 2001* (NSW) (repealed) formerly defined rateable land as:

- a) land having a notional carrying capacity of not less than 50 stock units,
- b) land used for intensive livestock production if as at 30 June in the preceding year the number of stock kept on the land represented not less than 50 stock units,
- c) land owned by the Crown that is the subject of a tenure from the Crown and has an area that is not less than the area prescribed in relation to the district or has a notional carrying capacity of not less than 50 stock units.

However, this regulation was amended on 1 January 2006 by the *Rural Lands Protection (General) Further Amendment (Rates) Regulation 2005* (NSW) (repealed). The references to notional carrying capacity were omitted, and the criterion for rateable land owned by the Crown was then based solely on land area.

⁹⁶ *Local Government Act 1993* (NSW), s 529.

⁹⁷ Bull Report, p 26.

Prior to 1 January 2006, no Board had a prescribed minimum rating area of less than 10 hectares. However after the *Rural Lands Protection (General) Further Amendment (Rates) Regulation 2005* (NSW) (repealed) amended the prescribed minimum rating areas, several boards lowered their minimum rating areas (4 ha was the lowest⁹⁸).

The Bull Report noted that while this represented a windfall gain for some boards it also prompted an increase in the number of complaints about the rating system.⁹⁹

Therefore, in 2007 the Bull Report recommended that minimum rateable areas of land be increased to 10ha for all districts with boards retaining the ability to set their own minimum area above 10ha.¹⁰⁰ The stated reason was that many of the small property (less than 10ha) ratepayers had no involvement with the rural industries, had no wish to engage in livestock related activities, and sought their rural blocks for lifestyle only.¹⁰¹ The Bull Report also recommended that exemptions for specified properties be removed.¹⁰² It was recommended that sugar cane growers pay the base charge and the environmental rate and commercial intensive poultry enterprises pay an intensive animal health rate.¹⁰³

On 1 January 2009, the *Rural Lands Protection (General) Amendment Regulation 2008* (NSW) (repealed) amended Schedule 4 to the *Rural Lands Protection (General) Regulation 2001* (NSW) (repealed). Minimum rateable areas were set at 10 hectares for most districts, with the exception of the Darling (40ha), Western (40ha), and Riverina (20ha) districts.¹⁰⁴ The prescribed minimum rates remain unchanged in the current RLP Regulation.

Option 2: Decrease minimum rateable areas below current levels

Option 2 proposes that the minimum rateable land areas be decreased below the current minimum of 10ha with boards having the freedom to set their own minimum area above the new minimum.

While it may be true that many small land holders do not participate in NSW's agricultural and livestock industries (and do not benefit from services provided to those industries) they may still pose a biosecurity risk to those industries or the broader community.

⁹⁸ *Rural Lands Protection (General) Further Amendment (Rates) Regulation 2005* (NSW), Schedule 4.

⁹⁹ Bull Report, p 36.

¹⁰⁰ Bull Report, p 36.

¹⁰¹ Bull Report, p 36.

¹⁰² Bull Report, p 38.

¹⁰³ Bull Report, p 38.

¹⁰⁴ A full list of districts and their respective minimum rateable areas can be found in Schedule 3 of the *Rural Lands Protection Regulation 2010* (NSW).

In October 2012, the NSW Government released its Draft NSW Biosecurity Strategy designed to meet the increased need for a clear cohesive plan for the whole of NSW. This includes meeting the increasing need for biosecurity services in primary industries and managing new risks associated with smaller landowners with non-commercial livestock. The strategy states that landowners with small bush blocks or weekend getaways need to be seen as an important part of this strategy, making sure they and their neighbours are not unwitting pest protectors.¹⁰⁵

The strategy also notes that the NSW Government has recently expanded Property Identification Code requirements to include a broader range of livestock¹⁰⁶ to recognise the risk they pose to the primary industries and human health.¹⁰⁷ This acknowledges that even people with one or two horses, or alpacas, pose a biosecurity risk because pest animals (eg, wild dogs), weeds and diseases do not respect borders or fence lines.¹⁰⁸

In general, the reasons for decreasing the minimum rateable area below its current levels centre around identifying and managing risk on a large number of small properties. IPART considers that it may be practical (cost effective) to provide incentives (in the form of exemptions) for those owners/occupiers who can demonstrate that they have mitigated the risk they pose. Box 7.1 outlines principles that could underlie the granting of exemptions where risk mitigation can be demonstrated.

¹⁰⁵ NSW Draft Biosecurity Strategy, Foreword, October 2012, p iii.

¹⁰⁶ New species include sheep, cattle, goats, pigs, deer, bison, buffalo, camels, horses, donkeys, lama, alpaca or more than 100 poultry birds: NSW Draft Biosecurity Strategy Foreword, October 2012, p iii.

¹⁰⁷ 60% of emerging infectious diseases in humans have originated in animals, and the vast majority of these diseases have been from wildlife.

¹⁰⁸ NSW Draft Biosecurity Strategy Foreword, October 2012, p iii.

Box 7.1 Possible exemption from or reduction in rates and levies

IPART has considered the possibility of factoring in exemptions or reductions to the cost recovery mechanism, using the following principles:

- ▼ It is good practice to encourage risk creators to avoid creating risk/cost in the first place.
- ▼ In the context of LLS fees and levies, the most effective form of incentive would be directly tied to the extent to which those who create risk/cost are able to demonstrate they have mitigated it. Therefore, those who do not create risk/cost do not have to pay fees or levies, and if the risk has only been partly mitigated then a partial exemption should be granted.
- ▼ Incentive schemes should also be subject to requirements for transparency, administrative simplicity and cost effectiveness.

