

Submission to the Review by
Independent Pricing and Regulatory Tribunal (IPART)
(On Behalf of Water Administration Ministerial Corporation)
Of
Monopoly Water Management Services Pricing to be charged by DPI Water
Effective from 1 July 2016

Narwie Pty Ltd
On behalf of the
Connellan Family
Lowbidgee Supplementary Water Licence holders
October 2015

The Scope of DPI Water’s water management charges (types of users)	
22	What are your views on DPI Water’s pricing proposals in relation to special category licences, including any new special category licences proposed for the 2016 determination period?
	<p>To appreciate the impact of DPI Water’s pricing proposals on Lowbidgee and Supplementary Water (Lowbidgee) Access Licences (SWL) it is necessary to recognise the historical and current nature of the Lowbidgee Flood Control and Irrigation District (LFC&ID). The LFC&ID is substantially different from the rest of the Murrumbidgee Valley water users and needs to be treated substantially differently to the other water users to prevent unintended and disastrous impacts on this area. In particular:</p> <ul style="list-style-type: none"> • LFC&ID is a natural floodplain; • Historically the construction of dams for the purpose of irrigation, hydro-electricity and town water supplies has severely curtailed the natural operation of the Lowbidgee floodplain; • Maude and Redbank Wiers were built as compensation structures under the River Murray Act 1919 for the loss of flooding caused by river regulation and major storage construction. These weirs serviced what is now called the LFC&ID which was declared in 1945. The LFC&ID is a significant part of the larger Lowbidgee Floodplain; • The operation of the Maude and Redbank weirs and the water diversions into the LFC&ID was under NSW Ministerial discretion from 1945 to 2013. There was no licence or allocation. This District is prohibited from accessing water from the major storages under this Ministerial Discretion. Supply was derived from what is now called supplementary water: that is rainfall feed events running into the river from areas downstream of the major storages. The District was, and still is, managed and operated by Water NSW and area based charges funded the District’s operation prior to 2013; • In 2013 Licences were issued to the LFC&ID. Three licences were issued (1) Nimmie Ciara [owned by the Commonwealth Government via the Commonwealth Environmental Water Holder] (2) Redbank South [owned by the NSW State Government via Yanga National Park] and (3) Redbank North [owned by a collection of landholders in at least 2 separate sub licences]. These licences are quarantined to the LFC&ID and cannot be traded outside this area. Under the Water Management ACT 2000 and the Water Sharing Plan 2003 the Crown still has ultimate control including responsibilities for the environment; • The Lowbidgee SWL were issued consistent with the methodology used to issue all Murrumbidgee Supplementary Licences. That is, the entitlement was issued on the year of greatest usage. The entitlement of the three Lowbidgee Licences totalled 747,000 ML. However, under the 2003 Murrumbidgee Water Sharing Plan the LFC&ID has an extraction limit of some 296,000 ML. This figure was derived from the Murray Darling Basin Cap on diversions of 1993 which listed Lowbidgee as 296,000 ML. This was an average annual diversion rate prior to 1993 as LFC&ID had no allocation or licence. All other figures in the MDBC Cap, relating to water users, listed each user’s entitlement or abstraction limit. This is an example of the failure of relevant authorities to recognise that the LFC&ID is substantially different from other water users and this failure leads to substantial and severe unintended impacts; • The Lowbidgee floodplain has been under going accelerated ecological degradation since the 1960’s principally due to a decrease in flooding due to river regulation;¹ • For almost 100 years landholders on the Lowbidgee floodplain have repeatedly sought proper recognition of this impact and rectification of the loss of the natural system; • Lowbidgee SWL holders are only entitled to supplementary flows; • Lowbidgee SWL landholders cannot be expected to pay full cost recovery for infrastructure, and the related administrative costs, of a system that has disrupted the natural operation of the river systems to the point the Lowbidgee floodplain has been severely degraded and to effectively pay for the system that is supposed to rectify the damage done; • Imposing cost recovery charges on Lowbidgee SWL landholders is requiring those landholders

¹ See “Linking wetland hydrology to ecological outcomes in the Lowbidgee wetlands in Southern New South Wales”, L. Wen, N. Marsh, C. MacKay, I. Salbe, N. Saintlan, and J. Ling presented at 19th International Congress on Modelling and Simulation, Perth, Australia, 12 – 16 December 2011.

to pay for the cost of compensating themselves and the cost to rectify systems developed to favour irrigation and other needs above the Lowbidgee environment;

- The proposed charges by DPI Water will force some of the Lowbidgee SWL landholders to refuse to accept water as the cost of the water will far exceed any possible economic return from environmentally sustainable management of their holdings;
- Cost recovery treats Lowbidgee SWL landholders as irrigators which they are not and cannot be;
- The benefit to be derived from rectification and the consequent improvement in the ecology of the Lowbidgee floodplain extends far beyond the interests of Lowbidgee SWL landholders;
- Responsibility for the Lowbidgee floodplain ultimately rests with the NSW State Government under the NSW Water Act, it is a national and state government responsibility, not the responsibility of Lowbidgee SWL landholders who have long borne some of the economic cost of the irrigation focused management of the river systems.

