



Peak body for five landholder associations and 1600 irrigators in the Murray Valley

PUBLIC SUBMISSION

INDEPENDENT PRICING AND REGULATORY TRIBUNAL

REVIEW INTO THE DEVELOPMENT OF A FUNDING FRAMEWORK FOR LOCAL LAND SERVICES

Southern Riverina Irrigators (Inc)

PO Box 1254

Deniliquin NSW 2710

sri.deni@bigpond.com

Southern Riverina Irrigators (SRI) is a representative body of Five Landholder Associations located within the Murray Irrigation Region of Southern NSW. Representation covers an area of 748,000 ha and 2389 landholdings.

On 22nd February NSW Minister for Primary Industries and Small Business, Katrina Hodgkinson wrote to the Chairman of Independent Pricing Tribunal (IPART) seeking the development of a framework and complimentary pricing systems for the proposed Local Land Services (LLS) in NSW.

The Terms of Reference specify:

- 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.

SRI specifically notes the Minister's words "*Substantial progress has been made towards the establishment of LLS...*"

In lodgement of this submission, SRI expresses strong concerns that the time period for IPART to make specific recommendations on a framework and pricing systems for the proposed LLS in NSW is premature.

Further, there has been very limited community consultation in relation to formation of the LLS. Deniliquin and surrounding regions have only received one opportunity for interim consultation and discussions were specifically limited to proposed boundary/regions of LLS, with only a brief discussions on future service provisions. No details were provided during the consultation period on actual services.

At the commencement of one regional meeting in the Southern Riverina in Deniliquin, the Chairman, John Keniry, specifically excluded any discussions on proposed ratings or types of services that would be considered for future ratings.

Southern Riverina communities therefore have had little or no opportunity for any participation in LLS in regard to future services or how these services would be funded.

The NSW Government itself has not yet completed the actual establishment of the proposed LLS and therefore there is little public information about the future programs, staffing arrangements and roles of the LLS.

RECOMMENDATION: In this context, SRI rejects formal consideration of a pricing framework until the LLS structure has been finalised.

NSW Government proposes changes to delivery of services under DPI, LHPA and CMAs which may pose significant cost impacts to Australian agriculture at a time when the sector is already facing unprecedented cost impacts. Following a decade of drought and rising input costs often exceeding the returns from agriculture produce, agriculture is at a critical period.

Australian farming businesses are still predominantly private owned, but with many individuals nearing retirement age and agricultural profits declining or in negative territory, the ability to attract new farmers is becoming increasingly challenged.

It will be critically important that Governments recognise the cost pressures and ensure that their own policies do not seek to cost shift their obligations to an already vulnerable business sector.

This is also important if Governments are to meet Australia's National Food Plans and work towards delivering Australia's role in world food security.

In addition, agriculture should not bear an unfair burden arising from a Government policy principle of 'user pays' or 'cost recovery', that is not applied to other community or business sectors.

There are many example of this where Governments do not seek full cost recovery on the provision of public services. A notable example of this is public transport.

SRI argues that it is impossible for future ratepayers of LLS to provide a response to IPART questions, with so little information publicly available in regard to future LLS structures or the services they may/may not provide. It is also not clear where those services within the LLS will be located and this will have significant impact on the cost effectiveness and relevant of those services within a LLS boundary.

RECOMMENDATION:

SRI strongly rejects the principle of full or partial cost recovery for services that could otherwise be defined as core functions of Government.

IPART's approach to consider landholder views on a future pricing framework, is to ask a series of 'key questions' to assist its deliberations. These include:

- 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)

It is impossible for appropriate consideration of these issues/questions until LLS have been formally established and a period of transition has occurred. There has been no ability for parties to consider services and potential costs in any public consultation to date.

IPART's approach to landholder views in the formation of these questions is valid, Difficulties lie however, in the ability to respond when the basic functions and organisational structure of the LLS have not been finalised.

In addition, it is likely that LLS will vary from region to region. The services therefore may be tailored to suit specific regions and may be subject to decisions of a board, not yet formed.

It is also not clear when considering issues such as plant and pest control, what other functions of Government are likely to be reviewed.

The IPART paper notes NSW 2021 Plan and identifies goal 22 as being relevant to CMAs and therefore LLS, Protect our Natural Environment which includes 'manage pests and weeds'.

Responsibility for weed management currently does not lie with CMAs. Management of weeds on public land has been accompanied by a cumbersome priority system for funding. In NSW identification and funding of weeds is prioritised through the Noxious Weeds Advisory Council. Federal funding is managed via the Weeds of National Significance (WONS) process.

