Namoi Water

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Namoi Water takes this opportunity to request that IPART continue to check all water pricing proposals for efficiency of costs and monopoly abuse. We have the following to say of the proposition that the ACCC recommend prices to IPART:

ACCC pricing proposals

Cost of trade and the prevention of government monopoly abuse

Any costs recommended by the ACCC for new market trading arrangements must be referred to the monopoly abuse regulator in NSW, (IPART), to ensure that NSW consumers are being protected from government monopoly abuse. These referrals are to be listed in Schedule 1 and viewed under Section 15 and not Section 12A.

Trade Practices Act and referrals

Any referral from the Water Act 2007 must be made to specific sections of the Trade Practices Act and not generically to the 'ACCC'. Equally, water consumers must have access to the full provisions of the TPA when questions arise as to the appropriateness of policy and practice recommended by the ACCC and any policy and subsequent practice ultimately adopted by the Commonwealth.

Submission by Namoi Water commenting on the draft IPART determination on bulk water pricing.

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Comments relating directly to IPART draft determination

Namoi Water makes submission to the IPART determination on bulk water pricing for the period commencing in July 2010 for the State Water Corporation's charges for the delivery of water as referred to IPART under the requirements of the *Independent Pricing and Regulatory Tribunal Act 1992 No 39; Schedule 1 Government agencies for which Tribunal has standing reference***.** Schedule 1 referrals are to be viewed under Section 15 of IPART's enabling legislation. This referral is not a referral under section 12A of the IPART Act.

Namoi Water raised concerns over a lack of focus on the issues required to be dealt with under Section 15 in its 2006 submission of water pricing. We will again focus on ensuring the determination is correctly based on the provisions required under Section 15.

We note and support the increasing focus on the requirements of Section 15 by IPART in a variety of determinations since 2006. Namoi Water endorses a stronger focus on the requirements of Section 15 and again we raise concerns over whether irrigators, as a class of consumer in NSW, are being adequately protected from monopoly abuse. The 2006 determination appeared to have lost its way and looked more focused on the outcomes required by a section 12A determination as a price setting procedure rather than the required Section 15 determination with its inherent focus on the protection of NSW consumers from monopoly abuse.

There seems to be a general confusion on the difference between a Section 12A referral and a referral to Section 15 of the IPART Act. I encounter the assumption regularly at a high level in the NSW Government that bulk water determinations are a price setting process. Section 12A specifically disconnects the monopoly abuse provisions contained in Section 15. We ask IPART to focus on this issue. The assumption that this is merely a price setting process has lead the NSW Treasury, as regulator of state owned corporations and as one of two NSW government shareholders in State Water, into a position where it demands that certain outcomes are included in State Water submissions. These demands include a dividend payment at odds with NSW government (COAG) policy on bulk water and regular intervention directed at cost shares, and a revenue policy that ignores, where possible, the legacy cost of past decisions that are difficult for current business to pay.

The assumption that this is merely a price setting process needs to be challenged. IPART is charged with protecting NSW consumers, in this case irrigators, from the abuse of the SOC's monopoly power, and separately from monopoly abuse of the NSW government as major shareholder and regulator of SOCs.

The monopoly demands of these two separate entities needs scrutiny by IPART. Whilst State Water is referred to Schedule 1, the demands of their only shareholder (and these demands

delivered through the regulatory role of that shareholder) are not referred to IPART. Namoi Water asserts that monopoly demands of the NSW government are being facilitated through the State Water submission through cost share agreements and dividend policy. Inherent in the State Water submission are the demands of the NSW government.

IPART needs to be sure of the framework for checking State Water for efficient costs as well as a separate framework that forms the basis for assessing the demands of the NSW government written into State Water's submission. IPART needs to view both issues when considering State Water's current submission for costs and dividends. Inherent in this submission is the remarkable attempt to secure the business against all the natural adversity of this business while returning a consistent (70% of Net Profit after Tax) dividend to a state government.

This state government is capturing the full extent of upper bound pricing without meeting the guidance required by two intergovernmental agreements that it is party to. Upper bound pricing is a guide to future investment and must take notice of legacy issues under these agreements. NSW has no intention of publicly funding future rural bulk water infrastructure renewals needed by the irrigation industry. The obvious urban politics associated with current attempts to increase the capacity of Chaffey Dam, a Beale's bathtub, from 60 to 100 gigs shows that without the needs of a city NSW will not be spending funds on the renewal of rural water irrigation infrastructure.

