

## Submission to

# Independent Pricing and Regulatory Tribunal

Review of funding framework for Local Land Services NSW  
Draft Report

131014

Stefanie Schulte  
Economic Policy Analyst

## **Introduction**

NSW Irrigators Council (NSWIC) represents more than 12,000 water access licence holders across NSW. These water licence holders access regulated, unregulated and groundwater systems. Our Members include valley water user associations, food and fibre groups, irrigation corporations and community groups from the rice, cotton, dairy and horticultural industries.

This submission represents the views of the Members of NSWIC with respect to IPART's *Review of funding framework for Local Land Services NSW*. However, each Member reserves its right to independent policy on issues that directly relate to their areas of operation, or expertise, or any other issue that they may deem relevant.

## **Executive Summary**

NSWIC believes that the establishment of a funding framework and audit methodology for Local Land Services NSW (LLS) is significantly premature as vital information on service delivery and associated costs is not available. Without a detailed outline of these key components, NSWIC is unable to fully assess the scale and scope of the proposed new funding framework.

Our responses to IPART's recommendations must therefore be considered 'preliminary' and we request that further consultation takes place during the decision making process of future service delivery and after cost figures for those services become available. A comprehensive and ongoing stakeholder consultation will be imperative to ensure that the new entity is both efficient and cost reflective.

## General Comments

Whilst NSWIC continues to disagree with the timing of this review, we appreciate the opportunity to provide further comments to the proposed funding framework and audit methodology for Local Land Services NSW (LLS). As stated in the executive summary, we request that NSWIC's comments be regarded as 'preliminary' as we consider it impossible to comment, in detail, on a funding framework without having access to detailed information on service provision and associated costs of this new entity. Based on this premise, we would like to provide the following general comments to the proposed funding framework and audit methodology;

NSWIC believes that the establishment of a funding framework and audit methodology for LLS will be a complex task, especially since the services provided through Catchment Management Authorities (CMAs), Livestock Health and Pests Authorities (LHPAs) and the Department of Primary Industries (DPI) are diverse and the funding frameworks under which each entity operates under differs. As such, NSWIC requests that further detail is provided on how an adequate provision of services will be guaranteed through the amalgamation.

NSWIC is concerned about the lack of transparency with the proposed funding framework. We note that IPART's objective is to establish and efficient and transparent funding framework (emphasis added), whilst no detail on services and costs are currently available. Stakeholders, including NSWIC, are unable to comprehend how IPART intends to achieve its objective without a clear acknowledgement that further stakeholder consultation on matters of service delivery and costing will be vital. Such ongoing stakeholder consultation will be particularly important to ensure that only services are provided through LLS which do not already exist privately.

NSWIC has continuously stressed that the focus of this amalgamation must remain on services and efficiency gains. In particular, the role of the CMAs in the design and implementation of the Basin Plan's Environmental Watering Plans will be crucial and will require significant resources. NSWIC is concerned that the consolidation of the three entities might not ensure that LLS will have sufficient resources and expertise to complete this important task effectively.

In order to achieve the desired efficiency gains, NSWIC believes that there must be 'no cost increases' for the first two years of LLS' existence. NSWIC recognises that IPART recommended that the LLS boards *'should prepare for implementation of a new cost recovery framework by conducting a review into existing and new activities from 1 July 2014 and that implementation of the cost recovery framework should be by no later than 1 July 2016.'* We consider such a recommendation not extensive enough and not address our concerns about inefficiency gains. As such, we urge IPART to recommend a cost freeze for the first two years of the LLS's existence.

Finally, we have continuously raised our objection to cross subsidization and we would like to again emphasise that the funding framework must ensure that no cross subsidization takes place through LLS.

## Specific Comments

### Recommendation 1:

*LLS boards should adopt the 5 step cost recovery framework summarized below.*

Whilst NSWIC broadly agrees with the 5 step cost recovery framework, we are concerned that the overbearing weight of decision making lies with the LLS board. Not only will the LLS boards be able to determine which services are provided but the boards will be further able to assign costs to individual parties. Such concentration of power within the LLS boards is a concern to NSWIC, in particular since the weighting of the board lies with appointed rather than elected members.

NSWIC submits that IPART must mandate comprehensive consultation with landholders and communities on future service provisions. Such consultation will be particularly important since many industries have commenced with the recruitment of extension officers and support staff to ensure capacity is available to address industry specific needs which were previously services by either CMAs, LHPA or DPI. However, it must be insured that all important and beneficial services are maintained which can only be achieved through adequate consultation.