One way to meet those principles would be as follows:

- a) Criteria for eliminating risks should be clearly set out by the LLS boards, and those criteria should be reasonable, well founded in risk management practice and reflect the activities and expenses that can be avoided by the LLS.
 - b) Exemptions should only be allowed for fees and levies that are easily linked to specific areas of avoidable risk or avoidable cost (not all risk is avoidable). That is, levies and fees should be grouped in terms of avoidable and non-avoidable risk, and should not be aggregated to the point where they cannot be subject to an exemption or rebate.
 - c) All landholders should be subject to the fees or levies determined by their respective board, except where they receive an exemption or partial rebate. Exemptions and rebates are granted by way of application by the landholder. That is, assessment would be unnecessary for the vast majority of landholders.
 - d) Landholders can only achieve an exemption or rebate after having been assessed against the criteria.
 - e) The assessment process may be carried out by the same personnel that currently carry out enforcement activities or by private certifiers (accredited by the LLS).
 - f) Landholders should meet the cost of assessment for their own land, and where the assessment is carried out by the LLS, only the marginal cost of conducting the assessment should be charged.
 - g) Assessment requirements should be proportionate to potential risk (ie, stricter requirements for higher risks), and for small landholders (eg, less than 20ha), LLS should permit self-assessment, subject to review by the LLS and also subject to penalties for false or materially incorrect assessment.
-

7.6 Assessment of the appropriateness of special purpose levies

As part of the Terms of Reference, IPART has been asked to assess the appropriateness of special purpose levies (efficiency and effectiveness). This includes an analysis of the four that already exist (Hunter catchment, animal health, pest and insect and Meat industry) and any other broader, more efficient approaches to establishing levies (ie, the development of biosecurity and natural resource management (NRM) levies).

The Bull Report stated that during consultation there was strong support from boards for the retention of one-off levies (charged as a special purpose rate). The stated reason was that it allows a board to derive income for ad hoc contingencies. Such rates are currently used to collect funding for the pest insect levy payable by boards to the Minister. Stakeholders felt that there was a need for boards to have greater flexibility in the manner in which such rates are charged.

With respect to the establishment of a special purpose NRM levy the Bull Report recommended that the 'general rate' be called the 'environmental rate'. Stating that:

Overall the Review considered that the advantages of changing to an area based assessment system far outweighed any disadvantages and has recommended that Boards adopt a base charge for all ratepayers and an environmental rate, in lieu of a general rate with the capacity to set differential rates where necessary.¹⁰⁹

The term 'environmental rate' was proposed because it more clearly identified the expenditure classifications that it is intended for (ie, pest animal control and upkeep and preservation of traveling stock reserves and routes).

It should also be noted again that currently there is a 2.2:1 ratio of private (community) investment¹¹⁰ to government funding in the CMA projects (in the form of co-payments and labour and materials) for NRM projects.¹¹¹ To introduce an NRM levy may affect the level of co-payments.

¹⁰⁹ Bull Report, p 33.

¹¹⁰ "Community participation could take the form of actual cash co-funding from a project partners like local government but is more likely to take the form of in-kind non cash contributions of landholders' time & resources ie, man hours of labour or materials supplied by local community participants involved in some CMA projects." Email from Catchments, Department of Primary Industries.

¹¹¹ CMAs, Celebrating Five Years of Achievements.

7.7 Fee collection mechanisms (levies and rates)

The Minister for Primary Industries has asked IPART to assess the most efficient fee collection mechanisms for levies and rates. The main issue to consider when determining the efficiency of fee collection mechanisms is that of transaction costs, ie, the cost associated with collecting rates from land holders/occupiers. These may include:

- ▼ Labour costs (\$/hour).
- ▼ Legal costs associated with the appeal of notional carrying capacity.
- ▼ Materials (eg, printing) used to issue rate notices.
- ▼ Other costs (eg, postage).

There has been very little analysis done on developing alternative options to the current fee collection mechanisms. One option is to use local councils to collect rates and levies on behalf of LLS boards (possibly incurring a fee to recompense councils for the cost of fee collection).

Option 1: Current collection mechanism

There is currently insufficient information to determine the cost of each LHPA board's collection mechanism.

Option 2: Local Government collection: Hunter Catchment levy

The Hunter/Central Rivers CMA has entered into an agreement with the local councils¹¹² within its region to issue joint assessments and notices for the purpose of collecting its Flood Mitigation Levy (Hunter Levy). The *Catchment Management Authorities (Hunter Central Rivers) Regulation 2010* (NSW)¹¹³ states that each council is entitled to retain a commission on the money they collect on behalf of the Hunter/Central Rivers CMA.

As provided for in the Act, local government authorities collect the catchment contributions on behalf of HCR CMA and receive a 5% commission for this service.¹¹⁴

This means that if the current LHPA direct rating system costs more than 5% (for all or some boards) of total receipts (from levies or rates) it may be more efficient to use local councils to collect rates for the LLS. This would need to be assessed based on the performance of each board.

¹¹² *Catchment Management Authorities Act 2003* (NSW), Schedule 4, cl 9. See also: *Catchment Management Authorities (Hunter Central Rivers) Regulation 2010* (NSW), Part 4.