Clarifying the framework to deal with NSW Government monopoly abuse delivered through the submissions of State Water

As stated the NSW Government is not referred to Schedule 1 but is a strong player in monopoly abuse delivered to NSW irrigators, through instruction issued to State Water contrary to NSW agreements on water reform.

Section 15 IPART Act requires consideration of:

(a) the cost of providing the services concerned,

(b) the protection of consumers from abuses of monopoly power in terms of prices, pricing policies and standard of services,

(c) the appropriate rate of return on public sector assets, including appropriate payment of dividends to the Government for the benefit of the people of New South Wales,

There are two main issues to focus on that will deliver a framework to view any NSW demand in this area. These two issues are:

- the payment of dividend under the mask of compliance to upper bound pricing agreements without regard to the requirements of the 1994 COAG on Water Reform and the 2004 National Water Initiative, and

- the cost shares agreements and legacy issues currently negotiated under a perversion of ACIL's 2001 recommendations on impactor pays and legacy issues for water resource management charges.

Upper bound pricing

The 2006 State Water determination featured a request to move to upper bound pricing with a clear reference to the commitments made under the 1994 COAG on water reform and the 2004 NWI. The NSW government's commitment to the principles of these agreements is cynically limited to gaining a dividend and forcing its view on cost shares in a way that is prejudicial to irrigators as consumers. State Water, having had their 2006 submission vetted and rewritten by the NSW Treasury is now silent on the need to adhere to the intent and stipulations of these two intergovernmental agreements on achieving upper bound pricing. All we hear now is the need to meet the requirements of the NSW dividends policy for State Owned Corporations (SOCs). NSW Treasury has achieved its aim of extracting a dividend under their SOC policy, no need any more to waste words on an inconvenient COAG agreement stipulating terms to achieving upper bound pricing.

What do the Intergovernmental Agreements say?

The 1995 COAG agreement to implement the recommendations of the 1994 Report of the Working Group on Water Resource Policy is the basis for competition payments made to NSW as well as the review process carried out by both the National Competition Council and, more recently, by the National Water Commission.

The 1995 COAG agreement led directly to IPART being charged with overseeing the fair pricing of water in NSW through the separation of State Water from DNR as well as moves to full cost recovery as defined by the 1994 recommendations.

From Namoi Water 2006 submission
The Prime Minister confirms, in a 1997 letter (10 February 1997) to all premiers and heads of government, that the 1994 recommendations are the sole basis of the 1995 COAG agreement and not later reports (with the inclusion of groundwater and stormwater as requested in the 1994 framework).

The 1994 recommendations state that full cost recovery in regard of rural infrastructure be regarded as:

E.6 the report recommends that the Heads of Government adopt a strategic framework for reform that involves

For Rural Water Services

Changing pricing regimes to ensure that on time charges fully recoup operating costs and contain a component to enable supply systems to be fully maintained and refurbished or replaced as appropriate.

The IGA regarding the National Water Initiative simply states that moves to upper bound pricing be contemplated where practicable.

1994 report of the working group on water resource policy to the Council of Australian governments
For Rural Water Services
E.9 while the need for is recognized, the legacy of past investment and policy decisions , particularly in relation to irrigation schemes, means there are real constraints on the extent and pace of reform in some areas.

NWI 2004

Rural and Regional
Full cost recovery for all rural surface and groundwater based systems:- continued movement towards *lower bound pricing* per NCC commitments; and- achievement of *upper bound pricing* for all rural systems, where practicable. 66 (v)(b)

NWI IGA preamble 6. The Parties acknowledge that the NWI builds on the 1994 strategic framework for the efficient and sustainable reform of the Australian water industry (the 1994 COAG framework).

NSW has agreed to a policy for rural water that includes 1995 *Changing pricing regimes to ensure that on time charges fully recoup operating costs and contain a component to enable supply systems to be fully maintained and refurbished or replaced as appropriate.*

Is NSW committed to the stipulations of these agreements re legacy issues and renewal of infrastructure?

