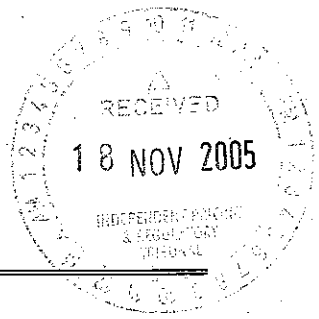
WJ & A SEERY PARTNERSHIP
PO Box 406
MOREE NSW 2400



ATTENTION: THE CHIEF EXECUTIVE OFFICER
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB POST OFFICE NSW 1230

17 November 2005

BY FACSIMILE: (02) 9290 2061

Dear Sir/Madam

RE: SUBMISSION TO IPART REGARDING THE SETTING OF WATER RESOURCE MANAGEMENT CHARGES FROM 1 JULY 2006

We welcome the opportunity to provide this submission for consideration by the Tribunal in its determination process to decide upon the level of pricing for Water Resource Management Charges from 1 July 2006.

The Seery Partnership operates a number of irrigation properties throughout the Macintyre and Gwydir Valleys. Our irrigation operation relies heavily upon licensed water to produce the irrigated crops grown on our properties. The cost of access to that water, particularly the Water Resource Management Charges set annually, impact upon the profitability of our enterprise.

As that is the case, we are concerned with the process of determining those charges, and have read with interest the submissions of the Department of Natural Resources and State Water in respect of the levels of charge sought by them through the tribunal process.

We have a number of particular concerns regarding the submissions of the Department of Natural Resources and State Water generally, which we feel have been inadequately considered in the submissions of both of these entities.

1. Two entities performing similar functions

We note that the functions now performed by State Water and the Department of Natural Resources were once performed by a single entity, the Department of Land and Water Conservation ("DLWC") as it then was.

Since that time, the roles of the DLWC have been split between the Department of Natural Resources and State Water. We note that the

rationale advanced for this move was to separate policy making from regulatory functions.

With respect to those who were concerned with maintaining the semblance of independence between regulatory and policy functions, this separation has proved costly and ineffective.

Particularly, the policy section of the Department of Natural Resources now needs to liaise with the implementation sections of State Water to turn policy into reality. Whereas once the corporate mind of water management was in one place, allowing the practicalities of policy ideas to be tested against practical experience within the policy making process, the situation now requires extended liaison between the two (2) organisations. This liaison rarely occurs quickly, and can on occasion extend the policy and decision making process far beyond its necessary time frame.

The creation of these two entities, the roles of which do interrelate, has merely slowed down the progress of water reform.

Additionally, the creation of two bodies to perform one regulatory function has led to new levels of corporate deniability. If one has difficulties caused by broken gauges, gates which do not work, or inadequately allocated resources for water management, it is common to be shuttled between entities – to be told that the mechanical problem is an issue for State Water, but monetary allocation to fix the process error in delivery of water through the system rests in the hands of the Department of Natural Resources.

Apart from causing difficulties and annoyances for water users in trying to find the right person to fix the problem, this highlights one of the great inadequacies of the dual entity system – deniability. Inevitably water users find themselves shuffled between entities, trying to find an appropriately qualified person with the expertise and authority to assist with their problem.

2. The realities of life for irrigators under the Water Management Act

Both entities are careful to point out the added roles which they have had to assume subsequent to the Water Management Act and Water Sharing Plans being implemented across the State, as a justification for additional funding.

With the greatest of respect, now that the water sharing plans are largely in place, the only roles remaining for the Department and State Water is the implementation of the Plans, which largely concerns the allocation of water to the entities referred to in the Water Sharing Plans.

Again, this implementation role concerns the delivery of water to those persons adequately licensed to receive same – irrigation and stock and domestic supplies. The only addition of responsibility in the plans is the inclusion of a specific environmental allocation in each valley.

We dispute that this area of responsibility is an addition at all, considering that compromises in providing an environmental allocation had been made by irrigators in most valleys in New South Wales in the early to mid 1990s.

We wish to point out however that since the increased levels of environmental allocation in the Water Sharing Plans, the level of secure of water available to irrigators in the Gwydir Valley in Copeton Dam has dropped from 48% to 33%.

Irrigators now have less secure water available for their farming activities. The environmental allocation in Copeton Dam means that of the stored water in the dam, less is available to the irrigation industry.

The flow on effects of this lessening of security have been twofold:

(a) Irrigators have been required to spend greater amounts of money in ensuring that they have adequate on farm storage to capture every allocation from the Dam to the fullest extent. This has led to more on farm infrastructure costs in building adequate storage;

(b) Irrigators have been forced to downsize farming operations – as supplementary water allocations have been reduced to a third proportionally of licensed water, the potential to rely on supplementary water as a source of irrigation is reduced. As a result, licensed water is required to supply a greater area of crop.

This has had the flow on effect of numerous irrigation developments in the Gwydir valley being closed and stripped of water rights to allocate to other existing developments. Several properties, "Ifley", "Coolibah", "Caithness" and "Greenbah" have been stripped of their water rights.

The practical effects of the removal of water rights from those properties are this:

1. The farms have been changed in nature from irrigation developments to dry land farms;

2. The employee ratio for dry land farming is 1 employee to each 5000 acres, where as the employee ratio for irrigated farming is 1 employee to each 400 acres – a

workforce cut on these properties of 12.5 workers per 5000 acres.

3. The stripped water rights have been transferred to existing irrigation developments, and their relocation will have little or no counterbalancing increase in the workforce.

The on cost of such measures in economic terms, both in the cost of growing crop and also the loss of employment from previously working developments, should not be underrated.