¹¹³ NSW Department of Environment, Climate Change and Water (DECCW), Regulatory Impact Statement, *Catchment Management Authorities (Hunter Central Rivers) Regulation 2010*.

¹¹⁴ NSW Department of Environment, Climate Change and Water (DECCW), Regulatory Impact Statement, *Catchment Management Authorities (Hunter Central Rivers) Regulation 2010* (NSW), p 6.

7.7.2 Experience in other jurisdictions

Australian Commonwealth: Plant Health Australia (PHA)¹¹⁵

The PHA levy, citrus R&D levy (\$1.97 per tonne – all citrus) and marketing levy (\$0.75 per tonne – oranges only) are collected at the first point of sale by the packer, agent or processor.¹¹⁶ All collectors are legally required to pass on the levy to the Levies & Revenue Service of the Australian Government Department of Agriculture, Fisheries & Forestry (DAFF). A levy collection charge is applied on an industry-by-industry basis.

The Levies & Revenue Service then forwards the levy money to Horticulture Australia Limited (HAL) who manages the citrus R&D and marketing programs in consultation with Citrus Australia and the Citrus Industry Advisory Committee (IAC). The HAL Board is ultimately responsible for approving expenditure from both the levy and Australian Government-matched funding and ensures that projects meet the priorities of both the industry and Government.

Victoria: Department of Primary Industries¹¹⁷

In November 2008, the Department of Primary Industries Victoria commissioned Frontier Economics (Frontier) to advise on the development of cost sharing mechanisms in relation to biosecurity activities. As part of this advice Frontier was specifically asked to assess ways of minimising both the administrative costs of government and the compliance costs of industry.

Frontier noted that there were efficiencies to be realised by bundling like charges together. Rather than implementing a cost recovery mechanism for every single type of activity, it might be more efficient to implement a single mechanism that raises revenue to cover a range of activities.

¹¹⁵ Citrus Australia, Understanding your Levies, <http://www.citrusaustralia.com.au/industry/understanding-your-levies.htm>.

¹¹⁶ Citrus Australia, Understanding your Levies, <http://www.citrusaustralia.com.au/industry/understanding-your-levies.htm>.

¹¹⁷ Department of Environment and Primary Industries (Victoria), Mechanisms for Funding Biosecurity Measures, <http://www.dpi.vic.gov.au/about-us/publications/economics-and-policy-research/2008-publications/mechanisms-for-funding-biosecurity-measures>.

Western Australia: Industry Funding Schemes¹¹⁸

There are currently 3 Industry Funding Schemes (IFSs) for the Grains, Seeds and Hay; Sheep and Goats; and Cattle industries which were set up in June 2010 under the *Biosecurity and Agriculture Management Act 2007* (WA). The aim of the Schemes is to assist industry in fighting biosecurity threats, which primarily impact on that industry but are not covered under national biosecurity arrangements.

Table 7.6 Summary of WA collection mechanisms and issues

Funding source	Collection mechanism	Issues
Agriculture Protection Rates		
Cattle	Collected by stock agents and processors on per head of stock/carcass sold within defined areas (whole state for cattle)	▼ closed loop marketing
Sheep and Goats		▼ individual collectors' systems differentiating between participating and non-participating areas
Grains, Seeds and Hay	Collected through qualified receivers from individuals/entities purchasing 500 tonnes or more of grains, seeds and/or hay	▼ there is a lot of work involved with maintaining the register of buyers for little apparent return

Source: Industry funded biosecurity management in Western Australia, A review of the Western Australian industry funded biosecurity management Schemes, June 2012, pp 13-18.

Closed loop marketing system

There are loopholes in the WA regulations in the case of closed loop marketing systems, particularly as it relates to the livestock industries.¹¹⁹ When growers and contractors enter into this type of business arrangement, the ownership of livestock does not change.¹²⁰ Contributions are only paid when a chargeable sale is made to a processor or an agent.¹²¹ Under a closed loop marketing system transactions are often not deemed to be a chargeable sale as the livestock are owned by the processor/agent and a contribution is therefore generally not paid. This gives rise to the opportunity for large numbers of livestock to avoid contributions particularly if the agent/processor is involved in the export of livestock.¹²²

¹¹⁸ Industry funded biosecurity management in Western Australia, A review of the Western Australian industry funded biosecurity management Schemes, June 2012.

¹¹⁹ ACIL Tasman, Economics Policy Strategy, *Industry funded biosecurity management in Western Australia*, June 2012, pp 35-36.

¹²⁰ ACIL Tasman, Economics Policy Strategy, *Industry funded biosecurity management in Western Australia*, June 2012, pp 35-36.

¹²¹ See: *Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010* (WA) reg 15 and *Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulation 2010* (WA), reg 15.

¹²² ACIL Tasman, Economics Policy Strategy, *Industry funded biosecurity management in Western Australia*, June 2012, pp 35-36.

7.8 Issues for discussion

IPART seeks comments on the following:

12. Which rating base(s) should be adopted by LLS and why would this rating base be the best option?
13. Which fee collection system(s) should be adopted by LLS and why should this fee collection system be adopted?
14. Should exemptions or reductions in charges be used as part of the cost recovery mechanism to provide incentives to reduce risks?
15. Are there lessons to be learned from the rating bases and fee collection mechanisms that are adopted in other jurisdictions?