NSW has no commitment to refurbishment or replacement of rural bulk infrastructure therefore no dividend should be paid. The market mechanism to allow future decisions and actual financial capacity to renew structures is being captured by a government with no commitment to renewal of these structures. NSW has no process to identify funds in their financial accounts that are dedicated to renewal of these structures. The capture of these dividends is being made under a state owned corporations dividend policy in defiance of the statements made in the 2006 submission that upper bound pricing was being pursued as a requirement of the COAG agreements. These commitments being in the 1995 COAG agreement were confirmed in the 2004 NWI agreement. These agreements are NSW policy and are required to be considered by the relevant NSW processes. However, NSW defies these agreements and has been misleading in its statement to the 2006 determination indicating it would fulfil its obligations under these agreements.

Legacy issues

ACIL, in their 31st July 2001 report to IPART, identified the need to manage legacy issues to ensure that issues did not create inefficient pricing. ACIL recognised that current licence holders need to have relief from recent government decisions t when historical investment decisions and made after capitalisation and investment related to value in irrigation licenses occurred. These new government decisions would require inefficient and untenable costs against current license holders.

The 1994 COAG agreement says of cost recovery *while the need for* (it) *is recognized, the legacy of past investment and policy decisions, particularly in relation to irrigation schemes, means there are real constraints on the extent and pace of reform in some areas.*
NSW signed to this policy and committed to change based on this policy, sold this policy of mitigation and adjustment to the industry. The same Government now ignores the policy except occasionally trotting it out to deceive IPART then returns to a focus on NSW SOC policy on dividends and a cost shares policy that can be summarized as whatever the government is able to get away with; in our view this is monopoly abuse**.**

The impact of legacy issues on the operation of the State Water business
State Water runs a business impacted on by numerous legacy issues created by recent (post investment) decisions of the NSW Government such as cost recovery, environmental reform and fish passages to name a few. These decisions, whilst appropriate in the later context, create legacy issues for current licenses holders and for State Water. These issues were understood in 1995 and were to be to be mitigated by an impactor pays policy as a means of dealing fairly with legacy issues creating inefficient and untenable costs.

ACIL clearly identified the need to explore this issue further than the bounds of their 2001 paper. But this issue has not progressed beyond that initial attempt at raising the issue and constructing a discussion topic and an early tentative framework to deal with the issue.

Recommendations regarding interventions made by the state government into State Water's submission and responding to the state government's refusal to deal with legacy issues despite a framework being identified in 2001:

- That the dividend currently captured by the NSW government be retained in an identified fund in the State Water accounts. This would amount to $61 million over the life of this determination.

- That this fund be managed to provide for the renewal of rural bulk water infrastructure.

- That the fund be used to assist State Water with dealing with the uncertainty created by legacy issues impacting on the State Water business, particularly credit ratings and unreliability of income over time.

- That the fund not be diminished over time: transparent subsidies, where required, should be paid externally by the NSW government.

- That an inquiry be structured to examine this proposal as a means of meeting the COAG requirement to use dividends as signals to future investment, and to deal with some aspects of the uncertainty created by legacy issues meant to be dealt with under the COAG agreement. This inquiry could be held under the Public Accounts Committee or externally to parliament.

- That legacy costs be subjected to review external to the NSW government, and the impactor pays policy be used as originally proposed to deal with legacy issues driving inefficient and untenable costs to current licence holders.

Clarifying the framework to deal with State Water monopoly abuse and efficiency of services

NSW Government intervention in the State Water business is contrary to its agreement to two IGAs on water reform. Much of State Water's current submission is effectively a struggle to present a regular state owned corporation business case despite running a business littered with the inefficiency of legacy issues effectively contingent liabilities. These issues are

inappropriately dealt with via the cash flow of the business as they emerge. State Water is attempting to seek certainty in their business in the absence of NSW meeting its policy agreements under two COAG agreements.