The bureaucratic process for prioritising and funding weed management often means early intervention of weeds is not prioritised. Often funding is more likely linked to when weeds are established or have reached a threshold of concern. This prevents the options of early intervention, which could have been far most cost efficient in terms of weed control.

Overly bureaucratic funding programs often mean 'the horse has bolted' in terms of effective and efficient weed control.

The example of weed management is raised to further identify that there is insufficient information on a range of areas to make effective comment about future pricing frameworks for parties subject to LLS rates. While the IPART paper mentions weeds, future Government approaches to weed management is unknown.

RECOMMENDATION:

The NSW Government delays IPART requirement to provide recommendations on a future pricing framework for LLS

Local Land Services will represent the merging of three separate organisations.

- Livestock Health & Pest Authority (LHPAs)
- Agriculture NSW, Department of Primary Industries (DPI)
- Catchment Management Authorities (CMAs)

To date the NSW Government has not made publicly transparent the new role of these previous individual organisations. Therefore it is impossible for a public submission process, to effectively make recommendations on future pricing framework.

This also extends to consideration or comment on a sliding scale of future pricing.

SRI is very concerned about future charging proposals for LLS where there has been no public discussions or transparent information about the structure, roles and funding of LLSs.

Catchment Management Authorities (CMAs) – incorporated functions

SRI is particularly concerned about the incorporation of CMAs roles into a future pricing framework established by the LLS.

Financial and policy areas of the CMAs are significantly determined by Government policies, both at a Federal and State level. This includes the performance and pay scales of employees that are controlled by awards applicable to the public service sector. Decisions remain centralised with CMAs in reality being a delivery agent.

In short the CMA's act as a Government department and cannot be regarded as an independent authority. The IPART paper contains reference to retention of centralised decisions for particular areas of policies and implementation of these policies should not be a component of a rating system.

In terms of policies, it is likely that CMAs will continue to be controlled by the NSW Governments and associated Acts and Regulations. Administration of these policies areas can be costly, inefficient and prevent regional decisions.

An example of this is the role of the CMAs in administering the Native Vegetation Act and Threatened Species Legislation. In conjunction with a revision of native vegetation laws, the CMA's were publicly sold as enabling regional decision making on natural resource management decisions.

In reality, the CMAs were limited in their actual decisions. The CMAs administered implementation of the Native Vegetation Act 2003 and associated regulations. Native vegetation management or clearing applications were administered via Property Vegetation Plans (PV).

In short, while CMAs were publicly given the role of regional decision making, a complex set of criteria delivered through a computer based decisions program (PVP developer), prevented effective regional decisions. Only minor amendments to the PVP developer decisions could be made by local CMAs.

This led to lengthy delays, incurring inefficiencies and delayed CMA's decisions resulting in excessive cost burdens to landholders. Despite evidence of continued inefficiencies and ineffective decision pathways, the NSW Government has not sorted the problems out nor provided an effective and efficient pathway to the management of native vegetation in NSW. Some minor amendments are being considered currently, but many have been further delayed until another election cycle.

It is likely that unless genuine and transparent decisions on NRM issues can be made by regionally based LLS – then excessive cost overruns may occur with the implementation by LLS of a broad range of Government policies.

This example, highlights the potential risks to future ratepayers of LLS should the role of CMAs be incorporated into the criteria of assessable rates. LLS (CMA functions) may have limited ability to enable efficiencies with NRM policy development and implementation.

CMAs involvement in other administration processes such as involvement in options for the management of environmental water, are again associated with implementation of Government policy.

SRI strongly rejects any option where landholders could be rated on Government policies over which they have no involvement in policy development or control over its implementation.

In regards to organisational overheads and implementation of Government policy, SRI argues that roles of CMAs incorporated in LLS, are a continuation of a Government department. The NSW Government therefore should continue to provide for activities associated with the CMAs.

In addition, administrative overheads associated with funding programs can be included in the application process for Federal or State Government funding programs. This is a standard application process regardless whether by a Government or private applicant.

RECOMMENDATION:

Functions previously or normally associated with the CMAs should not be incorporated into a framework that determines assessable rates by future Local Land Services.

Agriculture NSW, Department of Primary Industries (DPI) – incorporated functions

The NSW Government over a number of years has seen the former role of DPI transition from a research and extension service, to a gradual shift towards a regulatory service for delivering and administering Government policy. This has led to extension services being picked up by the private sector.

The role of DPI within the new LLS, is likely to see that transition continued.

The question then becomes, what is the future of DPI functions and who pays?