8 Cost recovery framework (Stages 3 – 4) – Linking services to funding sources

8.1 Introduction

This chapter demonstrates how Stages 3 and 4 of the draft Cost Recovery Framework (outlined in Chapter 4) are to be completed using the three examples started in Chapter 5 (Traveling stock reserves, production efficiency improvement programs and advice on compliance with the *Native Vegetation Act 2003* (NSW)).

8.2 Stage 3: Funding sources

Stage 3 of the Cost Recovery Framework (as outlined in Chapter 4) contains a matrix of specific groups by effective charging options (funding sources). Table 8.1 is an example of how this table might look based on IPART's preliminary analysis.

The purpose of this matrix is to provide LLS Boards with a reference table indicating the most effective charging options for the beneficiaries and/or risk creators (identified in Stage 1) of each service. The intention is that this table will already be filled in by IPART using all available information, including submissions from stakeholders.

Box 8.1, Box 8.2 and Box 8.3 explain Stage 3 using the examples discussed in Chapter 5.

Table 8.1 Matched specific group and funding source

Funding Source	NSW Community	Local/District Community	Livestock intensive industry	Non-livestock intensive industry	landholder (farm/person)
Fee for Service					✓
Rates:^a					
▼ Notional Stock Carrying Capacity			✓		
▼ Per Hectare		✓	✓	✓	
▼ Unimproved Capital Value of Land		✓		✓	
Government Funding:^b					
▼ Grants	✓	✓			
▼ Consolidated Revenue	✓	✓			

^a All three rating bases have been included instead of the types of rates (general, animal health and special purpose) to show that ratings bases and specific rates may vary.

^b Government funding is only used if a community public good or community positive externality was identified in Stage 1.

Note: These are only indicative funding sources. The final framework will be informed by submissions to IPART and community consultation.

Source: Derived from the Bull Report.

Box 8.1 Service 1: Traveling stock reserves

The beneficiaries and risk creators of traveling stock reserves identified in Stage 1 are:

- ▼ farmers / industry; that require TSRs to move livestock along major networks or to 'house' them in times of need, eg, natural disaster
- ▼ the community; who are responsible to control pests and weeds on publicly owned land
- ▼ CMAs; that use TSRs to provide conservation services to the community
- ▼ (dispersed) individuals; who use TSRs for recreational purposes.

Using Table 8.1 to match appropriate funding mechanisms with the identified beneficiaries and risk creators, boards may choose to use:

- ▼ a special purpose rate to charge livestock intensive industries for the upkeep of TSRs
- ▼ direct Government funding to control pests and weeds
- ▼ Government (NSW and/or Commonwealth) grants for conservation work on TSRs
- ▼ direct Government funding to capture the benefit derived by the wider community who have open access to use the TSRs for recreational purposes.

Box 8.2 Service 2: Production efficiency improvement programs (eg, grazing management, new varieties products, trials)

The beneficiaries and risk creators of Production efficiency improvement programs identified in Stage 1 are:

- ▼ farmer/industry; that may use advisory/extension services to increase the quantity or quality of their output
- ▼ community; from public provision of these services that may be under-provided.

Using Table 8.1 to match appropriate funding mechanisms with the identified beneficiaries and risk creators boards may choose to either:

- ▼ charge farmers on a fee for service basis if the benefits are exclusive to an landholder(s), or use a special purpose rate or levy to capture the benefit to the entire industry(s)
 - ▼ some direct Government funding to pay for external benefits.
-

Box 8.3 Service 3: Advice on compliance with the Native Vegetation Act, preparing property vegetation plans and clearing permits.

The beneficiaries and risk creators of advice on compliance with the Native Vegetation Act, preparing property vegetation plans and clearing permits identified in Stage 1 are:

- ▼ landholders; that clear native vegetation
- ▼ community; if native vegetation provides a habitat for native animals.

Using Table 8.1 to match appropriate funding mechanisms with the identified beneficiaries and risk creators boards may choose to:

- ▼ charge landholders on a fee for service basis as they create the need for the service
 - ▼ some Government grants to pay for external benefits.
-

8.2.1 Stage 4: Linking services and funding method(s)

Stage 4 of the Cost Recovery Framework (outlined in Chapter 4) combines the outcomes of the first 3 stages to determine the total cost per service and funding per source. Table 8.2 is an example of a completed Stage 4 for all three example services discussed in Box 8.1, Box 8.2 and Box 8.3.

Table 8.2 is designed to be filled out using the ratios for each service determined in Stage 2 and the appropriate sources of funding (for each beneficiary and/or risk creator) determined in Stage 3. The aggregation of funding per source in the right hand column allows each LLS board to aggregate services by funding source. This will allow boards to simultaneously determine the total revenue recoverable and the services provided for under the general rate (for example).

The dollar values and percentages are indicative only and provide an example of how it might look after a board has successfully completed all 4 stages for each service they choose to provide, any similarity they bear to the true cost of these services is accidental.

Table 8.2 Examples of linking services and funding

Funding source	Travelling Stock Reserves	Production efficiency improvement programs	Advice on compliance with the Native Vegetation Act	Total funding per source
Fee for Service			80%	\$800,000
General Rate				
Animal Health Rate				
Special Purpose Rate:				
▼ Notional Stock Carrying Capacity	50%			\$1,000,000
▼ Per Hectare		80%		\$800,000
▼ Unimproved Capital Value of Land				
Direct Government Funding:				
▼ Grants	25%		20%	\$700,000
▼ Consolidated revenue	25%	20%		\$700,000
Total cost per service^a	\$2,000,000	\$1,000,000	\$1,000,000	\$4,000,000

^a Cost of service provision to the standard desired should be calculated by each LLS board.