We remain of the opinion that an impactor/risk creator and/or beneficiary pay framework will be difficult to implement and enforce when the risks and/or benefits are widely dispersed across individuals in the LLS areas. Such ambiguity could create difficulties in fee / rate collection and NSWIC submits that the framework must incorporate a mechanism that ensures no landholder is charged multiple times for the same service and that no cross-subsidisation takes place.

In addition, NSWIC is concerned that this proposed funding framework could lead to the inclusion of entities which were previously not subject to any CMA, LHPA or DPI charges. Whilst NSWIC recognises that IPART's draft report includes provisions that would allow for an exemption of charges, we note that the framework is based on the principle of full cost recovery. NSWIC has pointed out extensively in its last submission that we consider it vital that full disclosure of current funding and expenditure from DPI, LHPA and CMAs is provided so that stakeholders are able to assess the cost implications of moving to an LLS framework.

NSWIC notes also that, according to IPART, *"the Minister has advised that over the coming 4 years, LLS boards will have access to \$22 million of recurrent NSW Government funding and the proceeds of an efficiency dividend of \$20 million to fund agricultural advisory services."*<sup>1</sup> We have previously submitted that NSWIC seeks clarity over current expenditure and a detailed outline of service provided by DPI. Without such information, NSWIC is not convinced that the provision of \$22 million of recurrent NSW Government funding and an additional \$20 million for agricultural advisory services will be sufficient to maintain the current level of service. NSWIC has written to the Minister on this matter and obtained confirmation that the level of services provided by LLS will be maintained and that the consolidation of services is undertaken to reduce duplication and overlap. Should the funding provided through the NSW Government not be sufficient, then the proposed funding framework could lead to significant price shocks for individuals and communities.

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<sup>1</sup> IPART Draft Report, p.13

As such, NSWIC submits that the funding framework must include a provision that ensures price shocks through LLS rates/levies are mitigated.

Recommendation 2:

*Each LLS board should use the cost recovery framework to assess its operations at the activity level. These activities are determined by the strategic plans developed by the LLS Board of Chairs and LLS boards. The LLS Board of Chairs can also apply the cost recovery framework at the strategic level to assess if there are economies of scale between the LLS boards.*

While NSWIC supports consistency in the use of the cost recovery framework, we reiterate our concerns that a decision on which services will be provided and the level of involvement in these activities will be based purely on the decision of the LLS boards and the LLS Board of Chairs. NSWIC considers it vital that individuals within the respective LLS areas are being thoroughly consulted throughout the process to ensure that efficient and complementary services are being provided through LLS. We reemphasise the importance for localism in each step of the LLS process.

Recommendation 3:

*LLS boards should follow a hierarchy approach to identify who should pay the cost of a regulatory and non-regulatory activity:*

NSWIC believes it is almost impossible to accurately identify the impactor /risk creator and/or beneficiary in certain instances and further administrative barriers could exist in enforcing such a hierarchy. In such instances, NSWIC submits that the costs should be born by Government.

We furthermore reject IPART's proposal (p.43) that in case the cost associated with collecting the fee / charge for a certain individual or group be greater than the fee / charge itself then other candidate(s) should pay for the service. This method does not reflect the principle of 'fee-for-service' and NSWIC submits that in such instances, the Government should pay for such services.

Recommendation 4:

*A sliding scale approach should be considered as a method of last resort for determining cost shares of non-regulatory activities where it is administratively inefficient to identify specific cost allocations.*

As we have outlined in our previous submission, a sliding scale arrangement may be appropriate in some instances, but we doubt that such an approach is optimal for all cases considered. Without further information on what services will be provided by LLS, NSWIC is unable to comment in detail on an appropriate arrangement.

#### Recommendation 5:

*Fees-for-service should be the default funding mechanism for LLS.*

NSWIC submits that the 'fee-for-service' principle should be accompanied with comprehensive stakeholder consultation to ensure that only services which do not already exist privately will be offered through LLS.

#### Recommendation 6:

*Rates and levies should be considered when a fee-for-service has been ruled out on the grounds that it is not feasible, efficient or effective.*

NSWIC submits that transparency must be maintained when using different cost recovery methods. NSWIC submits that IPART must undertake a comprehensive assessment on the cost associated with such an approach.