Consistent with the nature of the Lowbidgee floodplain, its national and international importance as a wetland system, the severely negative impact of the artificial system of river regulation imposed by the NSW government and long standing economic costs already borne by Lowbidgee SWL landholders as a consequence, we submit it is highly inappropriate for Lowbidgee SWL landholders to be subjected to cost recovery for a system now belatedly trying to rectify the problem it caused. The cost should be borne by those who have benefited from the degradation not by those who have suffered its cost. Furthermore, priority must be given to rectification of the Lowbidgee floodplain and its ongoing health whereas the current arrangements make the Lowbidgee the poor cousin at the end of the Murrumbidgee only to be given consideration if and when everyone else has obtained the benefit of the system degrading the floodplain.

Our submissions below are not to be taken as indicating an acceptance that the current water sharing plan and the proposed cost recovery charges are in any way acceptable. We maintain the NSW government continues to fall short of its obligations to protect this very significant wetland system and the proposed system of priorities and cost recovery from Lowbidgee SWL landholders will inevitably result in the further degradation of Lowbidgee at a time when it is becoming increasingly vulnerable.

Discussion	Submission
<p>The DPI Water submission glossary (page 255) includes the following definitions:</p> <ul style="list-style-type: none"> • Regulated river – A river where downstream flows are regulated by a major storage or dam to supply irrigation water. • Unregulated river – A river without major storages or dams, or where the storages do not release water downstream (in these cases, water is piped to where it is needed, such as metropolitan centres). <p>DPI Water submission includes pricing for the Murrumbidgee River Valley as both a regulated river and an unregulated river despite the fact that the definitions appear mutually exclusive.</p> <p>Nowhere in the DPI Water submission do they identify which licences have been identified as being part of a regulated river and which are part of an unregulated river. Nor do they identify how this split has been determined.</p> <p>Lowbidgee SWL appears to be treated as part of a regulated river (refer Table H.1) but it is unclear whether this is a fixed or changeable classification. If DPI Water has the discretion to change the classification from regulated to unregulated then exercising this discretion would result in the imposition of higher charges on Lowbidgee SWL (refer Table 1.9) that would result in, most if not all, businesses with an interest in Lowbidgee SWL becoming economically unviable.</p>	<p>The IPART determination needs to confirm that Lowbidgee SWL is subject to regulated river pricing.</p>