Measured against this growing economic pressure being placed on irrigators to conform to the demands of the new plans, are the benefits to irrigators under the new plans.

The Department of Natural Resources and State Water point to the following as important flow on benefits of the Water Management Act and Water Sharing Plans:

1. ***The ability to trade in water, separate and distinct from land.*** With respect, water trading predated the new Act – the mechanism of trading has changed. Very little price benefit has flowed on to water licence holders. The reality is that a commodity is worth more when it is in demand. Fluctuations in price for water licences have little to do with tradability, and more to do with supply and demand.

2. ***The ability for lenders to obtain security over water licences.*** Again, with respect, lenders were always in a position to obtain security over water by taking a mortgage over the land to which it attached. A new type of security arrangement, with its resultant costs of preparation and complexity of those security arrangements has hardly been a boon to the irrigation industry.

3. ***The Water License Register.*** Whilst it is true that parties now have the ability to search to obtain information about the holder of a water licence, the register is merely a user pays system of obtaining the same information as was previously available through the DLWC.

   The only real benefit in a register system is if the system follows the Torrens model of crown guaranteed title. The register offered to the public in respect of water is merely a place to search – there is no guarantee of the accuracy of the register, and no crown guaranteed title to the holder.

   Water licences under the Water Management Act are therefore like old system land holdings, where each link in the chain of title

must be examined to ascertain the ability of the vendor to deal with the licence. It is most unsatisfactory, and merely provides a revenue raising mechanism in its current format, with little or no benefit to the public or irrigators, who may only rely upon the register at their peril.

3. **Report Review of Capital Expenditure, Asset Management, and Operating Expenditure of State Water Corporation by Marsden Jacob Associates and Cardno MBK (MJA-Cardno)**

It is with interest that we have reviewed this document, which we note was submitted to the Tribunal and relied upon in the Tribunal's Determination of Bulk Water Prices for 2005/2006.

We note that the key findings contained in that report in respect of State Water are as follows:

1. The financial reporting system operate by State Water is inadequate for a commercial business;

2. Financial and management reports were on occasion unreliable;

3. MJA-Cardno had reservations about the quality of the financial data;

4. There is a lack of clarity and certainty in the way that State Water identifies and discharges obligations particularly:

5. Protocols for identifying and discharging obligations differ between State Water and NSW Government compliance agencies which monitor compliance with statutory and licence obligations;

6. State Water's internal processes for identifying and discharging obligations can be described as ad hoc, and vary from region to region;

7. Continued "grey areas" of responsibility between DNR and State Water, including which gauging stations are State Water's responsibility, duplication of gauging points between both entities etc.

8. Inability to demonstrate that forecasts are based on efficient market rates or efficient internal costs and benefits to State Water;

9. Deficiencies in tracking costs for infrastructure improvement programs.

These issues have not been adequately practically addressed between the finalisation of the MJA-Cardno report and the date of this submission. These issues continue to be glaring inefficiencies in State Water's operations.

4. The need for State Water to provide services on a commercially viable basis

What is clear from a reading of the MJA-Cardno report is that State Water is not able to convincingly state that it is supplying its services as efficiently and cost effectively as possible.

To the irrigation community, that is simply not good enough. The pricing of water management charges should not be made to cover inefficiencies in State Water's operations.

The irrigation community is in a difficult position in respect of State Water – we are forced to deal with State Water and DNR. State Water and DNR has and maintains a monopoly on water delivery and regulation. There is no alternative supplier of those services to whom the industry can switch allegiance.

Unlike any other commercial dealing where an inefficient costly supplier would find their business rapidly diminishing and have no alternative but to be efficient and cost conscious, irrigators must deal with the monopoly posed by State Water and the DNR. We have no choice.

Notwithstanding the "user pays" obligations contained in the CoAg Agreements, irrigators should not be forced to pay for an inefficient, wasteful, badly administered service, because there is no alternative. When setting the price for water management charges, the commercially efficient cost of delivery of the obligations of State Water and DNR should be considered as the basis of funding planning.

Additionally, irrigators as primary producers, have little or no chance to pass on costs to the consumer. The economic realities of world trade in irrigation commodities and of having to compete against other producers who are heavily subsidised on the world stage, means that costs like water management charges must be absorbed into the primary production cost base, rather than handed on to a consumer.

As a result of that economic reality, the necessity to ensure that the monopoly costs of water management charges are no higher than what is commercially viable to ensure their delivery is absolutely paramount.

5. Non-paying end user

We note that the Water Management Act and Water Sharing Plans entrench the right of the Environment to receive an allocation of water from stored water in management systems.

The environment is therefore a large user of the infrastructure administered by State Water.

Nonetheless, there is no cost sharing proposed on water used for environmental purposes. The entire cost of administration of DNR and State Water is to be met by commercial end users, such as irrigators.

This is an inherent lack of fairness, when considering the costs incurred, and the cost base on which it is split.

With the greatest of respect, the proposed increase in water management charges by State Water and the Department of Natural Resources must be rejected. It is untimely, and impacts upon the farming sector at a time of increased financial pressure. It is ill reasoned, seemingly not taking into account the need for a commercial scale to be imposed on a monopoly service. There is no clear nexus between increased water management charges to paid by the irrigation community and benefits to them.

Whilst we sympathise with State Water and the Department of Natural Resources' position – it is clearly being asked to run on a very tight margin – we note that all businesses today are being placed under such pressures. As providers of a monopoly service, they are under a positive obligation to deliver their service on a commercially viable and affordable basis.

Yours faithfully
WJ & A SEERY PARTNERSHIP