#### Recommendation 7:

*Government funding be available to the LLS as a funding mechanism where:*

- *a public land management agency has been identified as the primary impactor or beneficiary of the activity, or*
- *as the funder of last resort, where it is inefficient or inappropriate to target actual impactor or beneficiaries with a fee or levy.*

NSWIC concurs with this assessment.

#### Recommendation 8:

*LLS should develop an efficient, centralised billing system and charge each LLS board its share of the costs of the system. However, LLS boards should be able to seek the services of local government to collect some special purpose rates, where the benefits outweigh the costs. In these instances, LLS boards should pay local government a fee that reflects its marginal costs in collecting the rate on LLS' behalf.*

NSWIC requests further information on the proposed centralised billing system and detail on the cost associated with setting up such a system. Should such a system be set up, NSWIC considers it adequate that all charges associated with LLS' functions and services are recovered through this LLS specific cost recovery system and not through any other mechanism (including local government).

#### Recommendation 9:

*LLS boards should retain the ability to charge a general rate, and specific purpose rates (including the current animal health rate).*

NSWIC concurs with such an assessment but emphasises that it must be ensured that the general rate does not lead to cross-subsidisation. In addition, thorough stakeholder consultation should take place to assess the need for specific purpose rates.

#### Recommendation 10:

*LLS rates should comprise a fixed and a variable component.*

As such a rate structure system is dictated through the LLS Act, NSWIC will not comment on IPART's recommendation. We do however believe that an appropriate rate structure should be dictated by the service that are delivered and not be developed in isolation.

#### Recommendation 11:

*LLS boards should continue charging the animal health rate, and should widen the group liable to pay this rate to include all landholders with a rateable land area and 30 or more stock units. This includes continuing to attribute additional notional stock carrying capacity to intensive livestock operations.*

NSWIC submits that IPART has not made a sufficient case for necessary change in relation the animal health rate. As such, NSWIC rejects IPART's proposal to widen the group liable to pay this rate.

#### Recommendation 12:

*LLS should continue to collect the meat industry levy from rate payers liable to pay the animal health rate on behalf of the NSW Food Authority. Once it has established its rate collection mechanism, LLS should charge the Food Authority a fee that reflects the marginal cost of collecting the meat industry levy.*

NSWIC submits that IPART must consult with those individuals who this levy applies.

#### Recommendation 13:

*If LLS is to continue to collect the pest insect levy on behalf of DPI:*

- *the Department should amend the areas from which fees are collected to be consistent with the Draft cost recovery framework, and*
- *once LLS has established its rate collection mechanism, it should charge the Department a fee that reflects the marginal cost of collecting the pest insect levy.*

NSWIC is concerned that IPART proposes to set up various cost recovery methods to collect rates associated with LLS. Such a multi-stage collection process is neither efficient nor transparent. NSWIC therefore submits that all fees and charges must be recovered through the LLS.

Recommendation 14:

*The relevant LLS board should continue to charge the Hunter flood mitigation levy as a specific purpose levy. In addition, other LLS boards should be allowed to implement a levy like the Hunter flood mitigation levy to fund flood mitigation activities where it can be clearly demonstrated that stakeholders support and are willing to pay for those activities.*

NSWIC submits that IPART must consult with our Members in the Hunter on the appropriateness of such a levy. In addition, NSWIC rejects the recommendation that individual boards are able to set levies equivalent to the Hunter flood mitigation levy. As State Water Corporation and the NSW Office of Water already collect fees and charges in relation to flood mitigation, NSWIC recommends that LLS boards must consult both entities to ensure there is no service overlap.

Recommendation 15:

*LLS boards should charge a biosecurity levy separate from the animal health levy if they can demonstrate through the funding framework that such a levy is consistent with the funding framework, including that it does not cross-subsidise activities funded via the animal health rate (or vice versa).*

NSWIC submits that more detail must be provided on the objective of such a levy. NSWIC does not feel IPART has provided sufficient reason for instigating such a levy separate to the animal health levy.

Recommendation 16:

*LLS boards should be allowed to charge a natural resource management or environmental levy on rateable properties if they can demonstrate:*

- *through the funding framework that such a levy is consistent with the framework including that the levy does not duplicate any rates/services provided by State or local government, and*
- *has community support.*

NSWIC concurs with IPART's assessment and adds that during the consultation process a detailed outline of the reasons and scope for such a natural resource management levy must be provided to ensure that it does not overlap with any State or local government charges / rates.