Note: These are only indicative funding sources. The final framework will be informed by submissions to IPART and community consultation.

9 | Audit Methodology

The Minister has asked IPART 'to develop an appropriate audit methodology for assessing the extent to which efficient cost recovery pricing has been applied to the services offered by LLS boards'.¹²³

An audit is a 'systematic, independent and documented process for obtaining evidence and evaluating it objectively to determine the extent to which the criteria are fulfilled'.¹²⁴

We propose the audits evaluate compliance with the following criteria:

- ▼ Cost Recovery Framework referred to in Chapters 4 to 6; and
- ▼ funding sources and fee collection mechanism(s) referred to in Chapters 7 to 8.

The Standard on Compliance Engagements ASAE 3100¹²⁵ provides a basis for conduct of the audit.

This chapter discusses:

- ▼ What is required of the audit?
- ▼ What other audits are proposed?
- ▼ A possible audit methodology.

9.1 What is required of the audit?

The audits will evaluate the extent LLS boards have:

- ▼ adhered to the requirements of the cost recovery framework
- ▼ adopted the recommended rating base for compulsory fee collection
- ▼ adopted the recommended fee collection mechanism.

These are the proposed 'criteria' for assessing compliance under ASAE 3100.

¹²³ Minister for Primary Industries, Terms of Reference, dated 22 February 2013, p 1.

¹²⁴ Intergovernmental Agreement on Biosecurity, Section 6 - Glossary of terms, 13 January, 2012.

¹²⁵ Auditing and Assurance Standards Board, Standard on Assurance Engagements ASAE 3100 *Compliance Engagements*, Reissued September 2008.

As part of the audit, the auditor should assess the LLS boards' compliance framework. Under ASAE 3100, the compliance framework 'means a framework used by the entity, which is designed to ensure that the entity achieves compliance, and includes governance structures, programs, processes, systems, controls and procedures'.¹²⁶

The coverage of the LLS boards' compliance framework(s) will extend beyond cost recovery to include, for example, biosecurity and catchment management activities. It will take time for the LLS boards to establish the compliance framework. Once established, the compliance framework should not require auditing on an annual basis.

It may require auditing if there are significant changes to the Cost Recovery Framework; the rating base; or the fee collection mechanism. In the absence of these changes it may be advisable to audit the compliance framework and its application on a periodic basis for example, every 5 years.

The existence of a suitable compliance framework will reduce the need for the auditor to collect and analyse data related to the application of the Cost Recovery Framework to the calculation of individual service fees.

If the compliance framework is audited for example, every 5 years, the question arises what, if anything, will be required more frequently?

The existence of a suitable compliance framework makes compliance more likely but does not guarantee individual service fees are set in accordance with the criteria.

Audits¹²⁷ of compliance of individual service fees with the criteria could be conducted to coincide with the fee setting cycle. It is assumed fees will be reset every 12 months.

We propose the auditor prepare a compliance report suitable for publication on the LLS website and presentation to the Minister.

To comply with ASAE 3100 the audit report shall include:¹²⁸

- ▼ the period of compliance being reported on
- ▼ identification of the criteria used in the assessment
- ▼ where appropriate, a description of any significant limitation associated with the evaluation of compliance
- ▼ a summary of the work performed
- ▼ the auditor's conclusions.

¹²⁶ Auditing and Assurance Standards Board, Standard on Assurance Engagements ASAE 3100 *Compliance Engagements*, Reissued September 2008, p 10.

¹²⁷ Modified as required in line with the suitability of the compliance framework.

¹²⁸ Auditing and Assurance Standards Board, Standard on Assurance Engagements ASAE 3100 *Compliance Engagements*, Reissued September 2008, p 29.

9.2 What other audits are proposed?

Other audits proposed for LLS are:

- ▼ Financial audits.
- ▼ Performance audits.

Financial audits will be conducted by the NSW Audit Office. These are standalone audits conducted under the *Public Finance and Audit Act 1983* (NSW). These will require the Auditor General to inspect and audit the financial reports of LLS boards for compliance with accounting standards and to report any irregularities.

The Natural Resources Commission currently conducts performance audits of the Catchment Management Authorities (CMAs).¹²⁹ The focus of these audits is to 'test whether the CMA's planning, project implementation, and other catchment action plan-related activities and the business systems that guide and support these activities are meeting the Standard for Quality Natural Resource Management'.¹³⁰

The Minister's brief for the LLS governance structure included independent performance audits. The LLS Stakeholder Reference Panel released a paper, "Regional Planning and Performance Audits for Local Land Services"¹³¹, for community consultation in February 2013 proposing (amongst other things):

- ▼ performance audits addressing governance, delivery of outcomes and return-on-investment and critical process issues such as community engagement and risk management
- ▼ audit performance against standards such as the Standard for Quality NRM and the National Animal Health Performance Standards
- ▼ appointing a single performance auditor, such as the NRC
- ▼ a timetable, illustrating a possible phased approach for a rolling program of performance audits.

