

Peel Valley Water Users Association Inc

The only organisation that represents the Irrigation Industry in the Peel Valley

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SUBMISSION TO IPART REVIEW OF PRICES FOR WATERNSW, RURAL BULK WATER SERVICES FROM 1 JULY 2017 ISSUES PAPER, SEPTEMBER 2016

The central focus of this submission is the fact that irrigators in the Peel Valley continue to be detrimentally affected by the excessive and inequitable water charges that are currently applied in the Peel Valley by both WaterNSW and DPI Water.

The water charges that have been proposed by WaterNSW in the Peel Valley for the next four years will simply perpetuate the gross injustice that has been imposed on the Peel Valley for many years by a state owned monopoly.

Whilst we remain frustrated with the comparatively high entitlement charge and the lack of recognition of that problem by the regulators, our highest priority argument currently is with the water usage charges.

Both WaterNSW and IPART are well aware that the Peel Valley irrigators have been complaining for years about the massive discrepancy in water usage charges in the Peel Valley compared to every other valley in the Murray Darling Basin.

It is untenable that IPART will probably approve the charges that have been proposed by WaterNSW, and thereby maintain the long running inequity between the water usage charges in the Peel Valley and the charges that apply in every other valley in the Murray Darling Basin.

(a) Entitlement charges

The total entitlement of all general security licence holders in the Peel Valley is around 31,000ML. However, the Peel Water Sharing Plan fixed the Long Term Average Annual Extraction Limit at 6,100ML.

Irrigators pay entitlement fees on the full 31,000ML of entitlement, so the effective entitlement charge paid by Peel Valley irrigators is approximately 5 times higher than the figure of \$4.78 which is being sought by WaterNSW, and therefore the effective entitlement charge in the Peel Valley is \$24.29 /ML. This is a grossly unfair imposition on the Peel Valley irrigators compared to other valleys which do not have a similarly low level of access determined by the Water Sharing Plan.

Every year, the Peel Valley irrigators pay entitlement charges on 24,900ML *which they will never be able to access*. We have raised this fact in several previous submissions, but the regulators are obviously unwilling to recognise the impact on irrigators, because the entitlement charge in the Peel Valley has never been reduced proportionally to reflect this inequity. In fact, WaterNSW has proposed an increase of 23.2% in the general security entitlement charge in the Peel Valley over the review period.

(b) Water usage charges

The figures in the following table are the main focus of this submission. The attention of the members of the Independent Pricing and Regulatory Tribunal is drawn to the following table of water usage charges proposed by WaterNSW.

Proposed Water Usage Charges In the Murray Darling Basin
Levied by WaterNSW and regulated by IPART
For the review period ending in 2020/2021
(all in \$/ML)

Valley	2016/ 2017	2017/ 2018	2018/ 2019	2019/ 2020	2020/ 2021	Change \$/ML	% Change
Peel	58.26	57.57	57.57	57.57	57.57	-\$0.69	-1.2
Lachlan	21.12	18.63	18.63	18.63	18.63	-\$2.49	-11.8
Namoi	20.26	18.45	18.45	18.45	18.45	-\$1.81	-9.0
Macquarie	16.97	12.78	12.78	12.78	12.78	-\$4.19	-24.7
Gwydir	12.13	11.17	11.17	11.17	11.17	-\$0.96	-7.9
Border	10.63	5.53	5.53	5.53	5.53	-\$5.10	-48.0
Murrumbidgee	4.36	3.32	3.32	3.32	3.32	-\$1.04	-23.9
Murray	6.48	1.97	1.97	1.97	1.97	-\$4.51	-69.6

Source: IPART – Review of Prices for WaterNSW, Rural Bulk Water Services from 1 July 2017. Issues Paper, September 2016, Page 101

We contend that the water usage charges in the Peel Valley as proposed above compared to every other valley in the Murray Darling Basin are:

- unfair,
- inequitable, and
- anti-competitive.

Further, we believe that the proposed water usage charges in Peel Valley, which are imposed by a state owned monopoly are:

- probably illegal.

The reason that the charges are probably illegal is that Schedule 2, Part 2 Clause 2 (e) of the Commonwealth Water Act 2007 (as amended) states that –

The water charging objectives are:

(a)

(e) to avoid perverse or unintended pricing outcomes.

We believe that the water usage charges that have been proposed in the Peel Valley are undeniably ‘perverse’, and therefore undeniably in breach of the Water Act, and therefore undeniably illegal.

If IPART grants approval to the water charges that have been proposed by WaterNSW for the Peel Valley, then we insist that IPART explains the full reasons why the charges in the Peel Valley are deemed not to be ‘perverse’ and therefore not in contravention of the Water Act.

We have previously sought a definition of the term 'perverse pricing outcome' from WaterNSW, and from IPART and from the ACCC, but all to no avail. The only responses that we have received to date are:

- (1) From an economist employed by the organisation that was then known as State Water - *'the prices are not perverse because I said so'*.
- (2) From the Chair of the Expert Panel which reviewed the Water Act – words to the effect that we should rely on the dictionary definition of the term 'perverse pricing outcome'

This level of response is not acceptable to the members of this Association. Further, we believe that IPART cannot make a ruling on whether the water usage charges in the Peel Valley are a 'perverse pricing outcome' or not unless IPART publishes its definition of the term 'perverse pricing outcome'.

We believe that it is the regulator's role to ensure that a state owned monopoly is not in breach of the Water Act.

Separately, we also believe that it is the regulator's role to comply with the objectives that are set for its own performance. For example, IPART states on its own website that IPART –

'provides independent regulatory advice and decisions to protect and promote the ongoing interests of the consumers, taxpayers and citizens of NSW'

Elsewhere the website also states that IPART has regard to factors including the following -

- *To protect consumers of regulated services from unreasonable price hikes and price gouging*
- *To encourage competition where possible*

If IPART grants approval to the water usage charges that have been proposed by WaterNSW for the Peel Valley, then we believe that the approval would be entirely contrary to the above mentioned factors.

The reasons for this assertion are that:

- (a) The decision by IPART would not 'protect and promote the ongoing interests of the consumers, taxpayers and citizens of NSW' – especially as far as those consumers, taxpayers and citizens in the Peel Valley are concerned, in comparison to every other valley in the Murray Darling Basin
- (b) Regardless of how the proposed water usage charges have been derived, the proposed water usage charges in the Peel Valley amount to *'price gouging'* by a state owned monopoly in the Peel Valley. If IPART determines that they are not *'price gouging'*, then it is incumbent on IPART to explain the reasons why not.
- (c) We challenge IPART to explain exactly how the water usage charges proposed by a state owned monopoly in the Peel Valley actually *'encourage competition'* relative to other valleys in the Murray Darling Basin.

We believe that it is the regulators role to act as a watchdog over the relevant state owned monopoly and prevent the excessive, inequitable and unreasonable water usage charges that have been proposed in the Peel Valley.

October 2016.