### Recommendation 17:

*The minimum rateable land area should be reduced from the current 10 hectares to 2 hectares. The reduction should occur no later than 1 July 2017 to give LLS boards time to educate and inform small landholders. Individual LLS boards should retain the ability to set a minimum above the proposed 2 hectare minimum.*

NSWIC believes there are benefits in reducing the minimum rateable land area from 10 hectares to 2 hectares, we are concerned that such a change could create a significant administrative burden on LLS Boards. Such administrative complexity is likely to translate into additional costs. As such, NSWIC submits that IPART undertakes a comprehensive cost benefit analysis to assess the administrative burden associated with this change.

### Recommendation 18:

*Land area should be used as the rating base for any general or broad-based rate (such as those that target all LLS ratepayers as the beneficiary). Where the minimum rateable land area is below 10 hectares, LLS boards should be required to use land area as the rating base for general rates. However, where a board has chosen to maintain the minimum rateable land area at 10ha or above, it should have the option to use notional stock carrying capacity instead of land area for general rates if it considers this is more consistent with the draft cost recovery framework.*

As we have outlined in our previous submission, the question on which services should be delivered through LLS is of primary importance, while the establishment of a rating base is secondary. However, NSWIC emphasises again the importance of localism to find the most appropriate, cost effective and efficient solution.

Regardless of the rating base that will be adopted, NSWIC submits that it must be easily measurable and be both equitable and efficient.

### Recommendation 19:

*NCC should be used as the rating base for specific purpose rates that target the livestock industry as the risk creator or the beneficiary (such as the animal health rate and the meat industry levy).*

As outlined in our response to the previous IPART recommendation, NSWIC believes that the primary importance must lie with service delivery rather than which rating framework is used for LLS.

Recommendation 20:

*LLS boards should be allowed to standardise their current rates before implementing IPART's recommendations and avoid different landholders paying different rates for the same service.*

Whilst NSWIC understands the rationale for such a recommendation, we point out that the services provided in each LLS area might be different and require different degrees of attention. As such, NSWIC considers there to be an issue with implementing such an approach.

Recommendation 21:

*All current exemptions from rates for sugar cane growers and intensive poultry should be removed.*

NSWIC submits that IPART must consult with the sugar cane growers and intensive poultry industry on this matter.

Recommendation 22:

*LLS should establish a policy for assessing applications and granting individual landholders exemptions or discounts from specific fees, rates or levies in line with the principles in section 8.3.3, having regard to practical issues that might arise from LLS boards.*

NSWIC is concerned that the concentration of power within LLS boards could potentially lead to significantly biased assessment results. For that reason, NSWIC submits that currently existing exemptions should be carried over to the new LSS framework.

Recommendation 23:

*LLS should set the penalty for failure to submit an annual return on time so that it is higher than the cost of any rate the submitter could be required to pay based on the content of the return.*

As insufficient information is yet available on what services will be provided through LLS and what the associated costs will be, NSWIC cannot assess what the future proposed charges will be. It must be acknowledged that the income of many individuals who this levy applies to is highly variable. As such, NSWIC submits that a deferral scheme is included into the cost recovery framework to ensure that such levies and fees do not cause any financial difficulties for individuals.

#### Recommendation 24:

*The LLS boards should prepare for implementation of a new cost recovery framework conducting a review into existing and new activities from 1 July 2014. Implementation of the cost recovery framework should be by no later than 1 July 2016.*

As we have outlined in our previous submission to IPART, we believe that the pricing framework must ensure that there is no compromise on service delivery and that those services must be correctly and efficiently priced. In order to achieve the desired efficiency gains, NSWIC submits that "no cost increases" should take place in the first two years after the introduction of LLS.

#### Recommendation 25 - 29 (Audit methodology)

Without having further information on the service delivery through LLS, it is difficult to assess whether the proposed audit methodology is appropriate. NSWIC would like to stress that auditing of the effective cost recovery pricing should take place on a regular basis, in case significant changes to the current system are necessary. Having said this, we note that IPART's audit recommendations could be costly to implement and maintain. We recommend that a cost benefit analysis is conducted that assesses the cost of IPART's proposed auditing methodology.