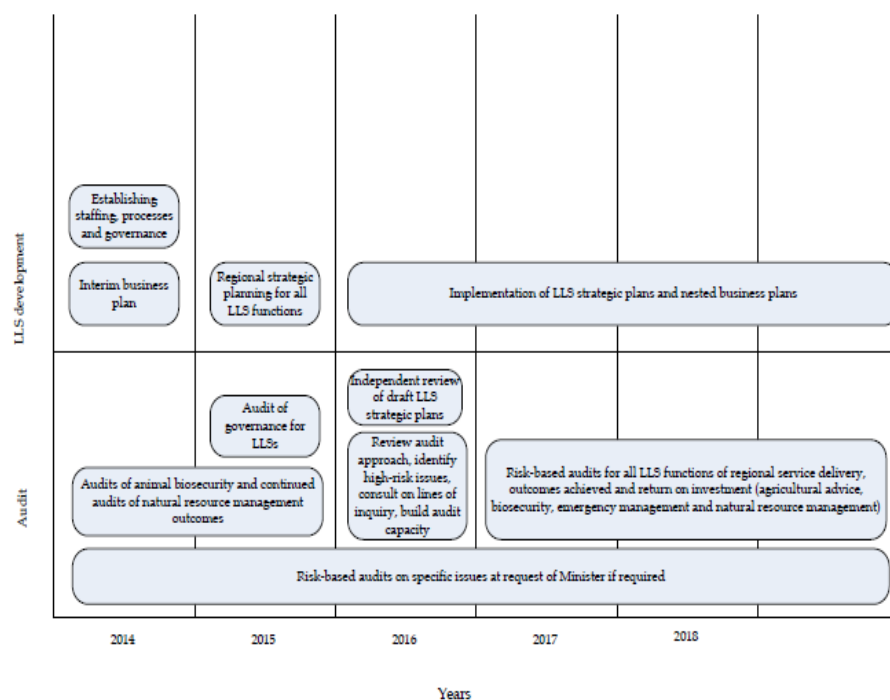
¹²⁹ *Catchment Management Authorities Act 2003* (NSW), s 26.

¹³⁰ <http://www.nrc.nsw.gov.au/Workwedo/Catchmentactionplanimplementationaudits.aspx>

¹³¹ Stakeholder Reference Panel, *Paper 3-Local Land Services- Reference Panel Mtg 8_Goverance_issues to resolve-April 2013*, p 15 and Attachment 10.

Figure 9.1 Proposed program of rolling performance audits

Attachment 10 - Proposed program of rolling performance audits



The Stakeholder Reference Panel proposes that if one performance auditor is appointed that the auditor should have the ability to engage specialists where the nominated auditor does not have the expertise.

This is an extensive list of performance audits. If adopted, it will be necessary to integrate the audit of the 'extent to which efficient cost recovery pricing has been applied by LLS boards' into this timetable.

Given the potential overlap of the performance audits proposed by the Stakeholder Reference Panel and the audit of the application of efficient cost recovery pricing, it may be cost effective for all audits (other than the financial audit) to be conducted by the same auditor with specialist assistance where required.

9.3 A possible audit methodology¹³²

If the above approach is adopted, a detailed compliance audit would be conducted periodically supplemented by a limited annual compliance audit.

Under a risk based approach an audit could also be triggered by:

- ▼ customer complaints or
- ▼ the introduction of significant changes.

A detailed compliance review would be required prior to the initial service fees being finalised by the LLS boards.

The Australian Government requires relevant agencies¹³³ to prepare a cost recovery impact statement when, for example, significantly new or materially amended cost recovery arrangements are introduced or a review of cost recovery arrangements is conducted.¹³⁴

A cost recovery impact statement could form the basis for the conduct of a periodic review of compliance with the criteria in accordance with ASAE 3100.

The cost recovery impact statement would:¹³⁵

- ▼ provide a general explanation of the purpose and function of the services subject to cost recovery
- ▼ assess whether services, where grouped for fee setting, have sufficiently common characteristics and objectives to make such grouping(s) reasonable
- ▼ describe and review the application of the compliance framework including:
 - stating the legal authority for the service fee
 - demonstrating the service fees¹³⁶ comply with the criteria¹³⁷ including where relevant compliance with Treasurer's directions and government policy
 - identifying the costs (\$) incurred in performing the service, demonstrate they are efficient costs, and nominate what costs (eg, fully distributed costs or avoidable costs) are proposed to be recovered and from whom
 - nominating and justifying whether a fee (for service) or a levy (eg, industry, notional stock carrying capacity) is charged. Similarly, for the structure of the fee or levy.

¹³² Adapted from the Australian Government's Cost Recovery Guidelines July 2005 and Cost Recovery Impact Statement Template.

¹³³ Commonwealth of Australia, *Australian Government, Cost Recovery Guidelines*, July 2005, p 2.

¹³⁴ Commonwealth of Australia, *Australian Government Cost Recovery Impact Statement Template*, p 3.

¹³⁵ Adapted from the Australian Government Cost Recovery Impact Statement Template.

¹³⁶ It is assumed the use of the term 'service fees' in the Minister's letter dated 22 February 2013 includes both fees and rates.

¹³⁷ That is, the cost recovery framework, the rating base and the fee collection mechanism.

- ▼ describing the level and feedback of stakeholder consultation on the proposed service fees.