Discussion	Submission										
<p>In 2013 Lowbidgee SWLs were issued as follows:</p> <table border="1" data-bbox="153 170 785 353"> <thead> <tr> <th>Licence Area</th> <th>ML Share</th> </tr> </thead> <tbody> <tr> <td>Nimmie-Caira</td> <td>381,000</td> </tr> <tr> <td>Redbank North</td> <td>211,000</td> </tr> <tr> <td>Redbank South</td> <td>155,000</td> </tr> <tr> <td>Total</td> <td>747,000</td> </tr> </tbody> </table> <p>The 747,000 ML was determined by reference to the maximum supplementary water flows into these areas.</p> <p>The Water Sharing Plan for the Murrumbidgee Regulated River Water Source 2003 (2003 WSP) stipulated a long term average annual extraction limit for Lowbidgee SWL extractions of 296,000 ML (Clause 32A).</p> <p>Clause 34C of the 2003 WSP further stipulates that, if actual extractions, in any year, exceed 296,000 ML by more than 3% then the excess will be clawed back by reducing the following years take. This, in effect, has converted a long term average of Lowbidgee extractions into a hard cap on water shares for the Lowbidgee SWL. The effect of this conversion has been the expropriation of water entitlements from the Lowbidgee SWL, by the NSW government, for which no compensation has been paid (the 296,000 ML long term average has been effectively reduced to a new average of indeterminate ML that cannot be quantified without modelling but the expropriation would significantly exceed 451,000 ML).</p> <p>It is noted that the DPI Water submission to IPART indicates that the three year average actual take for Lowbidgee SWL has only been 61,174 ML (Table H.1). If this were to become the long-term average of Lowbidgee take then the expropriation would be 685,826 ML.</p> <p>Water NSW has, to date, levied the fixed charge component of its water rates using 747,000 ML as the basis of determining the dollar amount charged. The impact of this is, for Water NSW and DPI Water, to over-recover cost from Lowbidgee SWL and under-recover cost from all other licence holders in the State of NSW.</p>	Licence Area	ML Share	Nimmie-Caira	381,000	Redbank North	211,000	Redbank South	155,000	Total	747,000	<p>Because there is a hard cap extraction limit on Lowbidgee SWL the fixed charge component of water rates levied by Water NSW and DPI Water should not be based on the SWL licence amount of 747,000 ML but rather the hard cap of 296,00 ML. This will ensure that DPI Water does not over recover cost from Lowbidgee SWL.</p> <p>This also means that the DPI Water submission, which only includes water pricing for the Murrumbidgee as one whole unit should be split into two valleys for pricing being:</p> <ul style="list-style-type: none"> • The Murrumbidgee River Valley; and • The Lowbidgee.
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Nimmie-Caira	381,000										
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<p>Clause 51 (7) of the 2003 WSP further stipulates that: “The taking of water under supplementary water (Lowbidgee) access licences will not be permitted when:</p> <p>(a) the sum of available water determinations to regulated river (general security) access licences in the New South Wales Murray Regulated River Water Source plus water carried over from the previous water year, is less than 0.6 ML multiplied by the total number of unit shares specified in share components of regulated river (general security) access licences in the New South Wales Murray Regulated River Water Source, and</p> <p>(b) those flows that are in excess of those required under subclause (6) can be re-regulated in the New South Wales Murray Regulated River Water Source and be made available for extraction by regulated river (general security) access licences in that water source.”</p> <p>The restriction of Lowbidgee SWL flows to minimum Murray River water flows is not applied to any other licences in the Murrumbidgee River Valley.</p> <p>Applied on a fiscal/water year basis this rule stops diversions into Lowbidgee SWL at a time when the supplementary resource typically becomes available to Lowbidgee SWL in the winter and early spring, as allocation announcements start very low and are not decided till around August.</p> <p>The unique restrictions applied to Lowbidgee SWL and not to other licences in the Murrumbidgee River Valley means that the Lowbidgee SWL should be considered for pricing separately from all other Murrumbidgee River Valley licences.</p>	<p>IPARTs pricing determination should provide separate pricing for Lowbidgee SWL and other Murrumbidgee River Valley licences, i.e. the IPART determination should have two river valleys in the Murrumbidgee:</p> <ul style="list-style-type: none"> • The Murrumbidgee River Valley; and • The Lowbidgee. <p>This would also make the IPART current pricing determination consistent with the approach taken by ACCC in its 2014 pricing determination.</p>

Discussion	Submission
<p>Supplementary water made available for take by Lowbidgee SWL is, by definition, surplus water derived from natural flows that are not captured by DPI Water's and Water NSW's water retention facilities, i.e. dams and similar structures. In effect it is rainfall run-off from rivers without dams or from below dams and is water that flows periodically uncontrolled through the system but mostly in winter and spring.</p> <p>The DPI Water infrastructure, and hence cost, is focussed heavily on control of water through its retention facilities and the delivery of that water in a controlled and timed manner to licensed users, typically irrigators.</p> <p>The DPI Water submission to IPART only contains one pricing submission for the whole of the Murrumbidgee River Valley which means that Lowbidgee SWL will pay the same rate as all other licensed users in the valley despite the fact that much of the cost built into this cost recovery is in relation to monopoly services or benefits that do not relate to Lowbidgee SWL, or, will or cannot be provided to Lowbidgee SWL.</p>	<p>IPARTs pricing determination should provide separate pricing for Lowbidgee SWL and other Murrumbidgee River Valley licences, i.e. the IPART determination should have two river valleys in the Murrumbidgee:</p> <ul style="list-style-type: none"> • The Murrumbidgee River Valley; and • The Lowbidgee.