These attempts to find business security include:

- increases to the return on the WACC,
- changes to depreciation lives,
- selection of worst case water sale scenarios, and
- cost shares that ignore other beneficiaries (visible cheque book policy)

The State Water requests all feature a common principal of attributing cost shares to the only group referred by legislation (visible cheque book policy), ignoring flood mitigation, recreational use, tourism and town water supply security that underpins certainty at a regional scale. These attempts at creating business certainty are guided by the NSW government view that legacy issues will not be dealt with contrary to NSW agreements on these issues. Currently, the only group referred to IPART, irrigators will pay all the non government costs. This is NSW government driven monopoly abuse.

Cost shares

The ACIL report in 2001 proposed that impactor pays policy be used to allow the inefficient and untenable costs associated with legacy issues be dealt with. ACIL discussed the need to look at recovering costs from other beneficiaries such as recreational users and presumably flood mitigation. Currently impactor pays policy is being used incorrectly to exclude any other beneficiary being charged for their beneficial use of the storage. This was not the intent of ACIL. Flood mitigation is a responsibility of State Water in its operating licenses. Why is flood mitigation and the capital invested in concrete and management still charged to irrigators?
Why is public liability associated with the use of the storage by recreational users attributed solely to irrigators?
Clearly there are beneficiaries other than irrigators. IPART has decided that irrigators will be managed under an impactor pays approach to allow legacy issues to be considered. An impactor policy does not exclude IPART from finding that not attributing the cost of other beneficiaries is monopoly abuse and determining these costs not be levied against irrigators.

Current State Water operating license:

2.4 Functions of State Water arising from other legislation

Note: Section 6 of the Act specifies the principal Functions of State Water as follows:
(a) to capture and store water and to release water:
(i) to persons entitled to take the water, including release to regional towns;
(ii) for the purposes of flood management;

The IPART process has been perverted, so that a referral to IPART for protection under Section 15 becomes a process for the NSW Treasury delivering monopoly abuse. The NSW government now treats this referral as if it were a12A referral for price setting under terms of reference specified by the NSW government and disconnected from monopoly abuse provisions.

The reality is the State Water business is a political hybrid encumbered with legacy issues that the NSW government refuses to deal with. Instead the NSW government rewrote the State Water 2006 submission and insists on the application of the NSW SOC dividend policy. These demands Trojaned in under claims of upper bound cost recovery, followed by the negotiation of inefficient and untenable cost shares. The monopoly abuse delivered to irrigators by the NSW government must be dealt with by IPART.

The efficiency of the State Water business

State Water is a natural monopoly. As such we expect that IPART will find a comparative business model or similar methodology to examine State Water for efficiency of its internal costs. Namoi Water is unable to comment without seeing the comparative model or methodology. We are interested in the middle and upper level management as well general administrative systems. We are unable to comment on the internal efficiency of State Water without seeing the methodology or comparative model used to check for efficiency of operation. We formally request that we be provided these documents to allow us to comment further.

CIE Climate modelling and consumption forecasts

Using a new short cycle climate model to predict reduced water sales in the Namoi is an inappropriate way of dealing with a fundamental business uncertainty. The IQQM model should continue to be used for current climate predictions. If future trends are to be analysed then the CSIRO sustainable yields study finding should be used to model the future. The CSIRO model used on page 43 of the CIE report into consumption forecasting is a total water model not a surface water model. The CSIRO report shows increased water surface availability in the Namoi in the future. The 1.4% reduction in surface water extraction predicted on page 43 is predicated on a huge increase (77%) in yet to be allocated groundwater; a scenario that will not happen. Under the CSIRO forecast, with the 77% increase in groundwater diversions factored out, surface availability grows. If this approach is science based our yields should either stay the same under IQQM or increase under CSIRO. We suspect, however, the CIE modelling is an attempt to dial in low numbers and increase income certainty. Again this is monopoly abuse. Having said this, we have sympathy for State Water's position. Namoi Water suggests that instead of pushing up income through the WACC and climate modelling, the proposed dividend be paid into a State Water managed asset renewal account and used to manage climate variability and its impact on income reliability in the short term.

Recommendations regarding the efficiency of the State Water business and correct identification of legacy issues on that business and appropriate costs being attributed to other beneficiaries:

- That other beneficiaries are identified and their costs excluded from charges levied from irrigators, these beneficiaries to include at least flood mitigation and recreational water users.

- That Namoi Water is provided with a copy of the comparative business model or similar methodology to examine State Water for efficiency of its internal costs.