If a cost recovery impact statement was prepared at the commencement of charging by LLS boards and then every 5 years (in the absence of major change) it may be sufficient to collect the following each year for each service:

- ▼ a description of the service
- ▼ method of recovery (fee or levy)
- ▼ volume of activity
- ▼ current price
- ▼ cost recovery price
- ▼ total cost recovered.

The annual compliance check would audit changes since the last major periodic review including:

- ▼ compliance of any newly introduced service fees with the criteria
- ▼ the relationship between costs incurred and funds collected for each service category
- ▼ the extent of stakeholder consultation on the setting of new charges.

IPART seeks comments on the following

16. Do you agree with IPART's proposed approach to assessing the extent to which LLS boards have applied efficient cost recovery pricing? Are there other factors IPART should consider?



Appendices

A Terms of Reference





The Hon Katrina Hodgkinson MP

Minister for Primary Industries
Minister for Small Business



MOC13/543



22 FEB 2013

Dr Peter Boxall AO
Chairman
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB POST OFFICE NSW 1230

Dear Dr Boxall

The decision on Cabinet Minute 12-43 *Consolidated regional delivery of services to landholders* authorised advice being sought from the Independent Pricing and Regulatory Tribunal (IPART) in relation to the development of a rating framework and complementary service pricing system for Local Land Services NSW (LLS).

Local Land Services NSW will provide a range of services to landholders to help drive productivity and growth in regional NSW. To ensure efficient service delivery, services are to be funded either by individuals, by certain landholder and industry groups, or jointly funded with government, in accordance with 'risk creator' and private, industry and public benefit principles.

It is intended that service categories will be matched to the most efficient funding option, such as direct fees-for-service or compulsory levies, recognising that some services will provide a predominantly private benefit, whereas others may have industry specific benefit or even a broad public good. LLS boards will also be able to access funds from Commonwealth and NSW Government grant programs and NSW Government consolidated revenue contributions.

Substantial progress has been made towards the establishment of LLS, and in accordance with the Cabinet decision, and I am now asking IPART to:

- 1) Develop an efficient and transparent Cost Recovery Framework that LLS boards can use to set service fees for the different categories of services they provide to the different groups of beneficiaries. In undertaking this task, IPART will assess the strengths and weaknesses of cost recovery frameworks used by other similar service providers.
- 2) Advise on an efficient rating base for compulsory fee collection and an efficient fee collection mechanism.
- 3) Develop an appropriate audit methodology for assessing the extent to which efficient cost recovery pricing has been applied to the services offered by LLS boards.

.../2

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Dr Peter Boxall AO

-2-

Minister for Primary Industries

In relation to compulsory service fees, important issues will be the determination of the most appropriate rating base and fee collection mechanism. In terms of the rating base, options to be assessed include rateable land above a certain area or value, the stock carrying capacity or productive capacity of land and the unimproved land value. How well each of these align with risk creators and service beneficiaries should also be taken into account.

Consideration should also be given to the appropriateness of specific purpose levies and how they are determined, such as the Hunter Catchment Levy, Animal Health Levy, Pest Insect Levy and Meat Industry Levy and any other broader and more efficient approach to establishing levies, such as for biosecurity and natural resource management. For example, in relation to the development of an NRM levy a specific task would be an assessment of the appropriate use of the current levying powers in the *Catchment Management Authorities Act 2003*. Transaction costs will be an additional issue relevant in determining the most efficient fee collection mechanism.

Attached are several documents which may be of assistance to IPART in conducting this inquiry. They include:

- an LLS paper on governance of the organisation; and
- a draft map of the proposed LLS regions (these regions are likely to change).

A draft report on Terms of Reference should be made to the Director General, Department of Primary Industries by 31 May 2013.

It is anticipated that IPART will conduct a stakeholder consultation process and in this regard it is requested that IPART give consideration to outcomes from the public forums conducted by Mr Mick Keogh in late 2012 and the Local Land Services Stakeholder Reference Panel in early 2013.

I have instructed the Department of Primary Industries to be ready to assist the Tribunal in the conduct of this inquiry. I would also appreciate you meeting with Mr Scott Davenport, Executive Director, Strategic Policy and Chief Economist, and Deputy Director General, Agriculture NSW, Michael Bullen to discuss how the Department can assist you in relation to identifying an efficient cost recovery framework. Mr Davenport can be contacted on (02) 6391 3618 or by email scott.davenport@industry.nsw.gov.au.