Discussion	Submission																				
<p>The ACCC, in its 2014 pricing determination, split the Murrumbidgee into two separate and distinct river valleys which resulted in the following pricing being charged by Water NSW for the 2014/15 year:</p> <table border="1" data-bbox="161 277 786 427"> <thead> <tr> <th>River/valley</th> <th>High Security</th> <th>General Security</th> <th>Usage</th> </tr> </thead> <tbody> <tr> <td>Murrumbidgee</td> <td>\$3.57</td> <td>\$1.55</td> <td>\$4.31</td> </tr> <tr> <td>Lowbidgee</td> <td>n/a</td> <td>\$0.73</td> <td>n/a</td> </tr> </tbody> </table> <p>The ACCC assessed that a usage rate was not applicable to Lowbidgee SWL and that a fixed rate of \$0.73 was applicable as compared to a fixed rate of \$1.55 for Murrumbidgee general security licence holders. By doing this the ACCC recognised that there was a significant cost differential between the two different types of licences.</p> <p>The cost attributable to Lowbidgee SWL was only 47% of the cost attributable to Murrumbidgee general security licences.</p> <p>DPI Water, in their submission (Table 1.8), proposed regulated river pricing for the whole of the Murrumbidgee River Valley as one unit as follows:</p> <table border="1" data-bbox="161 999 786 1149"> <thead> <tr> <th>Murrumbidgee</th> <th>2016/17</th> <th>Entitlement ML</th> <th>Water Take ML</th> </tr> </thead> <tbody> <tr> <td>Regulated</td> <td></td> <td>\$1.22</td> <td>\$0.81</td> </tr> </tbody> </table> <p>If the price assessed by the ACCC for the Lowbidgee was only 47% of the price for the rest of the Murrumbidgee then, with reference to the DPI Entitlement price, the DPI Water price would also be overstated and should be reduced to at least \$0.57 ML for Lowbidgee SWL.</p> <p>Similarly the DPI has submitted a water take price of \$0.81 ML which is a charge typically calculated to be levied on irrigators sourcing water from water storages established and maintained by either DPI Water or Water NSW. This water is not available to Lowbidgee SWL and, therefore, the Lowbidgee SWL should not be contributing to cost recovery for the development, management and maintenance of this infrastructure. This proposed DPI Water rate, if applied to Lowbidgee SWL will be the only instance in NSW where the DPI Water, water take price exceeds to Water NSW fixed price.</p> <p>We fail to understand how DPI Water, a body responsible for policy and the like can try to impose pricing on Lowbidgee SWL that exceeds the pricing established for Water NSW, the body with the responsibility for the infield management of the water resource.</p>	River/valley	High Security	General Security	Usage	Murrumbidgee	\$3.57	\$1.55	\$4.31	Lowbidgee	n/a	\$0.73	n/a	Murrumbidgee	2016/17	Entitlement ML	Water Take ML	Regulated		\$1.22	\$0.81	<p>IPARTs pricing determination should provide separate pricing for Lowbidgee SWL and other Murrumbidgee River Valley licences, i.e. the IPART determination should have two river valleys in the Murrumbidgee:</p> <ul style="list-style-type: none"> • The Murrumbidgee River Valley; and • The Lowbidgee. <p>IPART needs to determine what costs can be reasonably attributed to monopoly services and benefits provided to Lowbidgee SWL and set a separate Lowbidgee SWL entitlement and water take price accordingly.</p> <p>If a separate river valley for Lowbidgee with separate pricing is not established by this IPART pricing determination then the IPART determination needs to stipulate that the only charge to be equitably levied on Lowbidgee SWL is the existing fixed ML rate determined by the ACCC in 2014 and charged by Water NSW. It is noted that the parties to this submission do not accept that the charge determined by the ACCC and currently levied by Water NSW is a valid charge levied on Lowbidgee SWL.</p>
River/valley	High Security	General Security	Usage																		
Murrumbidgee	\$3.57	\$1.55	\$4.31																		
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	<p>It is understood that an application has been made to the relevant authority that, if approved, will mean that, from 2106 onwards, IPART will take over water pricing determinations currently completed by the ACCC.</p> <p>If approved then IPART will inherit an historical pricing determination from ACCC that recognised and priced separately the Murrumbidgee River Valley from the Lowbidgee.</p>	<p>In order to ensure consistency and transparency on pricing determinations for DPI Water and Water NSW the current IPART pricing determination should recognise and price separately:</p> <ul style="list-style-type: none"> • The Murrumbidgee River Valley; and • The Lowbidgee.
Setting DPI Water's water management charges		
14	Is the current geographic split of water management charges appropriate? Or should we consolidate valleys into wider regions for tariff setting purposes?	
	<p>No, the current geographic split of water management charges is inappropriate and there should not be any move to consolidate valleys into wider regions for tariff setting purposes.</p> <p>In fact there needs to be additional river valleys recognised to take into account the different cost structures that, in particular, apply to Lowbidgee SWL. Refer to the discussion points covered above for more detail regarding Lowbidgee SWL and the need to recognise an additional river valley within the Murrumbidgee.</p>	<p>IPARTs pricing determination should provide separate pricing for Lowbidgee SWL and other Murrumbidgee River Valley licences, i.e. the IPART determination should have two river valleys in the Murrumbidgee:</p> <ul style="list-style-type: none"> • The Murrumbidgee River Valley; and • The Lowbidgee.