If DPI functions are largely to administer and oversee Government policy, then this should not be added to any rating framework to be administered by the LLS.

It is important however, that Government retains a contribution to Agriculture in the provision of some services. These include contributions to key research and overview roles for research extension into agricultural advisory services. This is particularly important as the ‘private sector’ advisory service are likely to specifically industry targeted and will not be equipped, nor have the financial capacity for particular types of research..

Government also has a policy and service role in delivering a state approach to issues of biosecurity and pest control that is beyond the scope of individual service providers that are regionally based.

Examples of concerns would be the delivery of services under the mandate of state or national biosecurity plans or management of pests such as that administered by the Plague Locust Commission.

In the case of the control of locusts, the Southern Riverina is particularly vulnerable with areas on the Hay plains considered a strong breeding ground for emerging cross border locusts threats. There is insufficient information to determine what role LLS would have in programs to manage plague locusts (if any), however if LLS do have a role, then considerations of efficient expenditure are critical if services are to be part of a rateable charge. This is particularly relevant if LLS intend to charge for the service.

In the event of such services being identified as part of a 'cost recovery' principle, then it is important that IPART acknowledge that if Governments are to impose 'user pays' principle, then payees should have the right to expect maximum efficiencies and sound decision making in the provision of services.

Recognition of impediments to such options may be identified with the current failings of the Plains Wanderer Recovery Plan. In the Southern Riverina region (Hay Plains), control of plague locusts has been hampered by the Plains Wanderer Recovery Plan that remains unresolved after more than eight years of community and shires concerns.

The recovery plan and incorrect mapping has led to incidences where plague locust control was delayed or ineffective due to National Parks and Wildlife decisions that prevents the timely and efficient application of chemical control methods of plague locusts. Incorrect mapping also meant that wheat paddocks that had immature plague locusts could not be sprayed.

Despite strong representation by five shire councils, Land management groups and individual shire ratepayers on the Plains Wanderer Recovery Plan little has changed.

The inability to achieve change is further identified with differing scientific opinion on the impacts of traditional plague locust control methods. New departmental research may be slow or not eventuate due to internal policy opinion. As a result, local control methods for plague become vulnerable and more costly.

SRI encourages IPART to recognise that any future rating framework must consider the inability for parties to mitigate unreasonable costs. Especially when those costs may be higher due to policy areas are outside their control and/or require further research in order to maximise efficiencies in delivery pest, weed or biosecurity control measures.

IPART's paper identifies key roles of DPI. These include policy development:

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

IPART further identifies 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.

Of particular note, is that parties subject to discussion on future rating, nor IPART have current data on the cost and level of cost recovery for DPI services, that are within the scope of this review.

This further identifies that the request by the NSW Government for IPART to seek public submissions on a review into the development of a funding framework for Local Land Services, is premature.

RECOMMENDATIONS:

SRI seeks equity with other industries and rejects the application of ‘full or partial cost recovery’ where the public good should override the principle of users pays

SRI request that IPART decisions take into account service provisions by the new LLS that may less efficient due to the process of Government

Livestock Health & Pest Authority (LHPA) – incorporated functions

The creation of the LLS is a policy decision of the NSW Government to merge two Government departments (DPI and CMAs) with the LHPAs.

IPART has been requested to seek public comment on a future pricing framework for services delivered by the yet to be established LLS.

The IPART paper identifies that the LHPAs are currently funded by a mix of fees for service, rates, and grants from CMAs. Potential parties to be subject to future rating have received no advice at all in regard to whether the current mix of income for functions previously performed by the LHPA will be retained.

This scenario makes it impossible for parties to effectively comment let alone suggest options for a sliding fee scale for services.

Over the last decade or so, Travelling Stock Routes (TSRs), a key component of responsibility for LHPAs, have been subject to a NSW environmental policy change. This has resulted in a changed emphasis on using TSRs to provide conservation or native vegetation targets under State or CMA objectives.

SRI rejects any move to impose the costs for broader ‘public benefit’ conservation policies onto individual ratepayers who may not receive any personal benefits from the shift in emphasis of TSRs to public conservation outcomes in NSW.

SRI acknowledges the current role of LHPAs in delivering services such as fox or rabbit control programs that are applied across public and private land. Programs and application of cost

recovery methods in providing a direct service to private landholders in regard to these specific programs, are supported.

For a range of other services provided by LHPAs or the future LLS, further investigation and consultation needs to occur before parties can comment on the following:

- *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 concept of risk creators and the recovery of costs may bring substantial costs to ratepayers who have little ability to control the risks in the first place. In this case, Government should bear the cost of the broader community, particularly when failure of Government processes/policies may have assisted the creation of the risk initially.