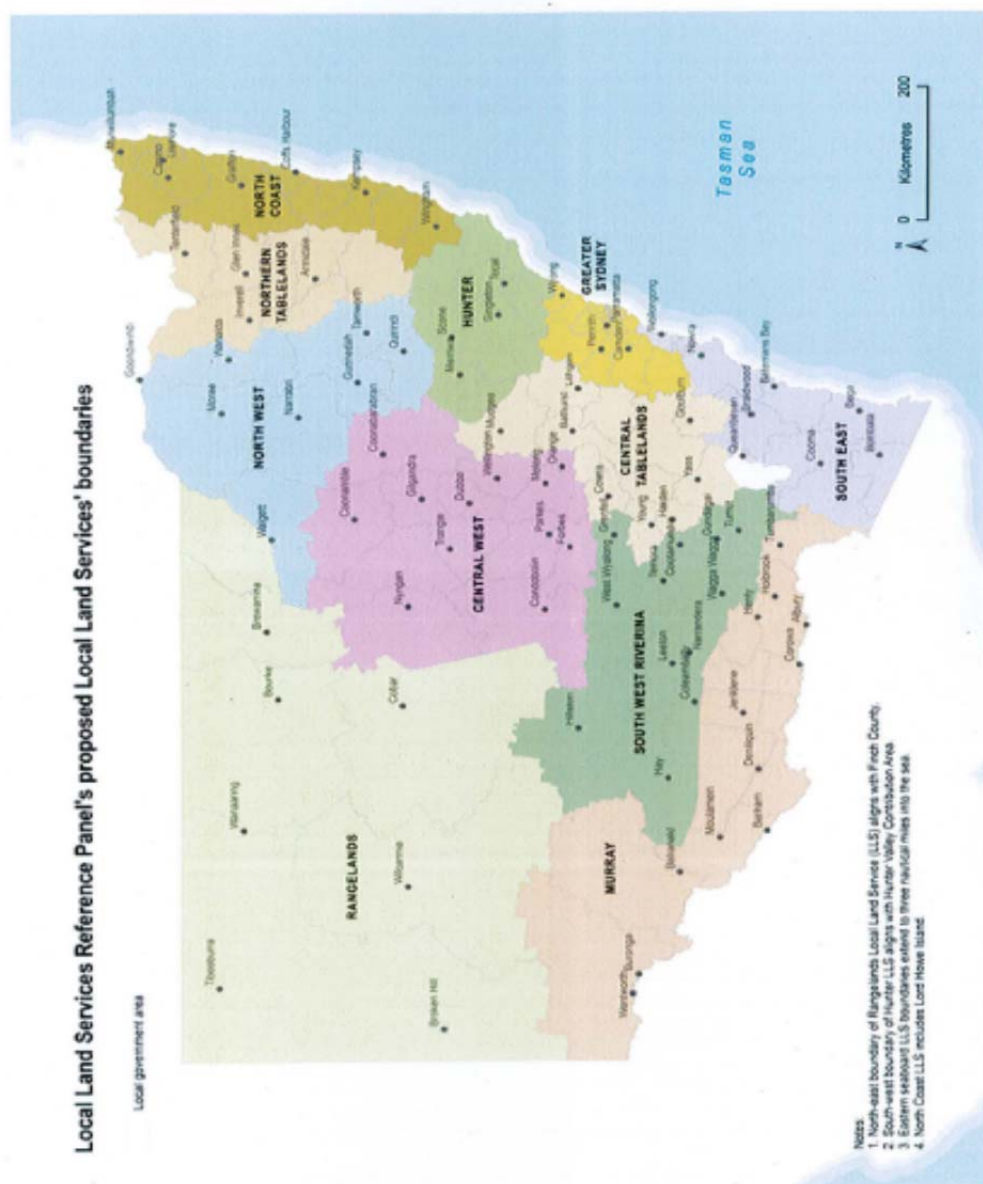
Yours sincerely



Katrina Hodgkinson MP
Minister for Primary Industries

Encl.

B Map of Local Land Services boundaries consulted on by the Stakeholder Reference Panel¹³⁸



¹³⁸ This map was attached to IPART's Terms of Reference. As previously stated LLS boundaries are outside the issues to consider in this review.

C Proposed list of services by Local Land Services NSW

NSW Local Land Services consultation workshop report

Complete list of services.

Biosecurity Services	
1.	Animal and plant pest and disease prevention, containment, and eradication programs
2.	Chemical residue prevention, management and control programs
3.	Animal and plant pest & disease transition to management and ongoing management programs
4.	Stock identification, tracing and management systems
5.	Weed management advice and control programs
6.	Certification of stock and plant commodities for international and domestic trade
7.	Advice on pest control/management programs eg rabbits, pigs, foxes, wild dogs
8.	Managing travelling stock reserves, including livestock grazing permits, watering points access, native vegetation
9.	Advice and assistance for diseases that may affect livestock in your district
10.	Advice and assistance for pest and diseases that may affect plant production in your district
11.	Surveillance for exotic plant pest and diseases in agricultural production and the environment
12.	Surveillance for exotic and notifiable endemic diseases of animals and residues
Emergency Management Services	
13.	Emergency management for diseases in domestic livestock and other species eg bees, native veg, or wildlife
14.	Animal welfare incident assistance and support
15.	Advice on drought relief programs –claims, subsidies etc
16.	Advice and funding options for locust, fire, flood recovery programs
17.	Emergency prevention, preparedness, response, and recovery activities
NRM Services	
18.	Development of regional natural resource management plans
19.	Advice on compliance with the Native vegetation Act , preparing property vegetation plans, clearing permits
20.	Property management planning
21.	Erosion and salinity advice and control programs
22.	Coast, estuary and marine and environmental water management advice
23.	Threatened species conservation advice
24.	Rangeland management advice (western NSW)
25.	Incentive funding for natural resource management activities,
26.	Support for Landcare, Bushcare, Dunecare and Coastcare as well as Aboriginal, School, Local Government and community engagement.
27.	Monitoring natural resource management plans to assist landholders
Agricultural Advisory Services	
28.	Production efficiency improvement programs eg Grazing management, new varieties products, trials
29.	Advice on research, emerging trends, markets, and risks to agricultural industries
30.	Formal training for agricultural productivity
31.	Climate change adaptation and mitigation training and advice
32.	Extension services to land managers on agriculture
33.	Linking industry funding and research programs to landholders
34.	Advice on agricultural legislation and policy