- The request to increase the real pre-tax WACC from 6.5 to 7.9% is symptomatic of the impact of legacy issues on the business. These issues need to be addressed as legacy issues rather than dial-in-a-profit using monopoly powers and such we reject this request.

- Namoi Water suggests that instead of pushing up income through the WACC and climate modelling the proposed SOC dividend be paid into a State Water managed asset renewal account and used to manage climate variability and its impact on income reliability in the short term.

MDBC costs

The suggestion that MDBC charges be dealt with in the State Water submission should be rejected. These services are not referred to in Schedule 1 and should not have been ruled on in the last determination. We will comment further if they are introduced in the NOW submission.

Capacity to pay

We assume that the following Section15 provisions are being considered when commissioning the 'Ability to Pay' paper in regard of State Water customers:
(b) the protection of consumers from abuses of monopoly power in terms of prices, pricing policies and standard of services, and
(k) the social impact of the determinations and recommendations.

The attempt to quantify cost impacts uses a far better methodology than the previous work commissioned on the Peel in 2006. Unfortunately the methodology is still inherently based on statistical data and there needs to be an 'accountant's approach' through specific case studies if impacts within fairly small (comparative to the regional economy) are to be measured. Namoi Water is working through the Namoi Regional Organisation of Councils' Water Working Group with NATSEM in Canberra to develop more sophisticated micro simulation models to measure economic and social impacts of external shocks such as price changes. We would be happy to meet and discuss these new forms of modeling impacts.

Recommendation regarding methodology of examining capacity to pay:

- That a series of business case studies be carried out, preferably by local accountants. We would point IPART to the comparative studies carried out by Boyce & Co within the cotton industry as an accurate way of measuring impacts on water dependent businesses of government decisions to increase the price.

Peel Regulated System Charges

The high cost of water in the Peel regulated system is a legacy issue relating to the small size of Chaffey Dam. This Beales bathtub was never constructed with efficiency of costs and cost recovery in mind. As stated in our 2006 submission, the Peel cost should be made equivalent to that attributed to the Keepit (the closest efficient storage) cost with a transparent subsidy from NSW Treasury introduced to recognise the legacy issue and make up the difference between the two systems.

As noted in the capacity to pay section a specific case study into real Peel businesses needs to be carried out. The ABARE data is too broadly based to pick up the critical issues. The Namoi CMA and Namoi Water would participate in organising such a study; we would like to discuss this further with IPART.

The following is from our submission with regard to the Peel in 2006. We repeat these requests.

Recommendations relating to the pricing of regulated Peel River Water

- That IPART request the NSW government to develop a policy relating to the NSW government's share of costs as described by inappropriate past 'legacy' policy and investment decisions. That this policy develops a factor that should be applied to full cost recovery to reduce those costs to the fair costs relating to an appropriate sized storage. That the Keepit storage be used as a reference of fair costs.

- That, pending the development of this policy, IPART recommends the delivery costs for the Peel regulated water be the same as the costs of water delivered from the Namoi regulated system storage and identify the CSO required to be paid from consolidated funds. This CSO being to fund the difference between Namoi regulated costs and Peel regulated costs.

- That IPART commit to studies that are effective in identifying social and economic impacts across the whole community.

Fish passage legacy issue

Fish passage issues were well understood prior to the line in the sand set at 1997. The moving of the Fisheries Management Act 1994 No 38 clearly identified that fish passage issues were understood in NSW at least in 1994. Namoi Water has written to IPART in June this year expressing our concerns:

I write to you to raise concerns Namoi Water holds over the apparent apportioning of fish passage costs triggered by the Dam safety upgrade at both Keepit and Split Rock dams.

Namoi Water is informed by State Water that State Water has been instructed by IPART that 50 % of fish passage costs will be apportioned to irrigators. We object to State Water and NSW treasury negotiating these costs without our specific and direct involvement in these negotiations.

We ask that copies of all relevant correspondence between IPART and either State Water or NSW Treasury be copied to Namoi Water. We also request that these issues be reheard by IPART with the involvement of Namoi Water on this occasion.

Our objections to the apparent decision to apportion costs to Namoi irrigators is that the triggering of section 218 of the NSW fisheries act is entirely due the Dam safety upgrade.