An example of this, may be the ‘creation of additional risk’ through Government policies (State, Local) that encourage the uncontrolled development of lifestyle blocks in land areas normally used for agriculture. New entrants to a region with little experience in animal husbandry or who may hold philosophical views that are contrary to controlling pests, weeds or biosecurity management, may lead to an elevated risk for more established agricultural activities.

Political responses to Animal activists also poses significant biosecurity threats to intensive industries. Farmers have increasing concerns about the inability of Governments to provide harsh penalties to animal activists who deliberately enter farming businesses illegally. Such actions can pose a direct threat to biosecurity arrangements but on occasions when activists may be detained, the law imposes minimum consequences. Some times as little as a good behaviour bond. This may does not pose any form of deterrent to future activities.

Under the IPART considerations, businesses targeted by animal activist that result in a breach of biosecurity arrangements resulting in an adverse disease outbreak, may then face additional rate charges to address the pest or disease outbreak.

Breaches of biosecurity could also occur with the arrival of illegal refugees via unescorted vessels. A key threat would be the introduction of rabies or foot and mouth disease . Government policies controlling the potential for breaches of biosecurity, are critical to the future cost of production for agriculture.

It is important than in consideration of ‘user pays’ or ‘risk creation’, IPART acknowledges that the creation of risk, can be beyond the ability of the agricultural sector to control or to mitigate risk.

Under these circumstances, it is inequitable, for Governments to abandoned their duty of care and remove themselves from previous Government obligations in order to achieve cost savings.

Further should not be acceptable that individuals bear the cost of addressing that risks when Government policies have not taken effective action to control the risk.

RECOMMENDATIONS:

SRI rejects partial or full cost recovery through LLS rates where biosecurity risks have been arisen or have been elevated due to failure of Government policy

SRI encourages IPART to consider that biosecurity, pest or weed control should be a continued function of Government and therefore cost shares should recognise both public and private benefits.

Key findings of the Ryan Report (2011 review LHPAs) acknowledge that LHPAs are established in legislation to deliver certain front line functions. The Ryan Report acknowledges that LHPAs deliver services on behalf of landholders, farming industries and the community. SRI contends that the community benefit should still be serviced by Government

Cost Recovery Framework – consistency

SRI does acknowledge that there is likely to be a consistent cost recovery framework across LLS areas and that application of this, may vary within various LLS boards.

SRI is not in a position to further comment on the cost recovery framework until more detailed information is made publicly available. Time therefore is required to work through the transition period to enable the actual formation of LLS boards and organisation structure .

In consideration of a future Cost Recovery Framework, SRI is concerned about the future weighting for charging rates that related to general matters current applied through LHPAs.

Political pressure from smaller lifestyle land owners may put large landholders who pay the majority of rates, at a distinct disadvantage. This then leads to discussions on voting rights and the appointment of community members on LLS boards.

It is important that IPART notes the inequities that could arise should Government policies pose higher rates to large agricultural ratepayers while smaller ratepayers may have considerable voting weight.

SRI recommends that IPART note these challenges and recommend further detailed work to ensure an equitable system of voting rights which adequately accounts for those paying a higher proportion of rates based on land size.

The Bull Report:

The Report, *Review of the Rural Lands Protection Boards Rating System in NSW*, was delivered to the Minister in July 2007

SRI is particularly concerned about aspects of the Bull report and its recommendations for a new rating 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

RECOMMENDATIONS:

SRI rejects any move to impose an environmental levy across all ratepayers.

SRI rejects any move to reduce rates for voluntary conservation agreements noting that other non voluntary conservation impositions continue to attract rates. Rate reductions for voluntary conservation agreements simply mean higher rates for other rate payers

The Ryan Report (2012)

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 Ryan Report key findings were:

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.

RECOMMENDATIONS:

SRI urges IPART to consider the full extent of the term ‘risk creators’ and the definition includes Government policy positions that may lead to elevated levels of risks

SRI request IPART adequately considers the Ryan report point 2 “community” and ensure that Government continues to contribute to services on behalf of the community.

CONCLUSION:

SRI encourages IPART to recognise that meaningful and informed discussions on a proposed future pricing framework should not occur until after the formation of the actual LLS.

SRI has not completed attachment A (IPART specific questions) as it is not in a position to provide informed comment.

Attachment A:

SRI declines to comment the specific questions below until further information is made publicly available.

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
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?
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

1 Introduction

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?

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).

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

GENERAL NOTES

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.

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.

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.

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