The safety upgrade is deemed to be 100% the financial responsibility of NSW Treasury due to the storage not being in adequate condition at the time of transfer of the infrastructure to the account of the irrigation industry. If the dam safety upgrade is correctly deemed to be a NSW responsibility, the lack of adequate fish passage exposed by the dam safety upgrade is also of necessity a responsibility of the State Government. We also note that section 218 of the fisheries act does not require that all fish passage issues be resolved by concrete and engineered process. We have seen no work from Fisheries that discusses fully the options required by the Fisheries Act. I am available to discuss these issues with you at any time.

The triggering of Section 218 would not occur without the modification of the dam structure in accordance with the needs of the safety upgrade, a legacy issue indentified well before State Water took over the dam assets. Equally, fish passage was an issue well understood prior to the transfer of this infrastructure to State Water, and Section 218 is very specific if the requirement is triggered by alteration, modification or construction. No safety upgrade, no need to construct fish passage.

IPART responded stating that the matters raised would be heard within this determination, accordingly we place on record the following recommendations.

- That fish passage requirements triggered under Section 218 due to safety upgrade works are the sole financial responsibility of the NSW Treasury in the same manner that the safety upgrades are a NSW Treasury cost.

- That fish passage be examined critically to see if it is effective in producing a viable and balanced prey / predator population.

- That any negotiation of fish passage, or any so called offset arrangement must involve formally recorded discussions with irrigators.

- That the Manila weir on the unregulated Namoi be considered as an offset that would allow access to more extensive river reaches than any work at Split Rock

- That fish passage not related to dam safety upgrades be considered a legacy issue as per ACIL's 2001 recommendations.

Fisheries Management Act 1994 No 38

Current version for 25 September 2009 to date (accessed 23 November 2009 at 16:40)

Part 7 › Division 8 › Section 218

218 Fishways to be provided in construction of dams and weirs

(1) **The Minister may, by order in writing, require a person (other than a public authority) who constructs, alters or modifies a dam, weir or reservoir on a waterway to carry out, within the period specified in the order, such works as may be so specified to enable fish to pass through or over the dam, weir or reservoir.**

(2) The Minister may also, by order in writing, require a person responsible for the management or control of a dam, weir or reservoir to carry out repairs to a fishway or fish by-pass.

(3) A person who fails to comply with an order under this section is guilty of an offence.

(5) A public authority that proposes to construct, alter or modify a dam, weir or reservoir on a waterway (or to approve of any such construction, alteration or modification):

(a) must notify the Minister of the proposal, and

(b) must, if the Minister so requests, include as part of the works for the dam, weir or reservoir, or for its alteration or modification, a suitable fishway or fish by-pass.

Split Rock Safety Upgrade

We applaud the efforts of State Water in bringing to light the report detailing the prior knowledge of the NSW Government into the deficiencies of the Split Rock Storage and IPART's subsequent view point that the Split Rock Safety upgrade should be the complete financial responsibility of the NSW government. Namoi Water endorses the view that the Split Rock safety upgrade should be treated as a legacy issue.

Appendices

A Section 15 Matters to be considered by Tribunal under this Act

(1) In making determinations and recommendations under this Act, the Tribunal is to have regard to the following matters (in addition to any other matters the Tribunal considers relevant):

(a) the cost of providing the services concerned,

(b) the protection of consumers from abuses of monopoly power in terms of prices, pricing policies and standard of services,

(c) the appropriate rate of return on public sector assets, including appropriate payment of dividends to the Government for the benefit of the people of New South Wales,

(d) the effect on general price inflation over the medium term,

(e) the need for greater efficiency in the supply of services so as to reduce costs for the benefit of consumers and taxpayers,

(f) the need to maintain ecologically sustainable development (within the meaning of section 6 of the *Protection of the Environment Administration Act 1991*) by appropriate pricing policies that take account of all the feasible options available to protect the environment,

(g) the impact on pricing policies of borrowing, capital and dividend requirements of the government agency concerned and, in particular, the impact of any need to renew or increase relevant assets,

(h) the impact on pricing policies of any arrangements that the government agency concerned has entered into for the exercise of its functions by some other person or body,

(i) the need to promote competition in the supply of the services concerned,

(j) considerations of demand management (including levels of demand) and least cost planning,

(k) the social impact of the determinations and recommendations,

(l) standards of quality, reliability and safety of the services concerned (whether those standards are specified by legislation, agreement or otherwise).

(2) In any report of a determination or recommendation made by the Tribunal under this Act, the Tribunal must indicate what regard it has had to the matters set out in subsection (1) in reaching that determination or recommendation.

(3) To remove any doubt, it is declared that this section does not apply to the Tribunal in the exercise of any of its functions under section 12A.

(4) This section does not apply to the Tribunal in the exercise of any of its functions under section 11 (3).

B INTERGOVERNMENTAL AGREEMENT ON A NATIONAL WATER INITIATIVE

Between the Commonwealth of Australia and the Governments of New South Wales, Victoria, Queensland, South Australia, the Australian Capital Territory and the Northern Territory

PREAMBLE

3. The 1994 Council of Australian Governments' (COAG) water reform framework and subsequent initiatives recognized that better management of Australia's water resources is a national issue. As a result of these initiatives, States and Territories have made considerable progress towards more efficient and sustainable water management over the past 10 years. For example, most jurisdictions have embarked on a significant program of reforms to their water management regimes, separating water access entitlements from land titles, separating the functions of water delivery from that of regulation, and making explicit provision for environmental water.

4. At the same time, there has been an increase in demand for water, and an increased understanding of the management needs of surface and groundwater systems, including their interconnection. There has also been an enhanced understanding of the requirements for effective and efficient water markets. The current variation in progress with water reforms between regions and jurisdictions, and the expanded knowledge base, creates an opportunity to complement and extend the reform agenda to more fully realize the benefits intended by COAG in 1994.

6. The Parties acknowledge that the NWI builds on the 1994 strategic framework for the efficient and sustainable reform of the Australian water industry (the 1994 COAG framework), as amended in 1996 to include groundwater and storm water management revisions and by the Tripartite agreement in January 1999. The Parties are committed to meeting their commitments under the 1994 COAG framework and continuing to meet the objectives and policy directions of the 1994 COAG framework in a way that is consistent with the objectives and actions set out in this Agreement.

Main document

Water Storage and Delivery Pricing

65. In accordance with NCP commitments, the States and Territories agree to bring into effect pricing policies for water storage and delivery in rural and urban systems that facilitate efficient water use and trade in water entitlements, including through the use of:

    i) consumption based pricing;

    ii) full cost recovery for water services to ensure business viability and avoid monopoly rents, including recovery of environmental externalities, where feasible and practical; and

iii) consistency in pricing policies across sectors and jurisdictions where entitlements are able to be traded.

66. In particular, States and Territories agree to the following pricing actions:

Metropolitan

i)continued movement towards *upper bound pricing* by 2008;

ii) development of pricing policies for recycled water and stormwater that are congruent with pricing policies for potable water, and stimulate efficient water use no matter what the source, by 2006;

iii) review and development of pricing policies for trade wastes that encourage the most cost effective methods of treating industrial wastes, whether at the source or at downstream plants, by 2006; and

iv) development of national guidelines for customers' water accounts that provide information on their water use relative to equivalent households in the community by 2006;

Rural and Regional

v) full cost recovery for all rural surface and groundwater based systems, recognising that there will be some small community services that will never be economically viable but need to be maintained to meet social and public health obligations:

a) achievement of *lower bound pricing* for all rural systems in line with existing NCP commitments;

b) continued movement towards *upper bound pricing* for all rural systems, where practicable; and

c) where full cost recovery is unlikely to be achieved in the long term and a Community Service Obligation (CSO) is deemed necessary, the size of the subsidy is to be reported publicly and, where practicable, jurisdictions to consider alternative management arrangements aimed at removing the need for an ongoing CSO.

Independent pricing regulator

77. The Parties agree to use independent bodies to:

i) set or review prices, or price setting processes, for water storage and delivery by government water service providers, on a case-by-case basis, consistent with the principles in paragraphs 65 to 68 above; and

ii) publicly review and report on pricing in government and private water service providers to ensure that the principles in paragraphs 65 to 68 above are met.